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49 th Day:	December 25, 2001
Staff:	Jim Baskin
Staff Report:	November 30, 2001
Hearing Date:	December 14, 2001
Commission Action:	

STAFF REPORT: APPEALSUBSTANTIAL ISSUE

LOCAL GOVERNMENT:	County of Mendocino
DECISION:	Approval with Conditions
APPEAL NO.:	A-1-MEN-01-062
APPLICANT:	Jackson Grube Family, Inc.
PROJECT LOCATION:	Approximately ½ mile east of Highway 1, ±2.5 miles south of the town of Westport, 33051 North Highway 1, Mendocino County, APN 15-070-40.
PROJECT DESCRIPTION:	Annual extraction and processing (crushing and screening) of up to 15,000 cubic yards of rock for a ten-year period from a hillside quarry, subject to the conditions and standards of an approved mining and reclamation plan.
APPELLANT:	Gary Quinton
SUBSTANTIVE FILE: DOCUMENTS	1) Mendocino County Coastal Development Use Permit No. CDUR 7-94/2000; and 2) Mendocino County Local Coastal Program.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that a substantial issue exists with respect to the grounds on which the appeal has been filed, because the appellant has raised a substantial issue with the local government's action and it's consistency with the certified LCP. If the Commission finds substantial issue, staff also recommends that the Commission continue the appeal hearing and hold a de novo hearing on the proposed project at a subsequent meeting, after the applicant has provided all the information necessary for the Commission to consider the project *de novo*.

On October 23, 2001, the Mendocino County Board of Supervisors upheld its Planning Commission's June 21, 2001 approval-with-conditions of a coastal development use permit for the annual extraction of up to 15,000 cubic yards of rock for a five-year-period from the hillside Wilsey Ranch Quarry located approximately ½ mile inland of Highway 1 and 2.5 miles south of the community of Westport in northern Mendocino County.

The appellant contends that the approved project is inconsistent with the County's LCP policies pertaining to visual resource protection, impacts to water quality, adverse effects on riparian environmentally sensitive habitat areas, and conformance with zoning standards regarding allowances for ancillary rock crushing activities authorized under the permit. The appellant also contends that the project as approved is inconsistent with the LCP because the County accepted an incomplete permit application, the applicant violated the terms and conditions of its previous permit, and the environmental review conducted by the County was not adequate.

Staff recommends that the Commission find that the development, as approved by the County, raises a substantial issue of conformance with the policies of the certified LCP regarding the protection of water quality. The stormwater pollution prevention measures approved by the County included deletion of a sedimentation basin that had been previously recommended by the applicant's engineer. The stated reasons for removing the sedimentation pond requirement was that adequate room did not exist at the site to accommodate the basin without enlarging the quarry and that infiltration of site runoff through hay bale had shown to be an adequate treatment measure for preventing sediment from entering nearby watercourses. In deleting the condition, the County did not factually establish the efficacy of hay-bale treatment or that there were no other approved methods for controlling potential pollutants and runoff existed as required by the standards of the LCP.

Staff recommends that the Commission find that the contentions raised in the appeal regarding the completeness of the permit application, visual resources impacts, protection of environmentally sensitive habitat areas, and conformance with the standards of the Forest Lands and Range Lands zoning districts for rock crushing do not raise a substantial issue of conformance of the project as approved with the LCP. Staff believes

that the County solicited comments from appropriate agencies and adequately considered the input provided consistent with the standards of the certified LCP, and thus the project as approved by the County does not raise a substantial issue with respect to LCP policies regarding the standards for completeness of development permit applications. Staff believes the visual impacts of the project affect only private rather than public coastal views, that an adequate buffer between the mining operation area and riparian areas would be provided, and that rock crushing is a recognized conditionally permitted use of the FL and RL zones. With regard to the CEQA contention, no substantial issue is raised of conformance with the provision of the LCP requiring that County staff complete an environmental review of a coastal development permit application as the County did complete an environmental review for the project. Finally, staff regards the contention raised concerning past permit compliance to be an invalid grounds for appeal as it does not raise an issue of consistency of the project as approved with the policies and standards of the certified LCP.

Staff recommends that the Commission continue the *de novo* portion of the appeal hearing to a subsequent meeting because the Commission does not have sufficient information from the applicant to determine if the current project can be found consistent with the water quality protection policies and standards of the certified LCP.

The Motion to adopt the Staff Recommendation of Substantial Issue is found on Page 4.

STAFF NOTES:

1. Appeal Process.

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within one hundred feet of a wetland or stream or three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments constituting major public works or major energy facilities may be appealed whether approved or denied by the city or county. The subject development is appealable to the Commission because the Mining and Processing use type is not designated the "principal

permitted use" under the certified LCP standards for the Forest Lands (FL) and Range Lands (RL) zoning districts.

The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access and public recreation policies set forth in the Coastal Act.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. Unless it is determined that there is no substantial issue, the Commission would continue with a full public hearing on the merits of the project, which may occur at a subsequent meeting. If the Commission were to conduct a *de novo* hearing on the appeal, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, the appellant and persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

2. Filing of Appeal.

The appellant filed an appeal (see Exhibit No. 6) to the Commission in a timely manner on November 6, 2001, within 10 working days of receipt by the Commission on November 5, 2001 of the County's Notice of Final Action (see Exhibit No. 5).

I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE:

Pursuant to Section 30603(b) of the Coastal Act and as discussed below, the staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed. The proper motion is:

MOTION:

I move that the Commission determine that Appeal No. A-1-MEN-01-062 raises **NO** Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a *de novo* hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-1-MEN-01-062 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

II. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. APPELLANT'S CONTENTIONS

The Commission received an appeal of the County of Mendocino's decision to approve the development. The appeal was received from Gary Quinton. The project as approved by the County consists of the annual extraction and processing (crushing and screening) of up to 15,000 cubic yards of rock over a ten-year period from a hillside quarry in northern Mendocino County. The grounds for the appeal filed by Mr. Quinton consisted of the statement, "Requirements of permit were not met by applicant." Attached documents were referenced which purportedly further detailed the contentions of the appeal. The attachments included: (1) an agenda summary for the local agency appeal of the project to the Mendocino County Board of Supervisors; (2) Mr. Quinton's June 18, 2001 letter to the Mendocino County Planning Commission; (3) the June 19, 2001 letter to the Planning Commission from Joseph J. Brecher, Mr. Quinton's attorney; (4) the draft minutes from the Planning Commission's June 21, 2001 hearing on the project; and (5) the County staff report for the Planning Commission hearing. These articles addressed a variety of issues, including allegations regarding work being performed without a permit, violation of past and present permit conditions, critiques of the County's permit processing methodology, and corrections to alleged inaccurate statements contained within the County staff report. Portions of these materials were highlighted apparently to indicate the various contentions of the appeal.

It should be noted that the materials attached to the appeal were composed over the period of June 18-21, 2001, prior to the County's approval of the project on October 23, 2001. However, the project that was eventually approved with conditions by the County did not differ markedly from which that was pending consideration before the Planning

Commission at the time that the appeal materials were written. Thus, for purposes of hearing this appeal, although the attachments were originally directed to the local government's consideration of the project, because the project approved by the County is effectively the same as that being proposed at the time these materials were written, the Commission will consider the contentions raised therein equally applicable to the project as eventually approved by the County on October 23, 2001.

The appellant's contentions are summarized below, and the full text of the contentions is included as Exhibit No. 6.

1. Water Quality Impacts.

The appellant contends that the project as approved by the County conflicts with LCP policies for protecting water quality. The appellant asserts that the County arbitrarily deleted the required use of a sedimentation basin previously recommended by the applicant's engineer without any factual basis for the County's conclusion that the device was not needed to prevent watercourse siltation.

2. Completeness of Application.

The appellant contends that the County processed the coastal development use permit application prematurely. The appellant asserts that all requisite responses from a list of mining review agencies had not been received at the time that the County considered action on the permit. The appellant states that the participation of these agencies is crucial to the permitting process and without their requisite input the application was incomplete, resulting in an approved project that could cause impacts to environmentally sensitive habitat areas and water quality.

3. Visual Impacts.

The appellant contends that the mining area has been expanded and vegetation removed such that the quarry is now visible from the view area on the neighboring Quinton property. The appellant states that thousands of yards of materials have been removed by the applicant that has devastated the aesthetics of the natural terrain. In addition, the appellant states that the presence of numerous construction equipment and vehicles creates the appearance of an industrial site.

4. Use of Crusher in Forest Land and Range Land Zoning Districts.

The appellant contends that the onsite use of a rock crusher authorized by the County is inconsistent with the use standards of the Forest Lands zoning district in which the quarry is located. The appellant claims that such a use is "industrial" rather than being a type of "extraction facility," and is not allowed by the zoning standards for the site.

5. Past Permit Compliance / County Permitting Processing and Enforcement Procedures.

The appellant raises several issues regarding the mine operator's performance and lack of compliance with permit conditions, including:

- Mining operations continuing after the former permit had expired;
- Substantial expansion of the mining area without first securing a new permit;
- Grading a parking area within 10 feet of Kibesillah Creek; and
- Permanently parking a fuel truck in the newly graded area.

6. Environmental Review / Conformance with the California Environmental Quality Act.

The appellant contends that an Environmental Impact Report (EIR) should have been prepared because the project may have significant environmental impacts. The appellant included a letter from his attorney criticizing the County's environmental review and its determination that a Mitigated Negative Declaration (MND), not an EIR, was required. The letter contends that the impact analysis that an EIR would disclose, including the effectiveness of the proposed mitigation measures and an investigation of project alternatives, has not been undertaken as required for projects with potential significant environmental impacts.

The letter also states that a MND can be adopted only if all potentially significant impacts will be avoided or reduced to insignificant levels. In order for this to occur, project plans must be specific and incorporate specific and definite mitigation measures. The letter concludes that the MND is deficient as a fully informative environmental document under CEQA, asserting that the document is based on informal site investigations, fails to document the adequacy of proposed mitigation measures, defers to the efficacy of past mitigation monitoring practices, and has contradictory conclusions that all environmental effects would be less than significant.

B. LOCAL GOVERNMENT ACTION

On December 12, 2000, Ronelle McMahon, agent-of-record for Jackson Grube Family, Inc., submitted Coastal Development Permit Renewal Application No. 7-94/2000 (CDUR #7-94/2000) to the Mendocino County Planning and Building Services Department for a coastal development permit seeking a renewed authorization to continue annual extraction of up to 15,000 cubic yards of rock materials for another ten-year period from the Kibesillah Quarry in northern Mendocino County.

Following completion of the Planning and Building Services staff's review of the project, on June 21, 2001, the Mendocino Planning Commission approved Coastal Development

Use Permit Renewal No. #7-94/2000 (CDUR #7-94/2000) for the subject development. The Planning Commission's conditional approval of the project was subsequently appealed by Gary Quinton to the Mendocino Board of Supervisors.

On October 23, 2001, the Mendocino County Board of Supervisors denied Mr. Quinton's appeal and sustained the Planning Commission's conditional approval of the subject development permit. The Board attached a total of 31 special conditions, including requirements that: (1) further qualified the cumulative extraction limit of rock materials to 75,000 cubic yards over a five-year permit term; (2) the mine operator comply with the approved stormwater pollution prevention plan; (3) the permittee indemnify and reimburse the County for liabilities and costs, respectively, associated with issuance of the permit and inspections thereto; (4) all other authorizations from agencies having jurisdiction over the project be secured; (5) establish a buffer between all mining operations, except the access road, and the Kibesillah Creek riparian corridor; (6) removal of vegetation during mining be minimized; (7) prohibit the placement of material harmful to fish and wildlife within any stream or watercourse; (8) set maximum quarry cut bank and stockpile slopes; (9) disturbance by mining be incremental and promptly re-seeded; (10) dust generated during operations be controlled by suppressants or watering; (11) set temporal maximum noise levels; (12) all non-turbo charged equipment be provisioned with fire prevention and fire-fighting equipment; (13) set hours of operation; (14) set restoration requirements for trees removed during mining; (15) set wet-weather operation constraints; and (16) the permitted mining area be staked.

The County issued a Notice of Final Action on November 1, 2001, which was received by Commission staff on November 5, 2001 (see Exhibit No. 5). On November 6, 2001, the Commission issued a Notification of Appeal Period setting a 10-working-day period running through November 20, 2001 in which the County's approval of the project could be appealed. On November 6, 2001, the Commission received the appeal filed by Mr. Quinton. On November 8, 2001, the Commission notified the County of having received the appeal and requested a copy of the project's public hearing record. On November 19, 2001, the Commission received a copy of the local agency's record for the project.

C. SITE AND PROJECT DESCRIPTION

The project site for the approved surface mining development, the Wilsey Ranch Quarry, is located approximately ½ mile inland and easterly of Highway 1, 2.5 miles south of the unincorporated town of Westport in northern Mendocino County. The mining site comprises an approximately eight-acre area on a 96-acre ranch owned by the Jackson Grube Family, Inc. The quarry is situated on the forested slopes above the intermittent reaches of upper Kibesillah Creek at elevations ranging from 300 to 600 feet above sea level. The aspect of the project site is generally northwesterly, with slopes ranging from 40% to 70%. Access to the site from Highway 1 is along a private road that follows the small valley formed by Kibesillah Creek (see Exhibit No. 2). Several rural residence are located on parcels adjoining the mining site.

Plant cover on the hillside portions of the site adjacent to the cleared quarry is comprised of upland grasses, forbs, trees, and shrubs, including coast redwood (Sequoia sempervirens), coyotebrush (Baccharis pilularis), cow parsnip (Heracleum lanatum), California blackberry (Rubus ursinus), and bracken fern (Pteridium aquilinum). Approximately 200 feet below the quarry is the Kibesillah Creek riparian corridor which is primarily vegetated with red alder (Alnus rubra) and other typical watercourse-associated herbaceous plants. The Kibesillah Creek riparian corridor is the only environmentally sensitive habitat area in the project area. The quarry site proper and adjacent hillside areas do not contain any known environmentally sensitive habitat areas.

The project site lies within the Mendocino County LCP's Rockport to Little Valley Road. Planning Area. The project site comprises an approximately eight-acre area of a 96-acre parcel. The portion of the property occupied by the quarry is designated in the Land Use Plan and on the Coastal Zoning Map as Range Lands - 160-Acre Minimum Lot Area (RL-160). The subject property is not within a highly scenic area as designated on the Land Use Map (see Exhibit No. 3). Due to the site's location on an inland private road surrounded by private lands, no views to and along the ocean across the property from public roads and parklands exist. Additionally, given the distance to the highway and its location within a heavily-sloped and forested mountain valley, the site is not visible from Highway One and other public recreational areas.

The proposed development is the annual extraction and processing (crushing and screening) of up to 15,000 cubic yards of rock materials for a ten year period from an 18-acre upland quarry site (see Exhibit No. 4). The mining operation is subject to the standards and conditions of a mining and reclamation plan approved by the County pursuant to the Surface Mining and Reclamation Act or "SMARA" (PRC §2710 *et seq.*). The operation is subject to both interim, end-of-extraction-season winterization and terminal site reclamation requirements at the end of the term of the mining permit. Upon cessation of mining, the site is slated to be returned to range and forestland use.

D. SUBSTANTIAL ISSUE ANALYSIS

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

1. Appellant's Contentions That Are Valid Grounds for Appeal.

Five of the six contentions raised in this appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP.

These contentions allege that the approval of the project by the County raises substantial issues related to LCP provisions regarding: (1) visual impacts; (2) the protection of environmentally sensitive habitat areas; (3) stormwater runoff; and (4) uses not allowed under the zoning district standards for the project site.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." (Cal. Code Regs., Title 14, Section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

- The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
- The extent and scope of the development as approved or denied by the local government;
- The significance of the coastal resources affected by the decision;
- The precedential value of the local government's decision for future interpretations of its LCP; and
- Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, an appellant may nevertheless obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that with respect to certain allegations (i.e. below), a substantial issue exists with regard to the approved project's conformance with the certified Mendocino County LCP. As further discussed below, the Commission finds that with respect to the allegation regarding: (a) completeness of the permit application; (b) visual resources impacts; and (c) uses not allowed within the project site's zoning

district, the development as approved by the County raises no substantial issue with the certified LCP or the access provisions of the Coastal Act.

Allegations Raising Substantial Issue

a. Stormwater Runoff

The appellant contends that the project is inconsistent with the Mendocino County LCP because the approved development includes no analysis to substantiate the finding that the continued exclusive use of straw bale barriers is an adequate water quality treatment practice and that additional requirements for installation of a sedimentation pond would be unnecessary for protecting Kibesillah Creek. Without the sedimentation pond, the appellant suggests that the subject development and its concentrated surface water runoff would impact the quality of receiving waters of Kibesillah Creek and impact the environmentally sensitive areas it contains.

Summary of LCP Provisions:

LUP Policy 3.1-17 states, in applicable part:

...All mining, gravel extraction and sand removal operations in the coastal zone shall be subject to the following standards:

- 1. Shall prevent siltation and other sources of pollutants that might enter streams by requiring silt traps or other approved methods for controlling potential pollutants and runoff from each operation;...*
- 4. Shall minimize disturbance to stream banks and shall incorporate measures necessary to prevent increased erosion as a result of the project...*

Discussion:

The proposed development entails expanded operation of a rock quarry from 10,000 cubic yards annually to 15,000 cubic yards per year. The quarry encompasses an approximately eight-acre area on the slopes above Kibesillah Creek. As required in 1995 under the previous permit (CDUP 7-94), surface runoff was diverted around the mining excavation area and concentrated into a culvert lying in an ephemeral drainage course running along the north side of the quarry. This drainage traverses westerly across the slope down into Kibesillah Creek, approximately 200 feet from the quarry site. At various points along the drainage course, the quarry access road, and adjacent to the creek, straw bale barriers were erected to impound runoff, allowing sediment within the stormwater to settle out (see Exhibit No. 7). Using this treatment method, sediment

entrained in stormwater was removed from site runoff to avoid sedimentation of Kibesillah Creek.

As part of the permit application to the County for the current mining proposal, on December 12, 2000, the applicant submitted a mining and reclamation plan identifying the stormwater pollution prevention measures to be taken to prevent water quality impacts. The reclamation plan (Walls Testing, Inc., 11/11/00) included a letter attachment from the applicant's engineer, George C. Rau, CE, containing his review of the expanded mining proposal and including several recommendations for minimizing the need for future engineering design for the quarry site. One of these recommendations addressed the treatment of stormwater runoff:

Retain all the drainage from the quarry itself within the quarry floor so that it can be absorbed into the bottom of the quarry and will not run off into the nearby creek. If it does overflow the quarry floor can serve as a sedimentation basin.

In addition to the reclamation plan, the permit application included a plot plan showing the approximate location for the recommended sedimentation pond facility (see Exhibit No. 4). However, another exhibit within the reclamation plan indicated drainage only being concentrated to an 18-inch culvert at the base of the northern drainage course and discharged toward Kibesillah Creek without any intervening sedimentation basin or straw bale barrier treatment illustrated.

These inconsistencies were noted during the County's review of the permit application in early 2001. In his February 22, 2001 memo to County Planning & Building Services Department staff (see Exhibit No. 8), Dennis Slota of the Mendocino County Water Agency noted:

The letter from George Rau that is attached to the Reclamation Plan mentions a condition to 'retain all the drainage from the quarry within the quarry floor.' However, the Grading and Erosion Controls plan sheet shows the entire quarry draining into an 18" culvert that is aimed directly at Kibesillah Creek. I have not been to the site and don't know if this is a problem or not. In general, it is preferable to retain all drainage on site, or, secondarily to route drainage through a sediment pond before possible discharge into the surrounding landscape. I recommend that the issue of drainage be clarified. It is possible that the 18-inch culvert should discharge into a sediment pond or be re-oriented to not point directly at the creek..

On March 1, 2001, a field visit was taken to the project site by staff of the County's Planning and Building Services Department, and the California Department of Conservation's Office of Mine Reclamation (OMR). No staff from the Regional Water

Quality Control Board were present. During this visit, the issue of the stormwater drainage control and treatment was examined. In a follow-up letter dated March 9, 2001 (see Exhibit No. 8), OMR Reclamation Unit Manager James Pompy noted, with respect to hydrology and water quality:

There is no evidence of surface runoff from the mine causing sedimentation to the local drainages. The site is well maintained with hay bales at needed locations. The reclamation plan should include a definitive maintenance program, however, to ensure the ongoing sediment and erosion control. We recommend that the plan state that hay bales will be replaced annually, by October 15th. The plan should specify that these erosion control measures will be inspected following storm events. Further, that hay bales will be repaired if no longer functioning to retain sediment on site, and built up sediment removed.

In response to this review input from the County and OMR, the applicant submitted an addendum to the reclamation plan, dated May 7, 2001 (see Exhibit No. 4). With respect to hydrology and water quality, the addendum modified the 11/11/00 plan's previous provisions for water quality treatment as follows:

Bales of straw are being used to catch sedimentation to the local drainage. These bales will be replaced annually by October 15th. All erosion control measures are and will continue to be inspected following storm events. During post-storm inspection, bales of hay will be checked and replaced, in the event bales are found to no longer retaining (*sic*) sediment. Sedimentation building up will be removed and stockpiled for topsoil as it accumulates.

The addendum continues to further address the recommendation for a sedimentation basin in the subsequent "Geotechnical Requirements" and "Environmental Setting and Protection of Fish and Wildlife Habitat" sections, stating:

The recommendations of George C. Rau consulting engineer for the project will be followed as stated in his November 28, 2000 letter with exception to the sedimentation basin recommendation. The sedimentation basin will not be added to the site due to size constraints of the quarry landing. Storm water runoff is adequately handled with present in place filtering and diversion practices.

Kibesillah Creek and its tributaries are mapped on the site plan attached (Figure 1) to this addendum. The creek, tributary, and associated riparian habitat will continue to be protected from mining operations, through the use of erosion controls such as silt fencing, hay bales, and shallow sedimentation ponds. Berms and straw bales are being used and will

continue to be used to direct runoff and erosive material away from the open water and associated riparian habitat. Precautions are being taken so that fertilizers and amendments associated with reclamation do not contaminate surface waters. A berm consisting of hay bales planted with perennial grasses serve (*sic*) to protect Kibesillah Creek from road surface runoff.

The County Planning Commission staff report for the project, dated May 15, 2001, stated the following in regard to site erosion and stormwater control:

Storm runoff from the site is directed generally as sheet flow over the rock benches and slopes. The "V" ditch directs the runoff to an existing culvert which discharges to the west side of the quarry, flowing approximately 200 feet down a vegetated slope to Kibesilah (*sic*) Creek. The Creek is protected along the access road by a hay bale berm vegetated with perennial grasses. Hay bales are strategically placed in drainage ditches to reduce flow velocity and filter sediment. Hay bales are also placed at locations along the creek where surface runoff may be concentrated. Upon recommendation of the Department of Conservation, the bales will be replaced annually by October 15th.

George Rau recommended that a sedimentation basin be constructed on the quarry floor. Based on annual site inspections by staff, a site visit conducted by Cathy Gaggini, Associate Geologist with Department of Conservation Office of Mine Reclamation, and consultation with the County Water Agency, it was determined that drainage at the site is well contained with existing measures, and that a sediment basin is not necessary. All drainage features and erosion control measures will continue to be inspected following storm events. During post-storm inspection, bales of hay will be checked and replaced as necessary. Sediment accumulation will be removed and stockpiled for topsoil for future reclamation.

Following distribution of the County's staff report and environmental review document for the project, on June 15, 2001, staff of the Regional Water Quality Control Board submitted a comment letter (see Exhibit No. 8). The letter noted that a National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity would be required for the project. The letter did not comment directly on the stormwater treatment measures proposed within the reclamation plan or the proposed conditions contained within the County's staff report. It should be noted that such deference in comments on treatment technicalities does not indicate a failure on the part of the RWQCB: As part of processing the required general discharge permit, the RWQCB would routinely include a review of the adequacy of stormwater pollution prevention plan for the project. Accordingly, the RWQCB could

require that changes be made to the reliance on straw bale interception of sediment proposed by the applicant, which could involve augmenting the SWPPP with other treatment practices, such as sedimentation ponds or check dams.

As previously discussed, the project was approved-with-conditions by the County Planning Commission on June 21, 2001. The Planning Commission's action was subsequently appealed to the Board of Supervisors, who, on October 23, 2001, denied the appeal and sustained the Planning Commission's conditional approval of the project.

The mining operation development approved by the County included four conditions addressing the protection of water quality. Condition of Approval No. A.3 states, in applicable part:

...(T)he applicant shall develop the site and conduct the operations in conformance with measures identified in Storm Water Pollution Prevention and Monitoring Program, dated September 1995, prepared by Walls Testing, Inc., said document on file with the Department of Planning and Building Services.

Condition of Approval No. A.7 states, in applicable part:

The applicant shall obtain all authorizations required by and comply with all conditions established by the following agencies having jurisdiction over the project: ...

b. California Regional Water Quality Control Board...

Condition of Approval No. B.2 states:

No material shall be placed into or where it may pass into any stream or watercourse in quantities which would be deleterious to fish, wildlife, or other beneficial uses.

Condition of Approval No. B.18 states:

The applicant/operator shall maintain the operation in compliance with the Storm Water Pollution Prevention and Monitoring Program (SWPPP), dated September 1995, prepared by Walls Testing, Inc. The SWPPP shall be updated with the Regional Water Quality Control Board (RWQCB) to reflect any changes, and will designate Ronelle McMahon as the responsible party for implementing the SWPPP. The new SWPPP shall be approved by the RWQCB and submitted to the Department of Planning and Building Services within six months of approval of this permit.

Notwithstanding the County permit conditions requiring conformance with RWQCB regulations (and the potential for the RWQCB to require supplemental water quality treatment measures as part of their review), the County did not include any factual analysis in the permit approval regarding the efficacy or appropriateness of interception of runoff-laden sediment exclusively by straw bale barriers. This is of particular concern to the Commission given the location of the straw bale structures within the drainage course. With respect to appropriate application settings for straw bale barriers, the California Stormwater Construction Activity Best Management Practice Handbook (Camp, Dresser, and McKee, *et al.*, March 1993) states, in applicable part:

A straw bale barrier consists of a series of secured, anchored bales, placed to intercept sediment-laden runoff from small drainage areas of disturbed soil. The barrier ponds water and allow sediment to settle. Straw bale dikes should not be used for extended periods of time because they tend to rot and fall apart.

The straw bale barrier is used where there is no concentration of water in a channel or drainageway, and where erosion would occur from sheetflow. These barriers are typically constructed below disturbed areas subject to sheet flow of runoff... Straw bale barriers should be used for drainage of no more than ¼ acre per 100 feet of barrier length, with no more than 100 ft upstream of any point along the barrier. The barrier should be placed along a level contour no greater than 2:1. When installed and maintained according to the guidelines on this fact sheet, straw bale dikes remove approximately 67% of the sediment transported in construction site runoff. This optimum efficiency can only be achieved through careful maintenance with special attention to replacing rotted or broken bales. The barrier should be constructed on a level contour to prevent concentration of flow against a small portion of the barrier. [emphases added]

In summarizing the limitations of straw bale barriers as a water quality best management practice, the handbook states:

Straw bale barriers have not been as effective as expected due to improper use. These barriers have been placed in streams and drainageways where runoff volumes and velocities have caused the barrier to wash out. In addition, failure to stake and entrench the straw bale has allowed undercutting and end flow.

Accordingly, the appropriateness of using straw bale barriers as a drainage course sediment filtration device is arguable in the absence of analysis substantiating the suitability of the proposed drainageway application. As the California Stormwater Construction Activity Handbook recommends against using straw bales in the manner

proposed by the applicant, a substantial issue is raised as to whether the straw bales are an approved method to prevent siltation and other sources of pollutants from entering streams, inconsistent with LUP Policy 3.1-17. Moreover, without considering the infeasibility of constructing a quarry floor sedimentation basin, as claimed by the applicant, there is no assurance that the project as approved will be conducted in a manner that will keep drainage containing significant siltation from impacting water quality and aquatic resources, or concentrated runoff from contributing to streambank erosion. Therefore, the project as approved raises a substantial issue of conformance with the requirements of LUP Policy 3.1-17 that all mining, gravel extraction and sand removal operations: (1) utilize silt traps or other approved methods to prevent siltation and other sources of pollutants from entering streams; (2) control potential pollutants and runoff from each operation; (3) minimize disturbance to stream banks; and (4) incorporate measures necessary to prevent increased erosion resulting from the project.

Without the efficacy or feasibility of drainage controls having been analyzed and without any findings discussing the project's consistency with LUP Policy 3.1-17 specific to the deletion of the sedimentation basin and exclusive reliance on straw bale barrier interception of sediment, there is not a high degree of factual or legal support for the County's decision as being consistent with the certified LCP. In addition, given the project's location in proximity to the coastal waters of Kibesillah Creek, a significant riparian watercourse, the coastal resources affected by the County's decision are significant. Thus the Commission finds that the project as approved by the county raises a substantial issue with respect to conformance of the approved project with the LCP policies regarding water quality protection from stormwater drainage from mining sites.

Appellant's Contentions That Do Not Raise a Substantial Issue.

b. Completeness of Application

The appellant contends that the County acted prematurely in scheduling a hearing on the project as the application was not complete for filing pursuant to standards enumerated within the LCP. Specifically, all referral responses from a list of appropriate review agencies had not been received prior to the County's action on the permit request. The appellant cites LUP Policy 3.1-17 as the basis for this appeal contention.

Summary of LCP Provisions:

LUP Policy 3.1-17 states, in applicable part:

All applications for sand removal, mining or gravel extraction operations on land or in stream beds within the Coastal Zone shall be subject to a Coastal Development Permit. Detailed extraction and restoration plans shall be submitted as part of all required applications. Responses shall be obtained from all appropriate referral agencies, including the State Lands

Commission, California Department of Fish & Game, Regional Water Quality Control Board and U.S. Army Corps of Engineers, and this data considered in developing any necessary conditions for approval...

Discussion:

On January 19, 2001, after having completed its initial review of the completeness of the application, staff of the County's Planning and Building Services Department sent requests for comments to fifteen agencies, including three of the four agencies specifically listed in LUP Policy 3.1-17. The County did not send a referral request to the U.S. Army Corps of Engineers as the project did not entail the diking or filling of "waters of the United States" for which the Corps has review and permit authority pursuant to the Federal Clean Water Act and the Rivers and Harbors Act, and was therefore considered not an "appropriate" referral agency for reviewing the project. Of these fifteen requests for comments, a total of ten responses were received. Of the three review agencies listed in LUP Policy 3.1-17 to which requests for comments were sent, the California State Lands Commission and Department of Fish and Game did not provide responses. Based upon this lack of response, the appellant argues that the application was incomplete.

Although the wording of LUP Policy 3.1-17 specifically states that "responses shall be obtained from all appropriate referral agencies" and that the County consider the input "in developing any necessary conditions for approval," the referral agencies are not required to provide a response. The certified LCP cannot bind the referral agencies. Rather, each agency is subject only to its own statutes and administrative regulations regarding providing comments on development projects. As is often the case, referral agencies often defer submitting comments for each and every referral sent to the agency due to staffing, workload or other budget limitations. Consequently, in such instances the "response" from the agency is effectively an unwritten "no comment." Section 20.532.035(D) of the Mendocino County Coastal Zoning Code (CZC) further addresses this situation as follows:

During application check, the department shall determine the type of permit for which application has been made and shall refer copies of the application to any county department, state or federal agency, or other individual or group that the department believes may have relevant authority or expertise. Along with the referral, the department shall include notification that, if the department does not receive a response within fifteen (15) calendar days, the department will assume that no recommendations or comments are forthcoming. [emphasis added]

Accordingly, the Commission concludes that the County solicited comments from all appropriate agencies and individuals having expertise or authority over the project and adequately considered the data and input that were provided from the agencies that did respond, consistent with the policies and standards of the LCP. Thus, the Commission

finds that the project as approved by the County does not raise a substantial issue with respect to conformance of the approved project with the provisions of LUP Policy 3.1-17 regarding soliciting comments on mining projects from referral agencies.

c. Visual Resources Impacts

The appellant asserts that vegetation removal and grading associated with the expansion of the mining extraction area has permanently devastated the aesthetics of the natural terrain. In addition, the presence of numerous construction equipment and vehicles at the project site has effectively changed the character of the area from a mineral extraction facility to that of an industrialized area.

Summary of LCP Provisions:

Land Use Plan (LUP) Policy 3.5-1 states in applicable part:

The scenic and visual qualities of Mendocino county coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting.

The preface section to LUP Chapter 3.5, entitled "Visual Resources, Special Communities, and Archaeological Resources Issues" states that with respect to the protection of coastal views the following:

In rural areas outside the coastal villages, the most crucial concerns are preservation of coastal views and assuring the compatibility of new development with the natural landscape. The primary views to be considered are those seen from public places. [emphasis added]

Discussion:

As stated above, the LCP requires that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, and to be visually compatible with the character of the surrounding area. The appellant asserts that the project's land clearing and grading activities involve the presence of numerous construction equipment and vehicles: (1) adversely affected views of the site from the appellants property; (2) substantially alter natural landforms; and (3) caused compatibility conflicts with the range lands character of the surrounding area.

Consistent with the statement in LUP Policy 3.5-1 that scenic and visual quality shall be considered and protected as a resource of public importance and with the language of the prefatory section of Chapter 3.5 of the LUP that the primary views to be considered are those seen from public places, the County and the Commission on appeal have consistently applied the visual resource protection policies of the LCP in a manner that protects views from public property or from places where large numbers of the public may gather, even if on property that is not publicly owned.

The development is located along a private road within a steep-sloped mountain valley in rural forested range lands south of the Town of Westport, approximately ½ mile east of Highway One. The subject site is not within a designated highly scenic area as delineated on the LCP's Land Use Maps. Due to its private property setting, the distance inland from the coast, and the sight line constraints of the topography, the site provides no public views to and along the coast across the portion of the property containing the quarry. Similarly, the site is not visible from Highway One or any other public areas in the vicinity.

With respect to the first contention regarding the protection of views to and along the coast and scenic areas, the appellant has only asserted that views from his private property have been affected, rather than those from public roads and recreational areas. Therefore, as public views would not be affected by the development as approved, the Commission concludes that the contention does not raise a substantial issue of conformance of the project as approved with the policies and standards of the LCP's visual resources policies.

With respect to minimizing the alteration of natural land forms, surface mining projects, especially quarry operations, by their inherent extractive nature will result in some landform alteration as materials are removed for use offsite. Thus, the key issue in reviewing consistency with this portion of the policy is the degree to which the unavoidable alteration of natural landforms has been minimized. To this end, the project has been conditioned to be operated consistent with an approved mining and reclamation plan which delineates the areal limits in which mining may take place and sets forth a work program for returning the site to a usable condition for alternate land uses consistent with the requirements of SMARA. Furthermore, the proposed project is to allow for continued mining at an existing quarry rather than establish a new quarry on previously undisturbed lands.

Therefore, the Commission concludes that the contention does not raise a substantial issue of conformance of the project as approved with the policies and standards of the LCP regarding landform alteration as terrain modifications have been limited to those areas necessary for the extraction of minerals, the extraction authorized has been limited to hillside areas already affected by mining and not previously undisturbed areas, and the site will be restored following cessation of mining.

Finally, as regards the conflict with the character of the surrounding area, the project parcel is located within Forest Lands (FL) and Range Lands (RL) land use designations. The LCP describes the FL classification as follows:

The Forest Lands classification is intended to be applied to lands which are suited for and are appropriately retained for the growing, harvesting and production of timber and timber-related products. The classification includes lands eligible to be zoned Timberland Production (TPZ); intermixed smaller parcels and other contiguous lands, the inclusion of which is necessary for the protection and efficient management of timber resource lands.

The LCP further describes the RL classification as follows:

The Range Lands classification is intended to be applied to lands which are suited for and are appropriately retained for the grazing of livestock and which may also contain some timber producing areas. The classification includes land eligible for incorporation into Type II Agricultural Preserves, other lands generally in range use, intermixed smaller parcels and other contiguous lands, the inclusion of which is necessary for the protection and efficient management of range lands.

The extraction of sand, shale, and gravel in conjunction with an approved permit and reclamation plan is listed among the conditionally permitted uses for both FL and RL designated lands. Furthermore, the existing quarry forms part of the character of the site. Extraction would be limited to areas already affected by mining. As the approved resource extractive use is a conditionally permissible use of the site and as the character of the surrounding area is partly defined by the existing quarry, the Commission concludes that the approved project, including the stationing of mining related equipment, does not raise a substantial issue of conformance with the provisions of Policy 3.5-1 regarding the visual compatibility of development with the surrounding area.

Additionally, as the quarry operation would not be visible from public vantage points and as the approved extraction activities would be limited to areas previously affected by extraction, the significance of the visual resource affected by the County's decision on the project is not great. Therefore, the Commission finds that the project as approved by the County does not raise a substantial issue with respect to conformance of the approved project with the LCP policies regarding visual resources.

d. Unpermitted Land Uses

The appellant contends that the provision for rock crushing use within the approval of the surface mining operation effectively renders the site an industrial rather than an extraction facility.

Summary of LCP Provisions:

CZC Sections 20.360.015 and 20.368.015 establish the conditionally permitted uses for the Forest Lands and Range Lands Zoning Districts, respectively. Among the list of conditionally permissible coastal extractive use types enumerated within these zoning district standards is "mining and processing." CZC Section 20.344.010 defines "mining and processing as:

The mining and processing use type refers to extraction of minerals, such as sand, gravel and rock, and including fixed on-site processing facilities such as stationary crushers, separators, kilns, and transfer stations; or similar fixed facilities. This use type excludes the development of oil and gas development which is accommodated in Sections 20.344.020, below.
[emphasis added]

Discussion:

The proposed surface mining project includes onsite rock crushing with a portable rock crusher. Although the processing of minerals and other earthen materials may arguably appear to be primarily an industrial rather than extractive activity, the standards of the FL and RL zoning districts specifically provide for use of processing facilities, such as rock crushers, at extraction sites. Furthermore, the scope of the FL and RL conditional use standards include development of "stationary" or "fixed" processing facilities. The construction of fixed processing works would entail the development of permanent foundations and the extension of service infrastructure such as electrical power and water supplies to such equipment, necessitating grading, possible further removal of major vegetation or other resource disturbances. Portable rock crushers, by comparison, have self-contained supports and power sources, and do not require such service extensions and associated grading or clearing. Accordingly, allowances for portable rock crushing would fall within the bounds of the mining and processing use type as defined within the LCP.

As the standards of the FL and RL zoning districts specifically provide for the use of processing facilities such as rock crushers (at extraction sites), there is a high degree of factual and legal support for the County's decision that the development is consistent with the use provisions of the certified LCP. Therefore, the Commission finds that the project as approved by the County does not raise a substantial issue with respect to

conformance of the approved project with the LCP policies regarding the mining and processing use type conditionally allowed in FL and RL zones.

e. Adequacy of Project Environmental Review Pursuant to CEQA

The appellant's contention that the County's environmental review of the project had not been performed as required under the California Environmental Quality Act does not raise a substantial issue of consistency with the LCP.

Summary of LCP Provisions:

Section 20.532.040 of the Mendocino County Coastal Zoning Code establishes the environmental review policy for coastal development permits, stating in applicable part:

Upon acceptance of an application as complete, the Director or his designee shall complete an environmental review of the project as required by the California Environmental Quality Act (CEQA), shall study the project for conformance with all applicable requirements of this Chapter...

Discussion:

The appellant asserts that the County failed to perform the necessary environmental review of the project contrary to the requirements of CEQA. The County staff report prepared prior to the hearing conducted by the Planning Commission states that, "no significant environmental impacts are anticipated which cannot be adequately mitigated, therefore, a Negative Declaration is recommended" and thus preparation of an environmental impact report would not be required. Section 20.532.040 of the Coastal Zoning Code does not mandate a particular type of environmental review document to be produced for a given development project, only that an environmental review required by CEQA be completed. By determining that the project as proposed with the inclusion of mitigation measures and a monitoring program would not result in potential significant effects on the environment, the County determined that no further environmental review would be required to be completed under CEQA. Thus, there is no substantial issue regarding the approved project's consistency with Section 20.532.040 of the Mendocino Coastal Zoning Code.

The question of whether the approved project fully qualifies for preparation of a Negative Declaration raises a CEQA question and not a substantial or substantive inconsistency of the approved project with the certified LCP. The contention thus raises a local issue relevant to this project and not a substantial issue of consistency with the certified LCP.

Therefore, the Commission concludes that the appeal raises no substantial issue with respect to conformance of the approved project with the CEQA review policies of the certified LCP.

f. Conclusion

The Commission finds that, as discussed above, the appeal raises a substantial issue with respect to the conformance of the approved project with the policies of the LCP concerned with water quality and stormwater drainage.

2. Appellant's Contentions That Are Not Valid Grounds for Appeal.

One of the six contentions raised in this appeal does not present potentially valid grounds for appeal in that it does not allege the project's inconsistency with policies of the certified LCP. This contention regards noncompliance of the mining operation with past permit conditions and terms.

a. Violation of Past Permit Conditions and Terms

The appellant's contentions that the applicant did not conduct the mining operation in conformance with the conditions and terms of the previous permit, working beyond the expiration date of the permit, removing or impacting site vegetation, and operating within riparian buffer areas do not raise a substantial issue of consistency with the LCP or the public access policies of the Coastal Act.

Discussion:

The appellant contends that the conditional approval of the coastal development use permit issued by Mendocino County for the subject surface mining project should be overturned on appeal because "the requirements of (the) permit were not met by the applicant." This contention does not raise a substantial issue of the consistency of the approved project (i.e., mining for 2001-2006) with the LCP or the public access policies of the Coastal Act.

The appellant raises several allegations concerning extraction activities undertaken by the mining operator during the time between expiration of the preceding coastal development use permit on December 6, 2000 and the June 21, 2001 hearing before the Mendocino County Planning Commission for the current subject permit. These activities include:

- Conducting the mining operation after the previous permit's December 6, 2001 expiration date.

- Performing mining work in areas not authorized under the previous permit, including the clearing of riparian vegetation for a parking area, and parking a fuel truck within a riparian buffer area.
- Using the rock quarry area for a contractors yard use, allowing the parking of construction equipment not related to the mining operation.
- Failing to adequately abate the generation of dust and noise associated with mining activities.

The LCP contains no specific policies or standards addressing the effects that alleged or substantiated violations of past permit conditions has on the issuance of subsequent development permits. Although the Commission would share in the appellant's concerns regarding the protection of coastal resources if the appellant's allegations of conditional noncompliance are found to be accurate, the appellant's contention is not within the scope of valid grounds for an appeal as established by Section 30603(b)(1) of the Coastal Act.

Therefore, the Commission concludes that this contention is not a valid grounds for appeal as the contention does not allege an inconsistency of the project as approved with a policy or standard of the certified LCP or the public access policies of the Coastal Act.

E. INFORMATION NEEDED FOR *DE NOVO* REVIEW OF APPLICATION

As stated above, Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed. Section 30621 of the Coastal Act instructs the Commission to provide for a *de novo* hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. If the Commission finds substantial issue as recommended above, staff also recommends that the Commission continue the *de novo* hearing to a subsequent date. The *de novo* portion of the appeal must be continued because the Commission does not have sufficient information to determine what, if any, development can be approved, consistent with the certified LCP.

Given that the project the Commission will be considering *de novo* has come to the Commission after an appeal of a local government action, the Commission has not previously been in the position to request information from the applicant needed to determine if the project can be found to be consistent with the certified LCP. Following is a discussion of the information needed to evaluate the development.

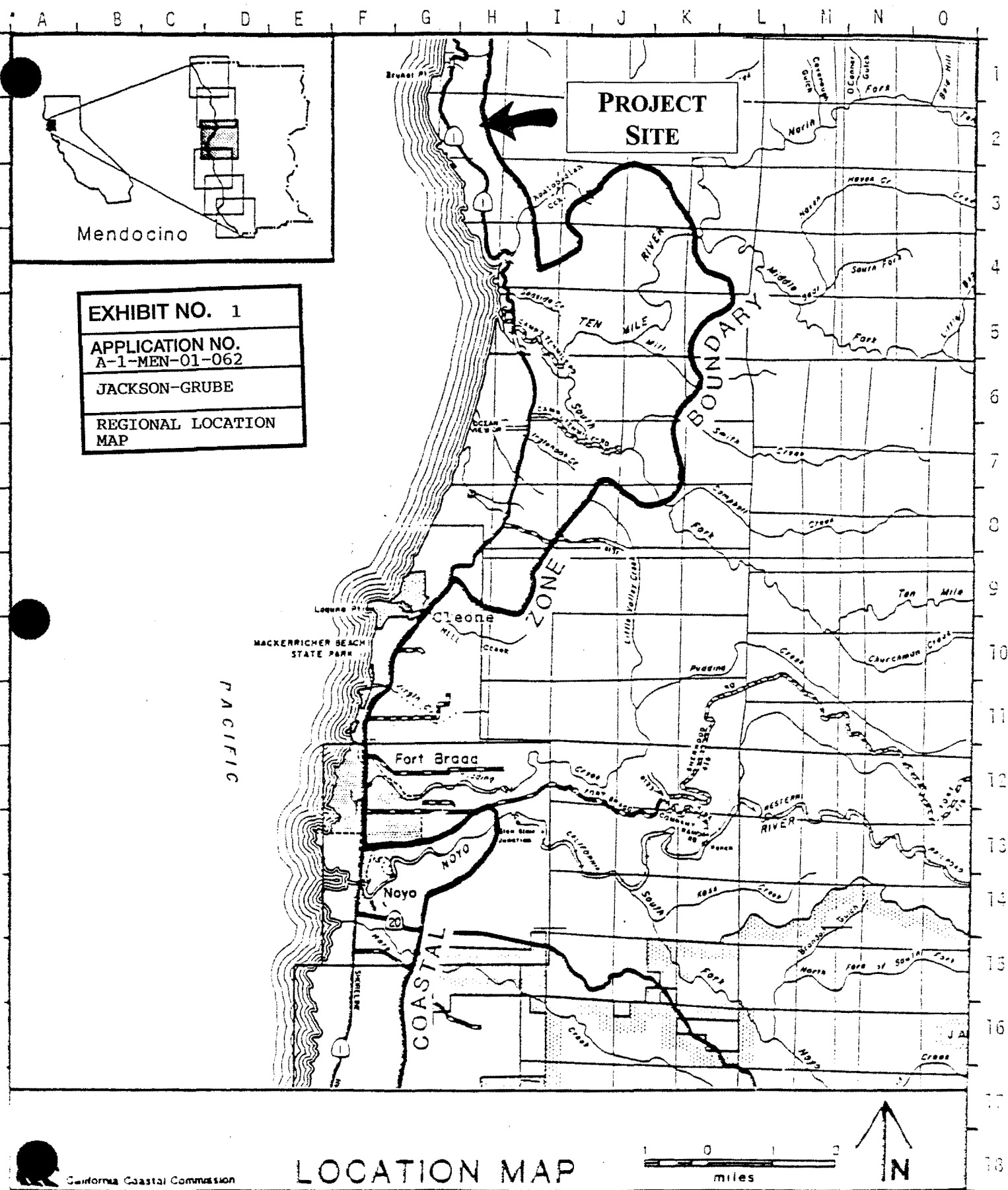
Sedimentation and Erosion Control Plan

As discussed previously, the project raises a substantial issue of conformance with the policies of the LCP regarding the need to include runoff controls to avoid adverse sedimentation of adjoining watercourses. The Commission finds that the potential for adverse impacts of runoff from the development on water quality has not been properly assessed because the project as approved did not fully demonstrate: (a) the appropriateness of the use of straw bale barrier devices where concentrations of water in a channel or watercourse would occur; (b) the efficacy of straw bale barriers compared to other best management practices, such as detention ponds, check dams, etc. in removing sediment from stormwater runoff; and (c) development of the sedimentation pond originally proposed and recommended for the site would not be feasible given space constraints. This information is necessary to assess the consistency of the approved project with LCP Policy 3.1-17, which requires that all mining, gravel extraction and sand removal operations: (1) utilize silt traps or other approved methods to prevent siltation and other sources of pollutants from entering streams; (2) control potential pollutants and runoff from each operation; (3) minimize disturbance to stream banks; and (4) incorporate measures necessary to prevent increased erosion resulting from the project. Accordingly, further analysis of appropriate site-specific erosion and runoff control methods needs to be submitted. This information would identify the appropriate best management practices (BMPs) to be employed at site-specific locations on the parcel. The description and analysis should include a description of the BMPs to be employed during mining operations at the site, provide hydrological calculations as to the sizing of the facilities, and illustrate the location of drainage treatment facilities.

Without the above information, the Commission cannot reach a final determination concerning the project's consistency of the project with the surface mining stormwater drainage policies of the LCP. Therefore, before the Commission can act on the proposed project *de novo*, the applicant must submit all of the above-identified information.

III. EXHIBITS:

1. Regional Location Map
2. Vicinity Map
3. Portion, Land Use Plan Map No. 8 – *Westport*
4. Site, Mining, and Reclamation Plans
5. Notice of Final Local Action
6. Appeal, filed November 6, 2001 (Quinton)
7. Excerpt, Storm Water Pollution Prevent Plan - Straw Bale Barrier Specification Sheet
8. Cited Review Agency Correspondence



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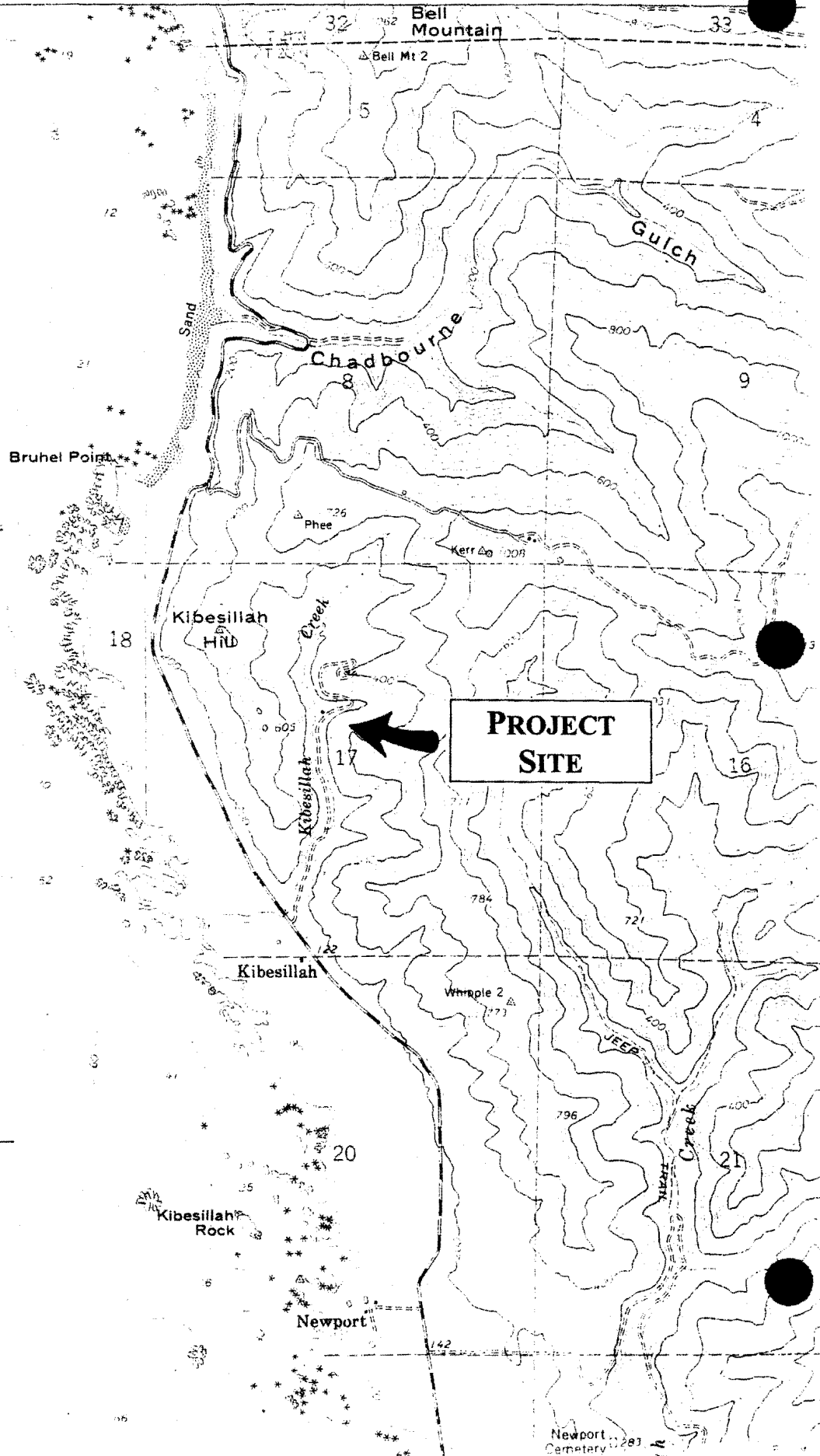


EXHIBIT NO. 2

APPLICATION NO.
A-1-MEN-01-062

JACKSON-GRUBE

VICINITY MAP

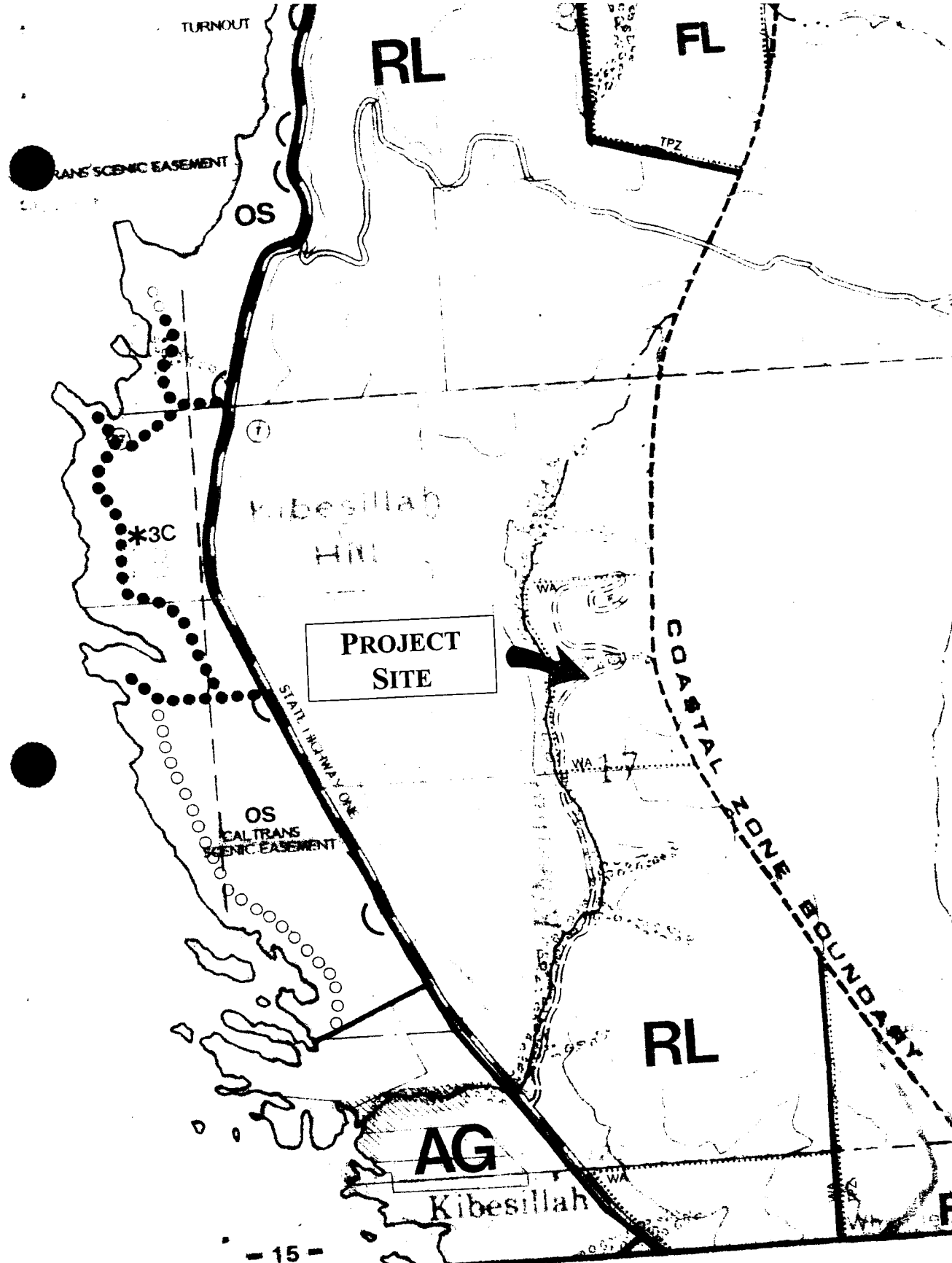


EXHIBIT NO. 3

APPLICATION NO.
A-1-MEN-01-062

JACKSON-GRUBE

PORTION, LAND USE
MAP NO. 8 - WESTPORT

ADDENDUM FOR
WILSEY RANCH QUARRY RECLAMATION PLAN
CALIFORNIA ID# 91-23-0038

EXHIBIT NO. 4
APPLICATION NO. A-1-MEN-01-062
SITE, MINING, AND RECLAMATION PLANS (1 of 22)

March 26, 2001

(This addendum is in response to comments from the Department of Conservation Office of Mine Reclamation upon their visit to the Wilsey Ranch Quarry March 1, 2001)

MINING OPERATION AND CLOSURE

Based on the final bench configuration and the plan to use native plants for revegetation, the end use of the Wilsey Ranch Quarry will be for wildlife habitat.

HYDROLOGY AND WATER QUALITY

Bales of straw are being used to catch sedimentation to the local drainage. These bales will be replaced annually by October 15th. All erosion control measures are and will continue to be inspected following storm events. During post-storm inspection, bales of hay will be checked and replaced, in the event bales are found to no longer retaining sediment. Sedimentation build-up will be removed and stockpiled for topsoil as it accumulates.

GEOTECHNICAL REQUIREMENTS

The recommendations of George C. Rau consulting engineer for the project, will be followed as stated in his November 28, 2000 letter with a slight modification to the sedimentation basin recommendation. A sedimentation basin will be put in place annually as shown on the site map (figure 1) from October through April to absorb water runoff during storm periods, the remainder of the year that area will be used for stockpile storage.

ENVIRONMENTAL SETTING AND
PROTECTION OF FISH AND WILDLIFE HABITAT

Kibesillah Creek and it's tributary are mapped on the site plan attached (Figure 1) to this addendum. The creek, tributary, and associated riparian habitat will continue to be protected from mining operations, through the use of erosion controls such as silt fencing, hay bales, and shallow sedimentation ponds. Berms and straw bales are being used and will continue to be used to direct runoff and erosive material away from the open water and associated riparian habitat. Precautions are being taken so that fertilizers and amendments associated with reclamation do not contaminate surface waters. A berm consisting of hay bales planted with perennial grasses serve to protect Kibesillah Creek From road surface runoff.

RESOILING AND REVEGETATION

1. The attached site map, (Figure 1) shows existing and future locations of topsoil stockpiles. Topsoil stockpiles will be protected by the use of straw, straw bales and silt fabric.

2. The final planting list to the Wilsey Ranch Quarry Reclamation is being revised to reflect more species native to the site and immediate surroundings. Those species will include: Coyote Bush (*Baccharis pilularis*), Douglas fir (*Pseudotsuga menziesii*), Sword fern (*Polystichum munitum*), Cow parsnip (*Heracleum lanatum*), California brome (*Bromus carinatus*), California melic grass (*Melica californica*), grand fir (*Abies grandis*), and Sitka spruce (*Picea sitchensis*). The mine operator is presently raising native vegetation at an onsite nursery to increase plant inventory and to determine species viability.

3. The following are non-native species that will not be planted and are being deleted from the former reclamation plant: ryegrass (*Lolium multiflorum*), Australian saltbush (*Atriplex semibaccata*) and Duro California buckwheat (*Eriogonum fasciculatum*).

4. The specific seed mix and rate for slopes and benches will be:

a. California Brome (<i>Bromus carinatus</i>)	10 lbs/acre
b. California melic grass (<i>Melica californica</i>)	8 lbs/acre
c. Bicolor lupine (<i>Lupinus bicolor</i>)	3 lbs./acre
d. Cow parsnip (<i>Heracleum lanatum</i>)	3 lbs/acre
e. Coyote bush (<i>Baccharis pilularis</i>)	4 lbs/acre

5. The following containerized plant species will be installed on the benches and at the base of the quarry at 20 feet on center (average spacing density), in an irregularly-spaced pattern:

- a. Douglas fir (*Pseudotsuga menziesii*)
- b. Grand fir (*Abies grandis*)
- c. Sitka spruce (*Picea sitchensis*)

Other native tree species found growing naturally within 2 miles of the project site may be added or substituted for the species listed if the on-site nursery trials show that they will establish and thrive more readily. In addition to the seed and containerized plantings above, containerized sword fern will also be planted at a rate of 20 plants per acre.22

6. Under **Erosion Control Seeding and Specifications** erosion control seeding will take place every year. Revegetation will be considered successful if the tree survival rate is 75% of that initially planted. Periodic monitoring and replanting will continue until two consecutive years of monitoring have demonstrated successful establishment without supplemental irrigation. Total herb and shrub plant cover (combined) shall be 80% or greater to ensure that effective erosion control is in place. Species richness of trees and shrubs (combined) shall be 4 at a minimum. Performance criteria will be stated in terms of percent cover, den-

2 of 22

sity, and species richness. Performance criteria will be based on a percentage of that existing on the naturally vegetated slopes surrounding the mined area.

7. In addressing weed management, which is not currently a significant problem on the project site, the project site will be monitored at least annually for exotic invasive species (e.g. Pampas grass) until reclamation is complete. If Pampas grass or significant infestations of other exotic invasive plant species are found, eradication measures will be undertaken. These measures may include the physical removal of individual plants and targeted herbicide applications. Additionally, all mulch and straw will be certified "weed-free" to reduce the introduction of weedy species on the project site.

**RONELLE MCMAHON
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P.O. Box 2115
FORT BRAGG, CA. 95437**

**(707) 964-7625
FAX (707) 964-7625**

**RECLAMATION PLAN
FOR THE
WILSEY RANCH QUARRY**

**AP #015-070-40
33051 North Highway 1
Fort Bragg, Mendocino County California**

Prepared For

**Jackson Grube Family, Inc.
Willard Jackson, President
P.O. Box 430
Middlebury, Vermont 05753**

**Prepared By
Walls Testing, Inc.
3/95**

**Updated by
Ronelle McMahon
Manager: Wilsey Ranch Quarry
P.O. Box 2115
Fort Bragg, Ca. 95437**

November 11, 2000

A. INTRODUCTION

A renewal of a Mendocino County Use Permit is being applied for by the Jackson Grube Family Inc., for the purpose to continue to extract rock from the Wilsey Ranch Quarry. The lessee of Wilsey Ranch Quarry is Ms. Ronelle McMahon. Ms. McMahon will continue to operate and manage the operation. As part of the application, a revised Reclamation Plan is required. The purpose of the application is to continue to extract rock from a sidehill where rock is found at the surface of the ground. The quarry consists of approximately 8.0 acres of land.

The California Department of Conservation requires a Reclamation Plan to comply with the State's Surface Mining and Reclamation Act (SMARA). This document is intended to comply with these requirements.

B. WINTERIZATION

As mentioned in the Environmental Assessment Report, the extraction and processing of bedrock will not be performed during October to April of each year. Prior to shutting down the operation for that time duration, erosion control measures will be implemented to control potential erosion due to storm surface runoff.

The mining of rock will continue at the base of the hillside. As the mining continues from year to year, the site will be shaped and contoured according to Figure 4. The base and any bench will be shaped to drain and provided with rock lined "V" ditches, seed, hay, silt fences or other acceptable erosion devise to prevent migration of soil. Stockpiles remaining during the winter will be provided with perimeter of hay bales or silt fences to prevent the migration of soil.

Vegetation has been established on the overburden soil that has been previously removed. When that material is relocated, it will be seeded and planted with vegetation to prevent erosion. The winterization cost estimates are included in Attachment No. 1 of this report.

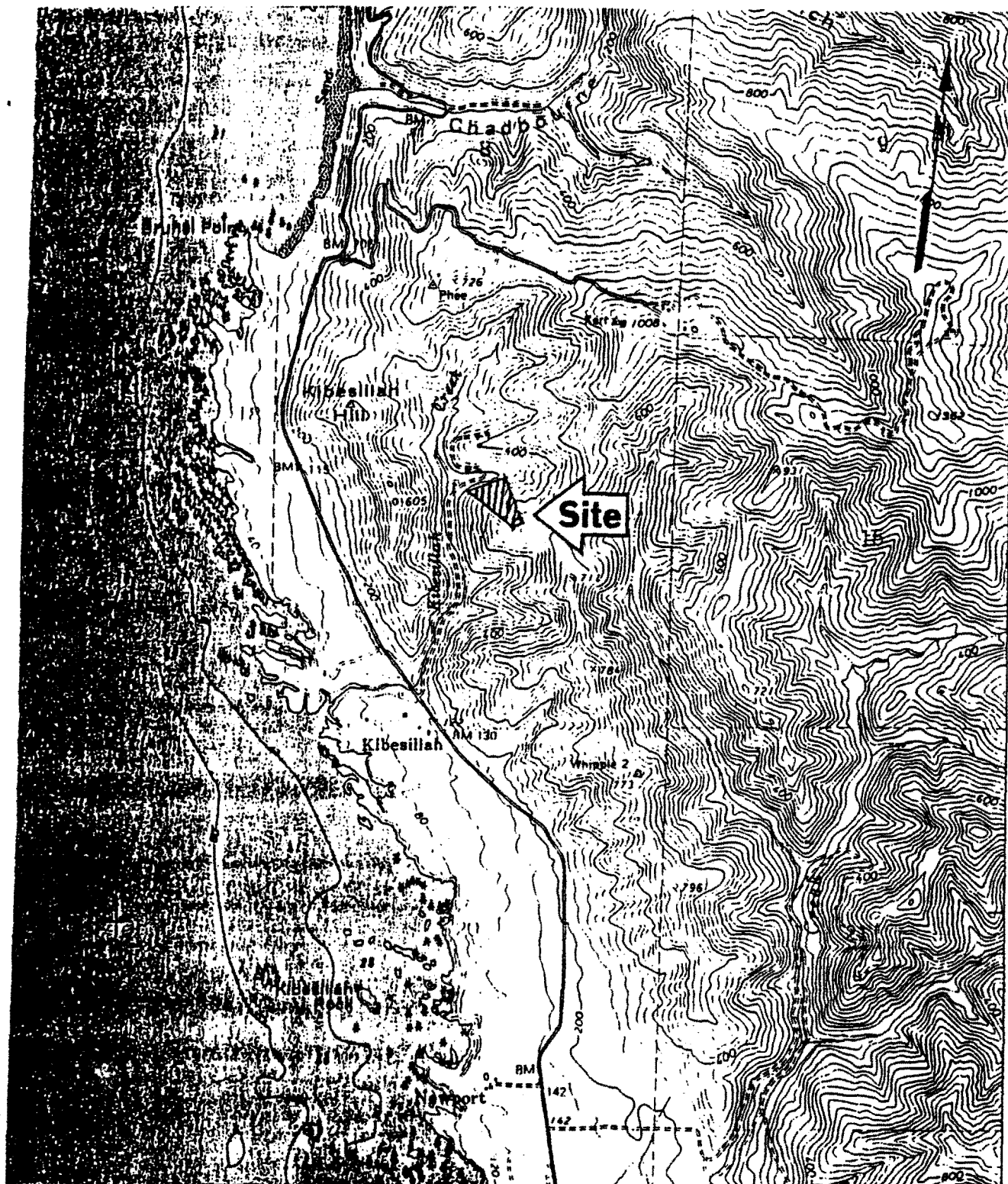
C. RECLAMATION PLAN

The rock which is proposed to be mined is from a northwest facing hillside approximately one-half mile north of California State Highway 1. Please refer to the Site Location Map, Figure 1.

1. Quarry Treatment - General

Bedrock is to be extracted on a moderately steep, northwest facing hillside. The overburden soil has been previously removed from the operation and has been stockpiled at the eastern

6 of 22



SCALE

1 inch = 2000 ft

Reference: USGS Inglenook, CA
Topographic Map

Job No. 481.400
March, 1995

SITE LOCATION MAP

Wilsey Ranch Quarry
AP # 015-070-40
33051 North Highway 7
Fort Bragg, CA

Figure 1

WALLS
TESTING,
INC.

7 of 22

The hillside exposes bedrock and little overburden remaining will be removed during the lifetime of the project. The previously removed overburden soil has since been vegetated by native grasses and brush by natural processes. Minimal erosion of this stockpile has been observed.

Rock has been previously extracted at the base of the hillside for the past 30 years the operation will continue the process, while recontouring the slope to provide site drainage, to prevent erosion and to promote revegetation of the site. Figure 4 shows the final grading and erosion control plan. Figure 5 shows the final reclamation plan.

The final grading has been designed for a total extraction volume of approximately 900,000 cubic yards. However it is anticipated that a maximum of 150,000 cubic yards will be extracted during the 10 year permit duration.

The grading of the quarry will be performed in stages according to Figure 4. The overburden previously removed will be spread on the benches of the final grading configuration. Due to the steepness of the final slopes, no top soil will be placed on the slopes. Due to the hardness of the slope, we believe that erosion would be minimal. The thickness of the top soil placement on the benches will depend on the top soil available. Ms. McMahon estimates that there is a maximum of 10,000 cubic yards of top soil available. There should be a minimal removal of top soil during the operation. Based on the final grading plan, we anticipate approximately 4.5 acres of area will encompass the benches. Therefore, we estimate the existing top soil stockpile at the site will provide approximately 1.5 feet cover for each bench.

Grasses, low growth shrubs and Douglas fir trees will be planted in accordance with "Erosion Control Seeding Specifications" and Woody Plants and Trees" found in the later sections of this Reclamation Plan, and as recommended by the California Department of Conservation Open-file Report 86-14 SAC.

Detailed estimated costs to close the quarry, spread topsoil and overburden, plant shrubs, and trees, and grasses, and monitor them through two years are included in Attachment No. 2.

2. Processing Area Treatment

When the processing and the site is no longer required, the area will be reclaimed. This will require the removal of all crushing equipment and other related items.

All of the gravel surfacing will be removed from the area and will be used as a product to sell commercially. The road will remain open to provide access to the existing residences.

The processing area will be ripped or scarified and regraded to coincide with the natural contours of the site as much as practical and provide for site drainage to prevent erosion. The

8 of 22

Drainage patterns will be re-established, except that the ditches shall be left intact with rock lining to handle the runoff and control erosion and migration of sediment.

Stored topsoil will be added to areas to aid in recontouring the site and filling depressions.

The detailed costs estimated to remove equipment, strip gravel surfacing, haul stock piled topsoil, recountour the area, and plant is included in Attachment No. 2.

3. Spreading and Compacting of Topsoil in the Quarry

As mentioned earlier, the majority of the top soil has been removed and stockpiled near the eastern portion of the site as shown on figure 2. This material will be used as top soil on the benches.

Overburden shall be deposited first and spread in layers not exceeding 8 inches in uncompacted depth. It shall be spread uniformly with tractors and not compacted with compaction equipment. Pneumatic equipment shall be allowed to haul, deposit, and spread the material, but shall use parallel tracks in delivery to and leaving the site so as not to overcompact the material. Subsequently layers shall be laid in similar uniform lifts.

Compaction shall be done to fall between 80% and 85% relative compaction when tested in accordance with ASTM D-1557

4 Erosion Control

The face of the quarry has natural armoring characteristics due to the hardness of the bedrock and absence of overburden top soil. Little erosion has been observed.

Geotextile fabric or silt fences will be placed at the inside portion of the benches to prevent the migration of soil. Please see Figure 5 for a detail. The fabric and/or the silt fences will remain until the vegetation is established in these areas. All "V" ditches will consist of hard exposed rock or will be rock lined. The "V" ditches of the benches will drain into the main "V" ditch located along the eastern perimeter of the quarry. The main "V" ditch will discharge through the existing 18-inch culvert. Rip-rap will be placed where the culvert discharges to prevent erosion. Please see figure 4 for details of the work.

5. Erosion Control Seeding Specifications

The areas identified on the Reclamation Plan (Figure 5) shall be seeded and fertilized with a mixture of grasses and legumes to prevent erosion. Such seeding and fertilizing shall be done between August 30 and October 30 of any year to provide the best conditions for germina-

tion. Acceptable methods and materials for this process area as follows:

1. Grass and legume seed and fertilizer may be broadcast spread or hydromulched.
2. If the erosion control method on permanently seeded areas is by broadcast seeding and fertilizing, straw mulch shall be applied at a rate of two tons per acre.
3. If the hydromulching method is used, fiber shall be applied at the rate of 1500 pounds per acre (slope measurement) and stabilizing emulsion shall be applied at a rate of 100 pounds of solids per acre, mixed in accordance with the manufacturers recommendations. Seed, fertilizer, fiber and stabilizing emulsion may be applied together in one application.
4. Seed shall be of the following varieties and applied at the designated rates:

a. Hordeum Vulgure (Common Barley)	75 lbs/acre
b. Bromus Mollis (Blando Brome)	41 lbs/acre
c. Bromus Rubens (Panoche Red Brome)	10 lbs/acre
d. Trifolium Hirtum (Rose Clover)	10 lbs/acre
e. Lolium Multiflorum (Perennial Rye)	10 lbs/acre
5. All legume seed shall be pellet-inoculated as provided in Bulletin 842 "Range-Legume Inoculation and Nitrogen Fixation by Root Nodule Bacteria" of the University of California Division of Agricultural Sciences. Legume seed shall be sown within 90 days of inoculation or shall be re-inoculated prior to application.
6. Fertilizer shall be a commercial grade 16-20-0 Ammonium Phosphate applied at a rate of 400 pounds per acre (slope measurement).
7. Fiber shall conform to the provisions of Section 20-2.07 "Fiber" of the State of California, Department of Transportation "Standard Specifications", latest edition, except that the fiberization shall be the result of either a chemical or mechanical process.
8. Stabilizing emulsion shall conform to the requirements of Section 20-2.11 "Stabilization Emulsion" of the State of California, Department of Transportation "Standard Specifications", latest edition, except that the stabilizing emulsion shall be an organic derivative such as gum or a semi-refined seaweed extract or other similar product or processed organic adhesive used as a soil

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binder and may be re-emulsifiable.

6. Woody Plants and Trees

Due to the economic constraints (the cost of woody plant revegetation over the entire project area could exceed the value of the mined rock) and the shallow soil conditions for the benches, the placement of trees and woody plant plantings will be restricted to an area located at the base of the quarry.

The woody plants shall comprise conifers and large shrubs planted every 20 feet in each direction for the entire base area. The precise location of the woody plants shall be determined in the field following mining.

7. Vegetation

The primary habitat type occurring near the project area is Mediterranean. The wood plant species which may be used at the site would consist of but not limited to the following:

Atriplex semibaccata

Australian saltbush

Eriogonum fasciculatum

Duro California buckwheat

Pseudotsuga menziesii

Douglas Fir

8. Soils

The soils at the site are shallow to nonexistent on the slopes, but thicker at the base. Since the reclamation plan outlines the 1.5 feet of soil placement over the fractured rock, it is assumed that the woody plants and trees can survive in the designated base area. However, the harsh site conditions will limit the amount of vegetation which can be expected to survive.

9. Plant Density

As mentioned earlier, planting of woody plants and trees will be performed only at the base of the quarry where the thicker soil horizon exists. Revegetation will consist of planting every 20 feet in both directions at the base. This would require approximately 120 plants. Since trees will be difficult to propagate and are not found in abundance in the natural setting, the following distribution of types of plantings is recommended:

+/- 10% Trees	12 each
+/-50% Tall Shrubs	60 each
+/-40% Miscellaneous Plants	48 each

11 4 22

Species from nearby sites and similar exposures are being grown in an onsite nursery. These plants will keep the costs of replanting within reason. Wild plant transplants (wildings) and plugs are another viable source. A variety of plants will be started and planted for diversity of wildlife food and habitat and to provide a more typical vegetation pattern. The following species are typical of what can be planted on this site:

Trees:

Pseudotsuga menziesii

Douglas Fir

Tall Shrubs:

Atriplex semibaccata

Australian saltbush

Eriogonum fasciculatum

Duro California buckwheat

Planting will begin in the late fall, after the soil is wet to a depth of eight to ten inches and will be finished by January 31 to allow adequate establishment prior to the onset of summer drought.

The planting shall be checked once every one to two months for the first year after planting to monitor for damage due to drought or other harmful events. If a drought occurs, the plants' condition shall be checked regularly by a qualified individual to determine the need for irrigation. In October, the first year following planting, a survival count shall be taken to determine percent survival; replanting shall occur if the survival rate is below 75%. The need for supplemental planting will be determined at this time. Periodic monitoring and replanting, if necessary, shall continue for two additional years.

D. FINANCIAL ASSURANCES

The amount estimated for financial assurances was done in the manner prescribed in the publication entitled "Surface Mining and Reclamation Act - Financial Assurance Guidelines" adopted January 29, 1993 by the State Mining and Geology Board.

Annual costs to provide erosion control as outlined in Section B, Winterization were considered as part of this Reclamation Plan. The costs in Attachment No. 1 are the maximum amounts considered necessary for the annual activities. After two or three years, the amount of financial assurances would be re-evaluated because the temporary stockpile sites will have become stabilized and will have had erosion protection vegetation well established on the stockpiles. The annual cost to perform these activities for the first two or three years is estimated to be \$1,6000.

The estimated cost to abandon and reclaim the processing plant site and quarry is based upon

12 of 22

Moving out all the equipment and structures, stripping rock surfaced areas, ripping compacted areas, regrading the surface of the area, spreading and grading stored topsoil and re-seeding the topsoil with erosion control vegetation or planting woody plants and trees. A detailed analysis of this activity is provided in Attachment 2 of the Appendix. The total amount for the work is estimated to be \$22,600.00

The amount recommended as a Financial assurance is the sum of the two activities described above the total is \$24,100.00.

Attachment 3 of the Appendix breaks down the activities into mandatory categories required by SMARA. The Financial Assurance Analysis shows that all categories have been considered and that costs associated with each category of the Reclamation Plan were included.

*The previous information and information to follow was prepared by Patrick J. Conway (Walls Testing, Inc.), Registered Civil Engineer 44507 Registered Environmental Assessor 4763, on April 11, 1995. This information has been updated by Ronelle McMahon Manager of Wilsey Ranch Quarry and acting agent for Jackson Grube Family, Inc.

Reviewed and Approved By:

I hereby confirm that I am the Manager of Wilsey Ranch Quarry and I agree to accept responsibility for reclaiming the mined lands as designated in the approved Reclamation Plan, including the Attachments and Drawings.

By Ronelle McMahon Date

Appendix:

Attachment 1:	Shaping Temporary Stockpiles of Topsoil and Materials On-Site; Seed and Fertilize for Erosion Control – Annual Cost
Attachment 2:	Abandon and Reclaim Processing Site and Quarry
Attachment 3:	Financial Assurance Analysis - Mandatory SMARA Categories

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ATTACHMENT 1**Shaping Stockpiles On-Site For Erosion Control – Annual Cost**

Description of Task

1. Work To Be Performed:

This task involves shaping stockpiles for drainage and placement of erosion control devices. The existing stockpile of overburden soils is covered with native vegetation. It is anticipated that this stockpile will not be disturbed for 2 years. When this stockpile is relocated, it will be seeded and fertilized by hand. This work will be performed when this stockpile is disturbed and is included in this work will be performed when this stockpile is disturbed and is included in this annual cost estimate. As mentioned earlier, the erosion control will be implemented in late fall when the quarry is about to close for the winter. The stockpile located at the base will primarily consist of rock. It is our opinion that seeding of the stockpile would not be feasible.

2. Estimated Size of Annual Task and Rate of Production:

- 2.1 Grading and shaping of rock stockpile with D-6 dozer or equivalent (0.5 day)
- 2.2 Installation of sedimentation control devices. (1/4 day)
- 2.3 Spreading by hand of hay on the stockpiles. (1/4 day)
- 2.4 Estimated maximum area of rock stockpile. (0.25)
- 2.5 Estimated maximum area of existing overburden soils. (0.35 acres)
- 2.6 Grading and shaping of existing overburden soils. (0.5 day)
- 2.7 Seed and fertilize overburden soils. (1 day)

3. Cost Estimate for Annual Activities

The following tabulated amounts are estimates of what the maximum annual costs will be for erosion and sedimentation control. After the first three years, these costs could decrease significantly and should be re-evaluated to establish new financial assurances.

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A. Equipment

	Item	Quantitiy	Total \$/Hour	Total Hours	Total Cost(s)
1.	Cat D6D Dozer	1	65.00	8	520.00
2.	3/4 Ton P/U and Trailer	1	12.00	8	96.00
Total Equipment Cost					616.00

B. Labor

	Item	Quantitiy	Total \$/Hour	Total Hours	Total Cost(s)
1.	Heavy Equipment Operator	1	33.00	8	264.00
2.	Labor	1	22.00	8	176.00
Total Labor Cost					440.00

C. Materials:

	Item	Unit	Quantitiy	Unit Cost	Total Cost(s)
1.	Seed	lbs	50	2.00	100.00
2.	Fertilizer	lbs	140	0.15	21.00
3.	Silt Fences	ft	300	0.39	117.00
Total Material Cost					238.00

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D. Total Direct Cost:

Equipment Cost + Labor Cost + Materials	\$1,294.00
---	------------

E. Supervision

7% of \$1,294.00

F. Profit and Overhead

90.58

14% of \$1,294.00

181.16

G. Contingencies

10% of 1,294.00

129.40

H. Mobilization

8% of \$1,294.00

103.52

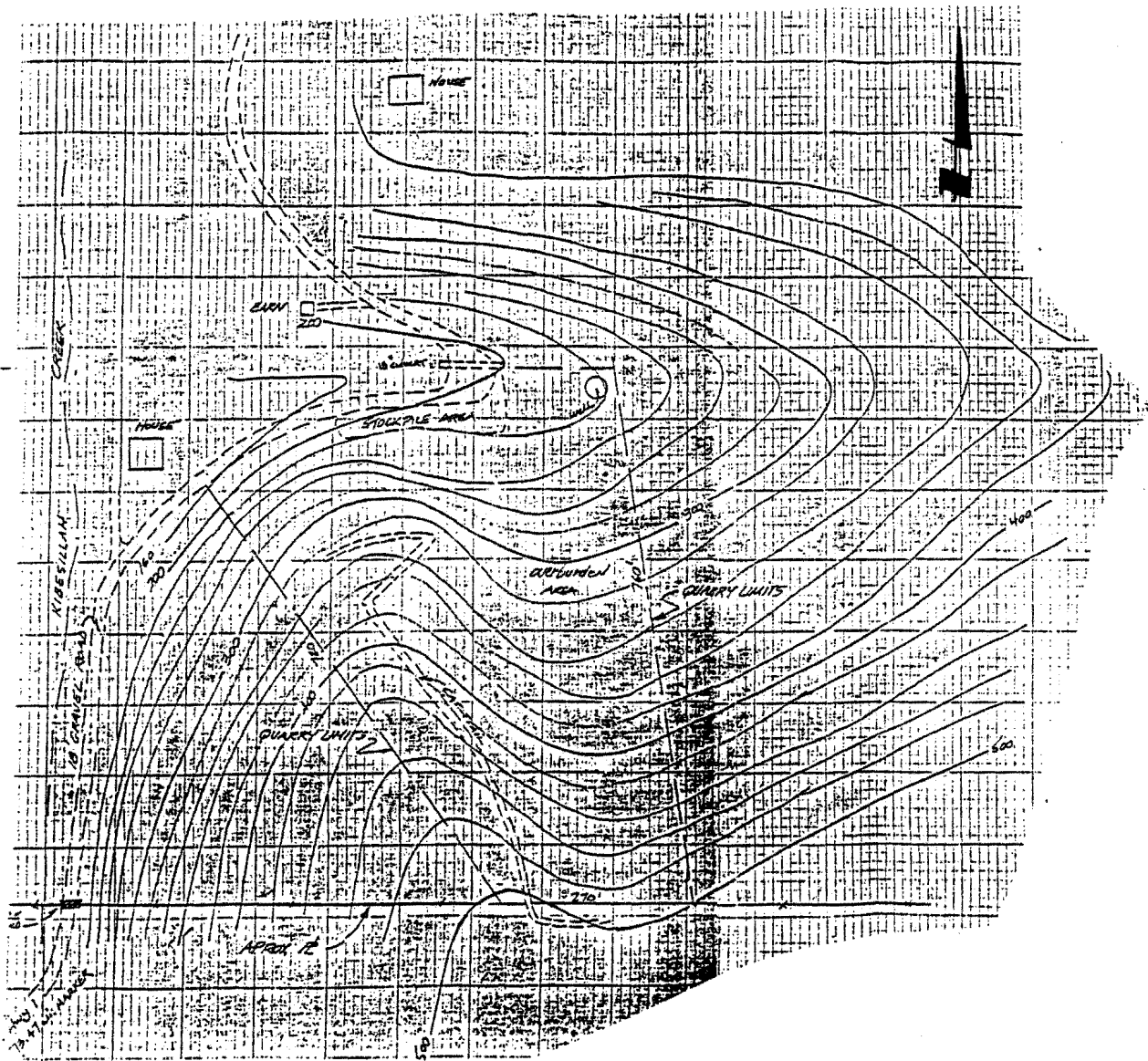
I. Round To Nearest \$100

1.34

Total Estimated Annual Reclamation Costs

\$ 1,800.00

Note: The percentages used in "E", "F", "G" and "H" are those recommended by the "Surface Mining and Reclamation Act, Financial Assurance Guidelines," dated January 29, 1993, by the (California) State Mining and Geology Board.



Wilsey Ranch Quarry

Job No. 481.439

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B. Labor:

	Item	Quantity	Total \$/Hour	Total Hours	Total Cost(s)
1.	Heavy Equipment Operator	1	33.00	35	1,155.00
2.	Heavy Equipment Operator	1	38.00	35	1,330.00
3.	Water Truck Driver	1	23.00	35	805.00
4.	Laborer	2	22.00	35	1,540.00

Total Labor Cost \$4,830.00

C. Materials: 4.5 Acres: Seed, Fertilize, Mulch; 0.8 acres: Revegetate with Woody Plants and Trees; Erosion Control and Drainage Materials.

	Item	Unit	Unit Quantity	Cost	Total Cost(s)
1.	Seed	lbs	646	3.00	1,292.00
2.	Fertilizer	lbs	1,900	0.30	570.00
3.	Straw Mulch	tons	9.5	100.00	955.00
4.	Plantings	each	150	8.50	1,275.00
5.	Filter Fabric	LF	4,500	0.42	1,890.00
6.	Rock Liner*	cy	100	3.50	350.00

Total Material Cost \$6,332.00

* Rock Liner = Rock which can be salvaged from onsite materials piles and Used for erosion protection.

D. Total Direct Costs:

Equipment Cost + Labor Cost + Materials Cost = \$18,212.00

E. Supervision

6.1% of 18,212.00 \$ 1,110.93

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F. Profit and Overhead

12.8% of \$18,212.00 \$2,331.14

G. Contingencies

10% of \$18,212.00 \$1,821.20

H. Mobilization

3% of \$18,212.00 \$ 546.36

I. Round To Nearest \$100

78.37

Total Estimated Reclamation Costs \$24,100.00

Note: The percentages used in "E", "F", "G" and "H" are those recommended by the "Surface Mining and Reclamation Act, Financial Assurance Guidelines," dated January 29, 1993, by the (California) State Mining and Geology Board.

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ATTACHMENT 3

FINANCIAL ASSURANCE ANALYSIS – MANDATORY SMARA CATEGORIES

In order to comply with Section 2773 of the Surface Mining and Reclamation Act (SMARA), the following schedule of reclamation considers each mandatory category described in SMARA and summarizes the recommended financial assurance amount, to demonstrate that the reclamation addresses all of the mandatory considerations:

Note:

The dominant activity is named and the costs dedicated to it. For instance the cost to do Mandatory Category No. 1, "Wildlife Habitat," is contained within the costs for Mandatory Category No. 2 "Backfilling, regrading, and recontouring" and within Mandatory Category No. 3 "Revegetation." It appeared to serve no useful purpose to subdivide costs any lower. It is demonstrated by reference that each activity was considered in the Reclamation Plan.

(1) "Wildlife Habitat"

The cost to restore wildlife habitat is contained in Mandatory Category No. 2 and Mandatory Category No. 3 below. Revegetation will restore the habitat. The grading and recontouring is necessary to accomplish the revegetation. Some auxiliary costs could be considered to apply to this category from nearly all of the other categories since they are necessary to be assured that the revegetation program succeeds.

(2) "Backfilling, regrading, and recontouring."

The cost of doing this work is included in attachment No. 2. The estimated amount that can be assigned to this category is \$11,880.00

(3) "Revegetation"

The costs of planting and maintaining the vegetation upon closure of the processing site and quarry were assigned to this category. There are some vegetation costs in Category 8 also, but these pertain to interim costs, and vegetation provided under that activity will not remain after closure of the facilities. The estimated cost which has been assigned to this category comprises direct labor, equipment and materials to plant and maintain the vegetation. The total is \$6,332.00.

(4) "Drainage, diversion structures, waterways and erosion control."

The cost of this work is largely accomplished by doing the work described in Category 2.

Some direct costs for the filter fabric and rock linings were assigned to this category. The total is \$2,240.00.

(5) "Prime and other agricultural land reclamation."

There has never been any agricultural land in this quarry.

(6) "Building, structure and equipment removal."

There will be no buildings at the quarry site. The equipment will be portable.

(7) "Stream Protection."

Kibesillah Creek is the main drainage in the area. The processing site and quarry have some 200 feet or more of buffer from the creek. This creek and subsidiary tributaries are ephemeral in nature and have small tributary drainage areas. Erosion and sedimentation will be controlled and prevented by the operations plan.

Upon closure of the facilities, the land forms developed and left as described in Categories 2, 3, and 4 above will assure that erosion and sedimentation after closure does not occur.

(8) "Topsoil salvage and redistribution."

This activity will be performed at the closure of the quarry as described in Attachment No. 2.

(9) "Tailing and Mine Waste Management."

No tailings or Mine Waste will be left at the site.

This concludes the division of costs into mandatory categories required to be considered by SMARA.

(4) "Drainage, diversion structures, waterways and erosion control."

The cost of this work is largely accomplished by doing the work described in Category 2.

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This concludes the division of costs into mandatory categories required to be considered by SMARA.

GEORGE C. RAU
PRESIDENT
WALTER HAYDON
VICE PRESIDENT
ROGER VINCENT
VICE PRESIDENT

RAU AND ASSOCIATES INC.
CIVIL ENGINEERS • LAND SURVEYORS

November 28, 2000

Ronni McMahon
Kibesillah Rock Co.
P.O. Box 2115
Fort Bragg, CA 95437-2115

Job Number 99-245

RE: GRADING PLAN FOR RENEWAL OF USE PERMIT # CDU 7-94; KIBESILLAH ROCK CO.

Dear Ms. McMahon:

At your request, we evaluated the effect which the additional quantity of extracting 75,000 cubic yards of rock would have on the grading plan for the existing quarry. Over the next 5 years you are requesting permission to extract this quantity under a renewal of your use permit referenced above.

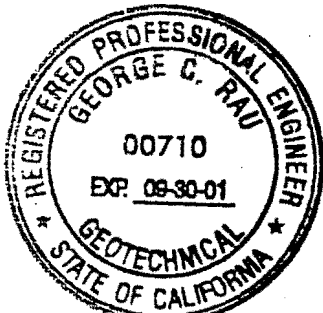
We found that the additional material would amount to approximately a five foot cut perpendicular to the slopes within the quarry as diagramed in the existing permit. Because the scale of these drawings is 1"= 100, there is no discernable difference between the existing drawings and the new configuration after an additional five feet of thickness is extracted.

As you and I discussed, the practical width of a cut in this type of quarry is ten feet horizontally which results in 6.5 feet perpendicular to the slope. The existing grading configuration which you described to me consists of benches approximately 20 feet wide. The final configuration of the drawings shows these benches to be approximately 40 feet to 65 feet wide; therefore, you could widen the top benches more than the lower benches and still be in conformance with the ultimate configuration shown on the drawing. This would give you two or more additional 5 year renewals with essentially no change to the approved drawings required.

Other conditions which we discussed are as follows:

- 1) Retain all the drainage from the quarry itself within the quarry floor so that it can be absorbed into the bottom of the quarry and will not run off into the nearby creek. If it does overflow the quarry floor can serve as a sedimentation basin.
- 2) Retain your water quality plan and storm water prevention pollution plan in accordance with the terms that currently exist.
- 3) Maintain the slopes of the quarry face between benches at a maximum of 1.25H:1V (1.25 feet of horizontal distance for each foot of vertical fall).

If these items are maintained as noted above your quarry should be able to be renewed for two or three 5 year periods without additional engineering being required.



Very truly yours,

George C. Rau
Registered Civil Engineer 21908
Registered Geotechnical Engineer 00710
Expires 9-30-01

GCR:dlw

Attachment: Current plan of quarry grading

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COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
501 LOW GAP ROAD • ROOM 1440 • UKIAH • CALIFORNIA • 95482

RAYMOND HALL, DIRECTOR
Telephone 707-463-4281
FAX 707-463-5709
pbs@co.mendocino.ca.us
www.co.mendocino.ca.us/planning

November 1, 2001

RECEIVED
NOV 19 2001

CALIFORNIA
COASTAL COMMISSION

NOTICE OF FINAL ACTION

Action has been completed by the County of Mendocino on the below described project located within the Coastal Zone.

CASE#: CDUR 7-94/2000

DATE FILED: December 12, 2000

OWNER: JACKSON GRUBE FAMILY, INC

AGENT: RONELLE MCMAHON

REQUEST: Renewal of a coastal development use permit and reclamation plan for the extraction and processing (crushing and screening) of up to 15,000 cubic yards of rock per year for ten years from a hillside quarry.

LOCATION: In the Coastal Zone, approximately 2.5 miles south of Westport, lying approximately 1/2 mile east of Highway 1, approximately 1 mile south of its intersection with Bruhel Point Road (private road); AP# 015-070-40.

PROJECT COORDINATOR: Julie Price

ACTION TAKEN:

The Board of Supervisors, on October 23, 2001, approved the above described project. See attached documents for the findings and conditions in support of this decision.

The above project was appealed at the local level but denied by the Board of Supervisors.

This project is appealable to the Coastal Commission pursuant to Public Resources Code, Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following Coastal Commission receipt of this notice. Appeals must be in writing to the appropriate Coastal Commission district office.

Attachments

cc: Jackson Grube Family, Inc
Ronelle McMahon
Gary Quinton
Rod Jones
Coastal Commission
Assessor

EXHIBIT NO. 5
APPLICATION NO. A-1-MEN-01-062
JACKSON-GRUBE
NOTICE OF FINAL LOCAL ACTION

NIA COASTAL COMMISSION

DISTRICT OFFICE
STREET • SUITE 200
EUREKA, CA 95501-1885
VOICE (707) 446-7833
FACSIMILE (707) 446-7877

MAILING ADDRESS:
P. O. BOX 4908
EUREKA, CA 95502-4908

RECEIVED
NOV 03 2001



CALIFORNIA
APPEAL FROM COASTAL PERMIT COASTAL COMMISSION
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address, and telephone number of appellant(s):

Gary Quinton
11005 Annmarie Ct.
Arbuckle, CA 95603 530 885-5358
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: Mendocino County Board of Supervisors

2. Brief description of development being appealed: Coastal Development Use Permit

3. Development's location (street address, assessor's parcel no., cross-street, etc.): 33051 N. Highway 1 Fort Bragg, CA
APN # 015-070-40

4. Description of decision being appealed

- a. Approval; no special conditions: _____
b. Approval with special conditions: X
c. Denial: _____

Note: For jurisdiction with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-MEN-01-062

DATE FILED: 11/6/01

DISTRICT: North Coast

EXHIBIT NO. 6

APPLICATION NO.
A-1-MEN-01-062

APPEAL, FILED

NOVEMBER 6, 2001
(QUINTON) (1 of 41)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

a. ☐ Planning director/Zoning
Administrator

c. ☐ Planning Commission

b. ☒ City Council/Board of
Supervisors

d. ☐ Other _____

6. Date of local government's decision:

10/23/01

7. Local government's file number (if any):

CDUR 7-94/00

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Jackson Grube Family Inc
PO Box 430
Middlebury, VT 05753

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

Ronelle McMahon
PO Box 2115
Fort Bragg, CA 95437

(2)

(3)

(4)

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

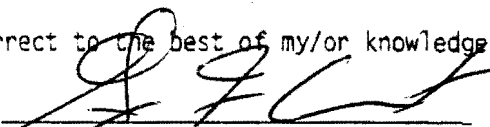
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Requirements of Permit were not met by
applicant. Please review attached.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/or knowledge.



Signature of Appellant(s) or
Authorized Agent

Date

10/30/01

Note: If signed by agent, appellant(s) must also sign below.

SECTION VI. Agent Authorization

I/We hereby authorize _____ to act as my/out representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date

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MENDOCINO COUNTY BOARD OF SUPERVISORS AGENDA SUMMARY – PLANNING MATTERS

BOARD AGENDA # _____

Agenda Summaries must be submitted no later than noon Wednesday, 13 days prior to the meeting date

TO: Board of Supervisors DATE: August 29, 2001 10/23/01
FROM: Planning and Building Services AGENDA DATE: September 11, 2001 ✓

DEPARTMENT RESOURCE: Alan Falleri PHONE: 463-4281 PRESENT: ☒ ON CALL: ☐
Consent ☐ Regular Agenda ☒ Est. Time for Item: 1 hour Urgent ☐ Routine ☒

■ **AGENDA TITLE:** Discussion and Possible Action on Appeal of Coastal Development Use Permit Renewal #CDUR 7-94/2000 - Jackson Grube Family(Owner)/Ronelle McMahon(Agent)/Gary Quinton(Appellant)

■ **SUMMARY:** Ronelle McMahon applied to renew the Coastal Development Use Permit and Reclamation Plan for the Kibesilla Quarry located 2.5+- miles south of Westport, approximately ½ mile east of Highway 1. The project would remove and process (crush and screen) up to 15,000 cubic yards of rock per year for 10 years from the hillside quarry. The original permit for the quarry was granted in 1976 and the quarry has been in continuous operation since that time. The Planning Commission's approval of the renewal application has been appealed by neighboring property owner, Gary Quinton.

■ **PREVIOUS ACTION:** On June 21, 2001, the Planning Commission approved Coastal Development Use Permit Renewal #CDUR 7-94/2000 on a 5-0 vote.

■ **STAFF RECOMMENDATION:** Staff recommends that the Board of Supervisors deny the appeal and uphold the action of the Planning Commission.

■ **RECOMMENDED ACTION/MOTION:** The Board of Supervisors denies the appeal and sustains the action of the Planning Commission on June 21, 2001 making those findings and subject to those conditions as adopted by the Planning Commission, amending Condition A-6 to extend the date for submitting the \$25.00 fee for filing the Notice of Determination from June 22, 2001 to September 17, 2001 and changing "Planning Commission" to Board of Supervisors" in the findings where appropriate.

■ **ALTERNATIVE ACTION/MOTION:**

- (1) The Board of Supervisors finds that the project would have significant adverse environmental impacts related to (*list specific impacts*), therefore, the Board of Supervisors requires that an Environmental Impact Report be prepared to address those issues.
- (2) The Board of Supervisors finds that the project would have significant adverse environmental impacts related to (*list specific impacts*) that can not be adequately mitigated, therefore, the Board of Supervisors denies #CDUR 7-94/2000.

JARD ACTION

Date of Action _____

- 1) ☐ Approved _____ 3) ☐ Denied _____
2) ☐ Referred to _____ 4) ☐ Other _____

4941

Gary Quinton

31901 Bruhel Point Road
Fort Bragg, CA 95437

~~(707) 964-7073~~

(530) 885-5358

June 18, 2001

Planning Commissioners, County of Mendocino
Department of Planning and Building, Room 1440
501 Low Gap Road
Ukiah, California 95482

Re: Renewal of Coastal Development
Use Permit & Reclamation Plan
Wilsey Ranch Quarry
Case # CDUR 7-94/2000

Dear Members:

I am the property owner of the property to the north and west of the referenced project. I take no pleasure in writing this letter. I would prefer to resolve my concerns with the applicant, but I have not received a response call despite having left numerous requests on Ms Ronelle McMahon's answering machine at (707) 964-6193.

I must point out that although the former permit expired on December 6, 2000, the applicant continues to work the quarry. The vegetation from the top 1/3 of the mountain mentioned in the permit has been removed since the expiration of the former permit. This work continues to be performed despite my concerns expressed to both the applicant and to the Planning Department. One must really question the integrity of the special use permit proceedings if one can operate for more than six months after the permit has expired.

This letter is submitted as a request to the Commission to:

- Deny the current application (#CDUR 7-94/2000)
- Order that all extraction activity be stopped immediately
- Issue an order that no further work be performed until a permit is issued and all appeal periods have expired.
- Insure that a full Environmental Impact Report is certified.

The applicant is currently working without a permit, has submitted a "renewal application" which is substantially different from the prior permit, and is performing work in violation of the Staff Report Conditions of Approval.

Listed below are the violations in order of the Staff Report format.

an **Permit Request:**

Your staff's report characterizes this "application" as a *renewal* of a coastal permit to extract 15,000 cubic yards of material per year. In fact, the referenced permit expired on December 6,

2000, and was not for 15,000 yards per year for ten years. The expired permit was for 5 years and for only 10,000 yards per year, except a "one-time only" extraction of 15,000 yards. This new application constitutes an enormous increase in use.

Adjacent Zoning:

The adjacent parcels are incorrectly identified.

	<u>Report</u>	<u>Actual</u>
North:	160-acre minimum, Timber production	40-acre minimum, Residential
West:	160-acre minimum, F-L Rangeland	not so - all is:
	40-acre minimum, URL Residential	40-acre minimum, residential

Surrounding Land use:

The land use is not accurate.

<u>Report</u>	<u>Actual</u>
Timberland	Timberland and Residential

Surrounding Lot Sizes:

The surrounding lot sizes are smaller than indicated.

	<u>Report</u>	<u>Actual</u>
North:	160 acres	One 55-acre parcel, One 150-acre parcel,
West:	126.35 acres	Two 22-acre parcels

The misstatement of actual zoning, land use, and lot use suggests that this quarry is surrounded by vast, unoccupied timberland. Four adjoining parcels are zoned for residential use, where views are of significant value. Continued expansion of the quarry will negatively affect the views and noise levels at each of these parcels, thereby reducing their value as residential sites substantially.

Project Description:

"The applicant proposes to continue using the same operating practices that have been used the past several years." This simply is not true. The comments listed in the following sections describe the discrepancies.

Applicant requests occasional use of a crusher. Crusher use is very important. It is a substantial change in use. It renders this site an industrial, rather than an extraction facility.

Environmental Review:

Earth & Water:

"The extraction operation is to continue without increasing the existing quarry limits." As mentioned, the vegetation on top 1/3 of the mountain described in the permit has been removed since the expiration of the former permit. Currently, there are no run-off collection areas as required.

One requirement is that no fuel "be permanently stored at the quarry site at any time." This is also stated in Condition B-14, which declares: "There shall be no on-site fuel storage in association with this project." Nevertheless, a fuel truck is permanently parked in a newly graded area just beyond the quarry operation and within 10 feet alongside Kibesillah Creek. Additionally, this area has no protection against fuel leaking from the equipment into Kibesillah Creek. This area frequently has several large trucks and equipment parked that are not part of the mining operation. From my home, it resembles a construction yard.

One day this month, parked in the new area just north of the quarry alongside Kibesillah Creek, there were: Two full size road graders, two large water trucks, one large service truck with jeling ability, one tractor, and one pickup truck. (See attached photos.)

Additionally, parked in the quarry operation there were: Two articulating loaders, one dozer, one water truck, one drilling rig for blasting, one mobile office, truck scales, and one rock separator with conveyor system. (See attached photos.)

The application states that this quarry is more than ½ mile from the coast. To the contrary, it is within the "coastal zone boundary." The distance varies, but it is generally 2,000 feet from the coast.

The recommendation of Pat Conroy's 1995 Environmental Assessment for Wilsey Ranch Quarry, modified on November 28, 2000 by George Rau, was for a much smaller project. Only 75,000 cubic yards were proposed for removal. The "renewal request" of 150,000 is double the suggested removal amount (15,000 cubic yards for ten years = 150,000). Were the authors, Mr. Conway and Mr. Rau, solicited for comment on the magnitude of deviation from their recommendations?

Mr. Rau also "recommended that a sedimentation basin be constructed on the quarry floor." Staff overrode this with a determination that the "sedimentation basis is not necessary." This is unauthorized modification of the Assessment. This is an arbitrary action contrary to the Assessment's recommendation – again without input from the authors.

Plant and Animal Life:

Compliance with Conditions # A-7-a necessitates that the applicant shall obtain authorizations and comply with conditions established by agencies having jurisdiction over the project. A botanist or the Department of Fish and Game have not officially determined the riparian vegetation and buffer zone. Photos are attached depicting that the project has disturbed and destroyed vegetation near the creek, with the placement of heavy machinery a few feet from the creek as well as in a meadow where a parking lot has been constructed.

A-7-a includes the California Department of Fish and Game. There is no authorization from this Department. In a brief discussion with Mr. Liam Davis, Environmental Specialist (707) 944-5529 of the Department of Fish and Game, I was told that the agency had not acted because they have recently lost staff whose job that would have been. It appears that there has been no study as to the habitat of Kibesillah Creek and no evaluation of how this proposed increased use and the proposed mitigation of straw bale berms will impact Kibesillah Creek.

Additionally, Doug Albin, Biologist, Department of Fish and Game (Fort Bragg (707) 964-7683) told me that although there was no habitat survey in his file there was an old report stating that there was a steelhead run in the creek.

Air:

B-6 requires the applicant to control the dust.

Dust blows across our property. The only acceptable level is zero. It leaves a film on the vegetation on our property; it looks and smells badly.

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A provision for "dust suppressant" was added to this permit. To the best of my knowledge, however, there has been no input from a licensed professional addressing the impact this will have on Kibesillah Creek, only a few feet away from its use.

While on the subject of dust, the staff report states "dust generated from the previous operation had not been objectionable to the neighbors." Staff never inquired of us about dust or noise. Let me state for the record that indeed the dust is objectionable and, as to the noise, our home is located at the end of a small valley, which serves as an amphitheater. The rock blasting and truck noises are substantial at our home and contrast emphatically to the solitude sought when my now-deceased mother purchased the property 23 years ago.

Noise (B-7)

Noise levels may or may not be intrusive as applied to an urban or industrial environment. Compared to a zero level without the quarry, the current noise and vibrations from the excavations, trucks, and dynamite blasting completely destroy the serenity of customary rural settings.

Staff's recommendation of "limiting the hours of operation ... between 7 am and 6 pm..." six days a week is an unconscionable burden on adjoining properties that will deprive us of our rights to quiet enjoyment without any compensation.

Natural Resources (Item 9-A)

The staff properly reports that there is an abundance of similar resources in the general area, but fails to state why it is necessary to permit this proposed use in a residential area within the coastal zone boundary instead of using one of the many other similar resources available. There is no obvious need to approve this application for the good of the general population of the area. The only benefit to be had in this project is the financial gain of the applicant at the expense of her neighbors.

The five year extension to achieve the 150,000 total cubic yard removal doubles the amount suggested by Mr. Rau's November 28, 2000 recommendation.

Transportation (item 12A and 12C): Staff states that last year the operator reported an average of only 2.45 trips in 1999 and 2.45 trips in 2000 from the operation. The operator estimated 100 yards per day to be shipped from the operation. Considering 5 to 10 yards per truck, this will require 10 to 20 trucks per day in addition to trips by support personnel. In 1994 Cal Trans required a study if the project generated 24 trips per day. It seems reasonable to obtain from Cal Trans a confirmation that nothing has changed in the last seven years as to its requirements. It seems probable that Cal Trans is unaware of this application or that it slipped through the cracks with them believing it was simply a "renewal" of the former permit, not realizing it was an application to significantly increase the size and scope of the project.

Aesthetics - (item 17A):

Staff states: "Most of the impact has already occurred and continued use of the quarry will not significantly increase the severity of that impact." It also states: "...staff does not anticipate the aesthetics of the quarry to be worse than what has been permitted previously."

Prior to the expiration of the former permit, the visual impact was slight from our home. However, after the permit expired last December, the applicant has been working feverishly to expand the entire area of mining covered in this new application. In just the last few months, all the

vegetation has been stripped off the mountain that is in our view area. Thousands of yards of material were removed without a permit. In addition to the permanently devastated aesthetics of the natural terrain, the aforementioned construction equipment and vehicles create an industrial site.

Approval without addressing this kind of conduct is reward for abject disregard of the permit process. Why ask permission when it is easier to simply act and then say "Whoops!" later? The existing activity borders on criminal disregard of all pertinent rules and regulations.

General Plan Consistency:

Policy 3.1-17 of the Coastal Element States: "All applications for sand removal, mining or gravel extraction operations on land or in stream beds within the Coastal Zone shall be subject to a Coastal Permit." It further demands "responses shall be obtained from appropriate referral agencies, including the State Lands Commission, California Department of Fish and Game, Regional Water Quality Control Board and U.S. Army Corps of Engineers..." Page PC-12 lists Referral Agencies in which agencies were referred and their responses. No responses have been received from these crucial agencies. Policy 3.1.17 clearly states that responses are an absolute element in processing the use permit. Without this, the application is not complete. None of the four designated agencies have responded as of May 15, 2001. Additionally, this chart lists five additional agencies (Emergency Services, Assessor, Caltrans, Division of Mines and Geology, and the Coastal Commission) whose input is not represented.

Additionally, we as the impacted neighbors should be given an opportunity to review and respond to the comments of those agencies.

Recommended Motion:

In the Section of Department of Fish and Game Findings the "Planning Commission has evaluated... other information... and finds that... the project will not have any adverse impact upon wildlife or the habitat which wildlife depends..." This recommendation is in violation of the General Plan Consistency, which requires investigation by the authorized agency. It also contradicts its own finding in the "Initial Study Environmental Checklist," (5- Animal Life -D.) Deterioration of existing fish or wildlife habitat, which it checks off as "Significant."

Conditions of Approval:

A-15 a. Financial Assurances: The proposed bonding for reclamation is entirely inadequate. It will not cover even a fraction of the costs if a contractor is required to perform the work. The calculations were derived many years ago for a much smaller project. There appears to be no actual bids in the file from licensed contractors considering the project's entire scope, including the recently graded parking area along Kibesillah Creek.

Julie Price of the Planning Department informed me that the applicants have posted a \$23,000 letter of credit, which expires each year. This is not sufficient for mitigating damages, nor does it guarantee an annual renovation.

A-9. "No part of the operation, including processing machinery... may be located within 100 feet of the edge of the riparian vegetation along the south side of Kibesillah Creek." The attached photo clearly shows that not only has some of the riparian been removed, but also equipment is stored in riparian vegetation a few feet from the creek.

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Summary:

We live in a residentially zoned area and expect to derive the benefit of that zoning. This application, if approved, would place us adjacent to an industrial enterprise with 10 to 20 truck trips per day, six days a week, from 7 am until 6 pm. Operations would commence while we are still asleep, and continue through dinnertime, generating an uninterrupted wall of dust blowing across our property. The blasting is very alarming and I expect that it will worsen over the life of this project.

The objective of this letter is not necessarily to stop this project. I want to make certain that the project, if it goes forward, is operated in accordance with applicable laws, and complies with all of the issues addressed by professionals qualified to assess those issues. Just as this proposal slipped through the cracks with the Department of Fish and Game and important mitigations such as the containment basin have not been fully addressed, a negative declaration is not appropriate for this project. It warrants and demands an Environmental Impact Review.

I am prepared to accept the findings of an EIR that addresses all issues.

Respectfully submitted,

GARY QUINTON

Gary Quinton

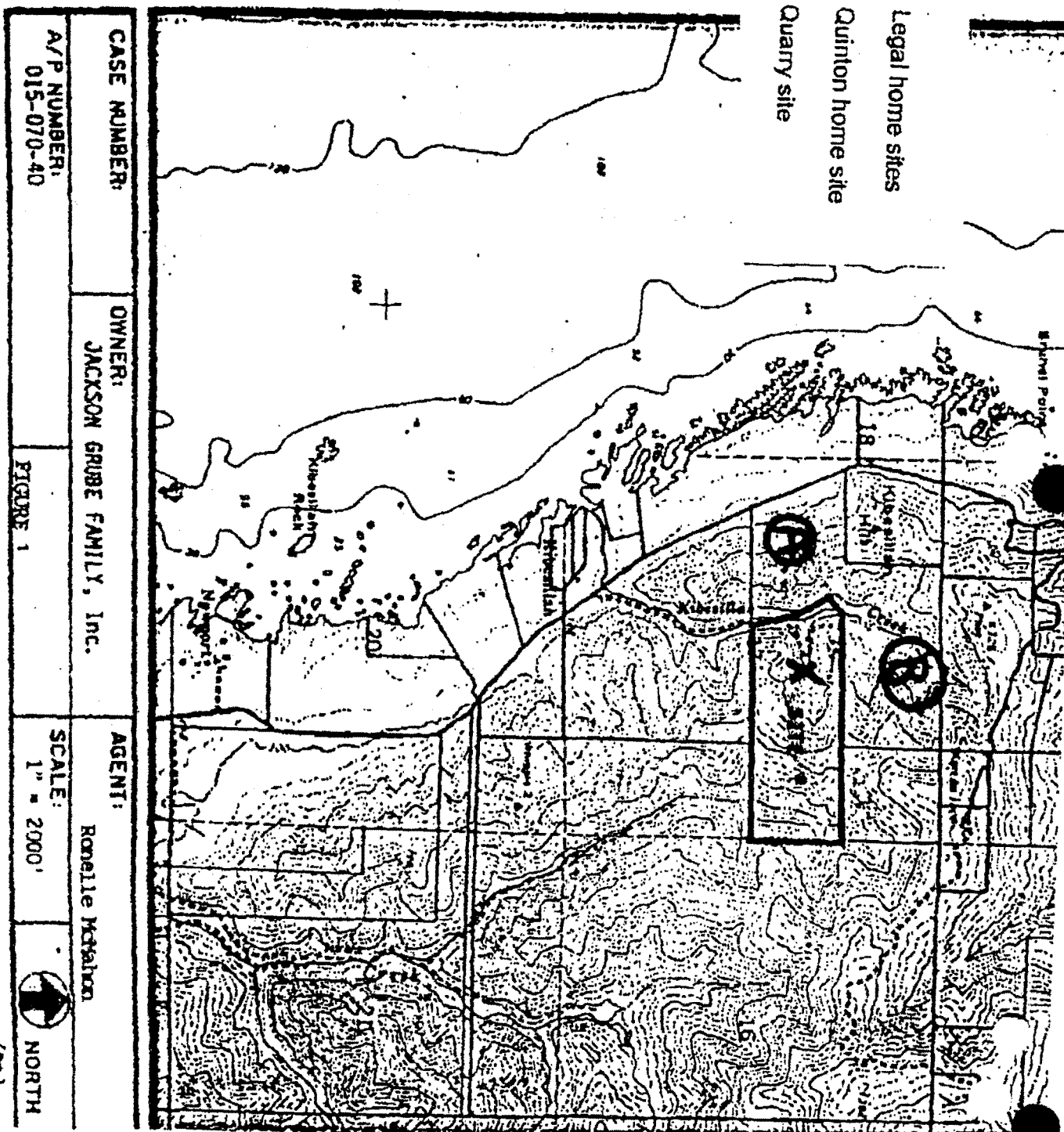
By
DQ

Enclosures: Map of quarry property & coastal zone boundaries.
Photographs

CCC: Joe Brecher, Esq

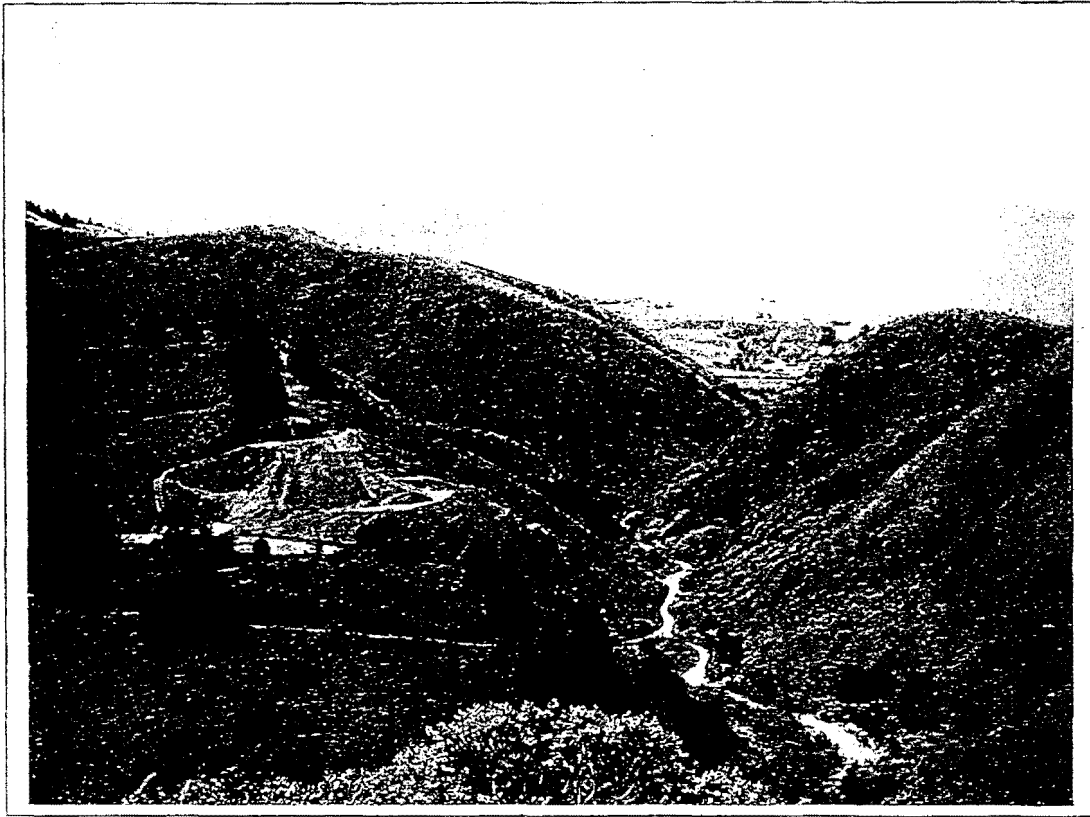
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A Legal home sites
 B Quinton home site
 X Quarry site



(26)

This is the view from Quinton home looking south of the quarry



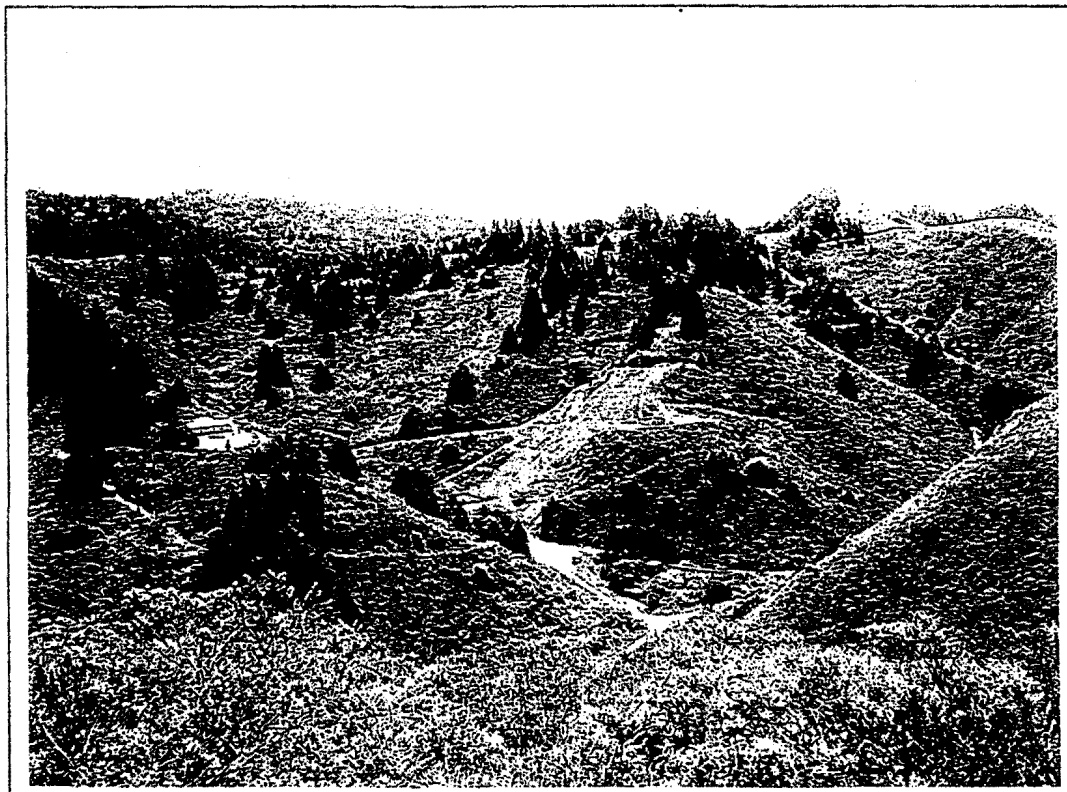
This close up shows the equipment parked in an area of cleared riparian within feet of the creek



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Case # CDUR 7-94, LJ00, Wilsey Quarry

View from home site west of quarry.



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June 19, 2001

Planning Commissioners, County of Mendocino
Department of Planning & Building, Room 1440
501 Low Gap Road
Ukiah, CA 95482

Re: Coastal Development Use Permit and Reclamation Plan
Wilsey Ranch Quarry
Case # CDUR7-94/2000

Dear Members:

I represent Gary and D'Anne Quinton, who own adjacent parcels north and west of the proposed project. After careful review of the documentation prepared by the staff, it is apparent to me that the environmental analysis fails to comply with the California Environmental Quality Act (CEQA) in many respects. For that reason, the Planning Commission would be in violation of the law if it approved the project and certified a negative declaration.

The initial study is insufficient under CEQA. The County of Mendocino was instrumental in formulating the controlling law concerning the use of initial studies. In *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, the First District Court of Appeal pointed out that if the County adopts an inadequate initial study, a decision based on that study must be overturned.

In the present case, the initial study consists of a mere checklist with absolutely no narrative explanations or citation to the sources on which the staff relies. There is also a Staff Report, which is not labeled as being part of the initial study, and which concerns itself with more than the environmental analysis. A checklist, alone was found inadequate in *Citizens Association for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 171:

[A]lthough an initial study can identify environmental effects by use of a checklist (see Cal. Admin. Code, tit. 14, § 15063(d)-(f)), it must also disclose the data or evidence upon which the person(s) conducting the study relied. Mere conclusions simply provide no vehicle for judicial review.
[Citation]

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The initial study rejected by the court as too "conclusionary" in *Citizens Association* was, in fact, far more informative than the document prepared by the Staff in this case:

In the instant case the initial studies are far too conclusionary. It is for the most part impossible to determine whether the findings which ultimately resulted in negative declarations are supported by the evidence because it is unclear what raw evidence, if any, was relied upon in preparing the initial studies. . . . The core of the studies was a quasi-checklist format. For each subcategory (e.g., water supply, sewage disposal, fire protection) the planning department indicated by use of letters whether the impact was adverse, beneficial, or none, and then the degree, phase, linkage and duration. To the extent a negative impact was identified, mitigation measures, if any, were described in the margin and summarized later in the study. *Neither the source nor the content of the information relied upon for the more than 45 subcategories which required environmental conclusions in each initial study were specifically identified.* In the space that was intended to identify the "departments/agencies/groups consulted" and list "comments" the words to be " [consulted] were added and no comments were listed in any of the three initial studies. Of course, . . . the developer submitted information to the planning commission with its applications for the changes eventually made, but, with the notable exception of a traffic study, even this information was conclusionary. *For the most part the specific sources and content of the data the developer relied upon in its application were not disclosed.* Upon remand the evidence supporting any initial studies should be disclosed. (Emphasis added).

Note that in the *Citizens Association* case, the staff at least summarized mitigation measures in the margin of the initial study and there was some intent to divulge the sources and content of data upon which the staff relied. Here, there is absolutely no attempt to identify mitigation measures in the checklist, nor is there any discussion, whatsoever, of the sources that resulted in the initial study's conclusions. The staff report, although it does mention some mitigation measures, does not set forth the factual bases for those recommendations.

The CEQA Guidelines set forth the purposes of an initial study. 14 C.C.R. §15063(c) Those purposes, among others are to: "provide the lead agency with information to use as the basis for deciding whether to prepare an EIR or a negative declaration; "explaining the reasons for determining that potential significant effects would not be significant; "provide documentation of the factual basis for the finding in a negative declaration that a project will not have a significant effect on the environment." 14 C.C.R. §15063(c)(1), (3)(C) and (5). The bare checklist and the truncated staff report assembled by the staff performs none of these functions.

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Furthermore, the Guidelines state that the initial study must contain an examination of whether the project would be consistent with existing zoning, plans, and other applicable land use controls. 14 C.C.R. §15063(d)(5). That discussion is entirely lacking here. As we point out below, that lack is particularly significant here, where the proposal is to institute an industrial land use in a rural, agricultural area.

The staff will undoubtedly argue that its Staff Report fulfills many of these functions, even though it is not denoted as part of the initial study. As we show below, the staff report does not make up for many of these defects. But, in any case, circulation of the staff report does not comport with the procedures set forth in the CEQA Guidelines. First, that document does not refer to itself as constituting or being part of an initial study, nor does it call itself a negative declaration. 14 C.C.R. §15071 provides that a negative declaration must be circulated for public review. There was no document labeled "negative declaration" circulated to the public here. This should be contrasted with the situation in 1995, the last time this project was up for public review, when a "Draft Notice of Proposed Negative Declaration", dated November 3, 1995, was circulated to the public.

Even if the "staff report" is part of the initial study, it would still be inadequate. First, the Project Description at page PC-2 indicates this is a renewal of a previous coastal development use permit. It is stated that "The applicant proposes to continue using the same operating practices that have been used the past several years." This is untrue. As the letter from Gary Quinton points out, the previous permit permitted extraction to 10,000 cubic yards per year. Thus, this represents a 50% increase over the previous extraction rate. Furthermore, for the first time, this permit adds an industrial use to the previous extraction use -- on-site rock crushing was not previously permitted. A reader reviewing this document would therefore be given the false impression that the new application continued the status quo in the area, rather than a major expansion, as is actually planned.

Perhaps the most important requirement for an environmental analysis under CEQA was stated in *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193: "An accurate, stable and infinite project description is the *sine qua non* of an informative and legally sufficient EIR." That same court noted:

A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental costs, consider mitigation measures, assess the advantage of terminating the proposal . . . and weigh other alternatives in the balance. *County of Inyo*, supra, 71 Cal.App.3d at 192-93.

As the court noted in *Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal.App.4th 182, 201, "It is crucial . . . for a government decision maker to know what the

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'project' is that the decision maker is approving."

"An accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity. [Citation.] . . . [¶] ... A curtailed, enigmatic or unstable project description draws a red herring across the path of public input." *Silveira v. Las Gallinas Valley Sanitary Dist.* (1997) 54 Cal.App.4th 980, 990. [Internal quotation marks omitted.] If an EIR omits crucial information, an agency's action based upon it must be reversed. As the court noted in *Rural Landowners Assn. v. City Council* (1983) 143 Cal.App.3d 1013, 1022: "We conclude that where that failure to comply with the law results in a subversion of the purposes of CEQA by omitting information from the environmental review process, the error is prejudicial."

The failure to point out this enormous increase in the scope of the operations renders the document unlawful. As the court noted in *Santiago County Water Dist. v. County of Orange* (1981), 118 Cal.App.3d 818, 829-30: "Because of this omission, some important ramifications of the proposed project remain hidden from view at the time the project was being discussed and approved. This frustrates one of the core goals of CEQA." It should be noted that "responsibility for a project cannot be avoided merely by limiting the title or description of the project." *Rural Landowners Assn. v. City Council* (1983) 143 Cal.App.3d 1013, 1025.

In the *Santiago* case, the County approved an EIR for a sand and gravel operation without discussing how and whether the water needed for the operation would be supplied. The court noted that the EIR failed to include "facts from which to evaluate the pros and cons of supplying the amount of water that the mine will need." 118 Cal.App.3d at 829. Similarly, in the present case, the failure to point out the increase in the extraction rate or to discuss, at all, the environmental impacts of the added rock crushing operation is an omission that makes it impossible to discuss the pros and cons of locating an industrial facility in a rural, residential neighborhood.

The failure of an environmental analysis to assess accurately the impacts from the actual development that would be permitted was disapproved by the court in *Rural Landowners Association v. Lodi City Council* (1983) 143 Cal.App.3d 1013. There, the city prepared an EIR concerning the proposed annexation of a ranch on its periphery. The EIR did not mention that a second ranch was also about to be annexed and that the proposed development facilitated by the annexations cover both ranches. The court disapproved of the failure to analyze the specific impacts associated with one of the ranches, noting that the EIR does not even mention that development. 143 Cal.App.3d at 1024, n.12. Similarly, in the present case, the failure to point out the significant rise in the extraction rate and the addition of an industrial facility at the site constitutes an unacceptable omission from the initial study:

The ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity if based upon an EIR that does not provide the decision makers, and the public, with the

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information about the project that is required by CEQA [citation.] The error is prejudicial if the failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the statutory goals of the EIR process. *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 721-22.

There is another major inaccuracy: The Checklist (Item 17A) and the Staff Report indicate that the quarry produces significant visual impacts, but that they "are not visible from neighboring residences. . ." The letter from Gary Quinton (p. 3) indicates that the quarry is, in fact, visible from his home. As the court noted in *Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 173:

[R]elevant personal observations are evidence. For example, an adjacent property owner may testify to traffic conditions based upon personal knowledge. . . . [A]n agency may not refuse to consider uncontradicted testimony based upon objective data.

As noted previously, the initial study must disclose the factual basis for its conclusions. At page PC-3, the staff report asserts that drainage of the site is "well contained with existing measures," based on "annual site inspections by staff," and a site visit by an associate geologist with the Department of Conservation, Office of Mine Reclamation, as well as consultation with the County Water Agency. But a piece of crucial information is missing -- when did these inspections and visits take place? Unless they occurred during a storm event, they were essentially useless. No explanation is given as to why the applicant's original plan to install a sedimentation basin was deleted.

One of the major purposes of CEQA is to compel agencies to adopt feasible mitigation measures in order to reduce substantially environmental impacts associated with a project. Public Resources Code §21003 notes that public agencies should carry out the environmental review process with the objective of conserving resources, so that those resources may be applied "toward the mitigation of actual significant effects on the environment." In *Mountain Lion Foundation v. Fish & Game Comm.* (1997) 16 Cal.4th 105, 134, our Supreme Court emphasized "CEQA's substantive mandate that public agencies refrain from approving projects for which there are feasible alternatives or mitigation measures . . ." The High Court cited Public Resources Code §21081 which, it pointed out, prohibits an agency from approving a project with significant environmental effects unless it makes specific findings about alternatives and mitigation measures. The purpose of those findings is to ensure that:

there is evidence of the public agency's actual consideration of alternatives and mitigation measures, and reveals to citizens the analytical process by which the public agency arrived at its decision. [citations] Under CEQA, the public agency bears the

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burden of affirmatively demonstrating that, notwithstanding a project's impact on the environment, the agency's approval of the proposed project followed meaningful consideration of alternatives and mitigation measures.

The Court of Appeal put it in even stronger terms in *Sierra Club v. Gilroy City Council* (1990) 220 Cal.App.3d 30, 31. It noted that CEQA "requires public agencies to deny approval of a project with significant adverse effects when feasible alternatives or feasible mitigation measures can substantially lessen such effects." This holding is derived from the language of Public Resources Code §21002, which codifies the Legislature's policy "that public agencies should not approve projects as proposed if there are feasible alternatives or mitigation measures available which would substantially lessen the significant environmental effects of such projects ..."

The initial study acknowledges that changes in drainage patterns and the rate and amount of surface runoff would constitute a significant environmental impact unless mitigated. The applicant, himself, has suggested a detention basin as a potentially successful mitigation device, so he obviously considers it to be "feasible." Yet the Staff summarily rejects it, based upon a nebulous report of site visits. This is unacceptable under CEQA's requirement that all feasible mitigation measures must be employed.

The apparent last-minute addition of the rock-crushing operation to the application poses another problem - there is no mention in the checklist or the staff report of what additional environmental impacts would be associated with this new, industrial use. Mr. Quinton's letter indicates that there are already problems associated with heavy equipment used in the quarrying operations and these may be expected to increase with the addition of a rock crusher. But the two documents are silent on this issue. This at least raises the possibility that a "fair argument" can be made that the operation will produce significant environmental impacts, prompting the need for the preparation of a full environmental impact report.

CEQA places the burden of environmental investigation on government rather than the public. If the local agency has failed to study an area of possible environmental impact, a fair argument [that there will be significant impacts] may be based on the limited facts in the record. Deficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences. *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.

Finally, the checklist indicates that there will be two categories of significant impacts which cannot be mitigated -- a change in topography or ground surface relief features and an increase in the rate of use of any natural resources. The staff report does not discuss either of these two admittedly significant impacts and makes no attempt to explain them away. Under these circumstances, an environmental impact report, rather than a negative declaration, is mandatory. The Guidelines are clear: if the agency's initial study determines that "there is substantial evidence

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that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial," then the agency must prepare an EIR. 14 CCR§15063(b).

Besides the significant CEQA problems, there is a major planning and zoning law problem, as well. The parcel is currently zoned F:-160/RL-160. While a use permit for extractive operations might be appropriate in such a zone by means of a use permit, the operation of an industrial facility, such as a rock crusher is not appropriate there. Accordingly, a zoning change would be required to legitimize such a use.

In summary, the documentation accompanying the Wilsey Ranch permit application is inadequate as an initial study; fails to describe the project and its potential impacts accurately, does not investigate all potential significant environmental impacts, and does not employ all available feasible mitigation measures. The staff concedes that the project will have at least two significant environmental impacts that cannot be mitigated, meaning that a full environmental impact report, rather than an initial study is indicated. Finally, the proposed rock crushing operation is inappropriate under the present zoning and planning designation for the site in question and surrounding parcels. For these reasons, the Planning Commission should deny the permit application.

Yours truly,

Joseph J. Brecher

JJB: sk

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MENDOCINO COUNTY PLANNING COMMISSION
DRAFT MINUTES
JUNE 21, 2001

5D. CDUR 7-94/2000 - JACKSON GRUBE FAMILY, INC - South of Westport

Request: Renewal of a coastal development use permit and reclamation plan for the extraction and processing (crushing and screening) of up to 15,000 cubic yards of rock per year for ten years from a hillside quarry.

Mr. Falleri reviewed the staff report and correspondence from Gary Quinton, Joseph Brecher, Marzel Klugherz, Nancy and Hal Matheson and Robert Zetwick. Mr. Falleri also advised that a telephone call was received from Richard Wharton regarding the application.

In response to Commissioner Lipmanson, Mr. Falleri clarified that the two closest residences are on the quarry property.

Ms. Ronelle McMahon, representing the application, spoke in support of the application. She explained that the reclamation plan has been updated and inspections conducted by the County Water Agency and the Department of Conservation. It has been determined that a siltation basin is not necessary for the project. She reviewed photographs of the site and surrounding area which were submitted into the record.

In response to Commissioner Lipmanson, Ms. McMahon acknowledged that she has been operating the quarry since expiration of her permit. She clarified that no vegetation has been removed since the permit expired, however, blasting has occurred. She also clarified that she is requesting an increase in the quantity of material in order to respond to State jobs.

In response to Chairman McCowen, Ms. McMahon described drainage from the site. She discussed the placement of hay bales and a silt fence which is utilized to prevent silt from entering the watershed. In response to Commissioner Lipmanson, Ms. McMahon further described drainage ditches and culverts.

In response to Commissioner Lipmanson, Ms. McMahon explained that the truck parked along the access road belonged to a contractor working on Blue Gulch. She gave him permission to park the truck at the quarry site and as soon as she realized where he had left it, she requested that it be removed.

The public hearing was declared open.

Mr. Gary Quinton spoke at length in opposition to the project. He voiced concerns with aesthetics and noise. Mr. Quinton reviewed photographs, which were submitted into the record. He requested that the Commission require an Environmental Impact Report. Mr. Quinton responded to questions from Commissioners regarding the operation. In response to Commissioner Little, Mr. Quinton stated that there are at least four other rock quarries in the area.

Ms. D'Ann Quinton spoke in opposition to the project. She voiced concerns with aesthetics and noise and requested that an Environmental Impact Report be required. She also had concerns with the operation continuing without an active permit.

Mr. Scott Duvall spoke in support of the application. He discussed meetings held with Mr. Quinton to resolve his concerns. She stated that the quarry cannot be seen from Mr. Quinton's residence. He explained that he have to walk to the edge of the property to see the quarry.

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Ms. Marzel Klugherz stated that the quarry is in her backyard. She stated that the dust from the quarry operation does not bother her. She stated that the Quinton residence is 2,000 feet away and, because the wind blows in every direction, she did not believe dust is a problem. Blasting occurs once a year and it is not alarming. She also commented that the noise from the trucks does not bother her.

Ms. McMahon stated that she met with Mr. Quinton on three separate occasions to attempt to resolve any conflicts. She stated that she is more than willing to try to work out any issues with Mr. Quinton. She submitted an additional photograph into the record which shows a path from Mr. Quinton's house to the quarry.

In response to Commissioner Lipmanson, Ms. McMahon stated that she does not plan to purchase a crusher. If rock needs to be crushed for a certain job, she would either haul the material to a crushing site or she could have a crusher brought to the site on a temporary basis. She stated that crushing was done on the site in 1999.

In response to Chairman McCowen, Mr. Falleri explained that generally a rock quarry application takes six months to process. Many times applicants do not submit an application until closer to the expiration date. Staff's policy is not to enforce the expiration of the permit as long as the applicant is diligently pursuing renewal.

Mr. Falleri reviewed photographs of the site and responded to questions from Commissioner Lipmanson regarding vegetation removal and reclamation of the site. Mr. Falleri also responded to questions from Commissioner Little regarding erosion control measures. In response to Chairman McCowen, Mr. Falleri stated that staff did not perform additional research on Kibesillah Creek. Ms. McMahon stated that the creek dries up in August and September. She submitted an additional photograph of the site into the record.

Mr. Frank Zotter responded to Mr. Joseph Brecher's letter regarding the adequacy of the initial study and draft negative declaration. Mr. Zotter felt that the initial study is properly before the Planning Commission. In response to Commissioner Lipmanson, Mr. Zotter stated that the staff report is part of the initial study. Mr. Zotter also commented that the letter does not present any evidence of a significant effect.

The public hearing was declared closed.

The Commission discussed whether there is a need for a sedimentation pond. Mr. Falleri noted that requiring a sedimentation pond could necessitate enlarging the quarry site. After many years of monitoring this operation, staff has determined that a sedimentation pond is not necessary.

In response to Chairman McCowen, Mr. Falleri stated that they have never received complaints about noise or dust at this quarry and had never observed any problems during the annual site inspections.

Commissioner Calvert pointed out that there is some property to the north of the site designated UR-40 and she noted that the staff report should be corrected on Page 1.

Commissioner Calvert pointed out that many resource operations create noise, smoke, dust and odors. She noted that the Planning Commission previously reviewed a video tape of blasting operations and she did not feel blasting, if properly conducted, is offensive. She also noted that quarry operations conducted in the area may be private on site operations unavailable to the public.

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In response to Commissioner Lipmanson, Mr. Zotter and Mr. Falleri discussed the referral process. Mr. Falleri explained that the State Lands Commission is responsible for tide lands and navigable waters. The Army Corps of Engineers is responsible for waterways or wetlands. He stated that staff determined that a referral to these agencies was not necessary in this case.

Upon motion by Commissioner Little, seconded by Commissioner Berry and carried by the following roll call vote, IT IS ORDERED that the Planning Commission adopts a Negative Declaration and approves #CDUR 7-94/2000 making the following findings and subject to the following conditions of approval:

Environmental Findings: The Planning Commission finds that no significant environmental impacts would result from the proposed project which can not be adequately mitigated through the conditions of approval, therefore, a Negative Declaration is adopted.

General Plan Consistency Finding: As discussed under pertinent sections of the staff report, the proposed project is consistent with applicable goals and policies of the General Plan as subject to the conditions of approval.

Department of Fish and Game Findings: The Planning Commission has evaluated the Initial Study and other information pertinent to the potential environmental impacts of this project and finds that, based upon the existing development on the subject parcel and surrounding parcels, the project will not have any adverse impact upon wildlife or the habitat upon which wildlife depends and, therefore, the Commission has rebutted the presumption set forth in subdivision (d) of Section 753.5.

Coastal Development Permit Findings: The Planning Commission finds that the application and supporting documents and exhibits contain information and conditions sufficient to establish, as required by Section 20.532.095 of the Coastal Zoning Code, that:

1. The proposed development is in conformity with the certified local coastal program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
3. The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of the Coastal Zoning Code, and preserves the integrity of the zoning district; and
4. The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.
8. Environmentally Sensitive Habitat Areas.

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- (a) The resource as identified will not be significantly degraded by the proposed development.
- (b) There is no feasible less environmentally damaging alternative.
- (c) All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

< 100' from creek ?

9. The proposed use is compatible with the long-term protection of resource lands.

Project Findings: The Planning Commission, making the above findings, approves #CDUR 7-94/2000 subject to the conditions of approval recommended by staff.

CONDITIONS OF APPROVAL:

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

1. This permit shall become effective after all applicable appeal periods have expired or appeal processes exhausted. Failure of the permittee to make use of this permit within two years 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 June 21, 2006. 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. That the rock quarry operation not exceed a total of 75,000 cubic yards of rock, with an annual limit of 15,000 cubic yards of rock per year for 5 years.
3. That the application along with supplemental exhibits and related material be considered elements of this entitlement and that compliance therewith be mandatory, unless a modification has been approved by the Planning Commission. Particularly, the applicant shall develop the site and conduct operations in conformance with measures identified in Storm Water Pollution Prevention and Monitoring Program, dated September 1995, prepared by Walls Testing, Inc., said document being on file with the Department of Planning and Building Services.
4. An Indemnification Agreement which has been signed by the applicant, shall be filed with the Department of Planning and Building Services. The Indemnification Agreement shall be on the form provided by the Department of Planning and Building Services.
5. The applicant shall submit a Mining Inspection and Monitoring fee of \$1,325.00 to the Department of Planning and Building Services within thirty (30) days of permit issuance.
6. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until a fee of \$25.00 is submitted to the Department of Planning and Building Services to cover the cost of filing the Notice of Determination with the County Clerk. Checks must be made payable to the Mendocino County Clerk. The fee must be submitted to the Department of Planning and Building Services by June 22, 2001.

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7. The applicant shall obtain all authorizations required by and comply with all conditions established by the following agencies having jurisdiction over the project:
 - a. California Department of Fish and Game
 - b. California Regional Water Quality Control Board
 - c. Mendocino County Air Quality Management District
 - d. California Department of Transportation
8. The encroachment onto Highway 1 shall provide adequate sight distance and turning geometrics acceptable to the California Department of Transportation (Caltrans). The applicant shall secure from Caltrans, an encroachment permit for all work to be conducted within State Highway right-of-way.
9. Except for the existing access road, no part of the operation, including processing machinery, stockpiles, and any future sediment ponds, may be located within 100 feet of the edge of the riparian vegetation along the south side of Kibesillah Creek.

B. Conditions which must be complied with for the duration of this permit:

1. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.
2. No material shall be placed into or where it may pass into any stream or watercourse in quantities which would be deleterious to fish, wildlife or other beneficial uses.
3. During the non-operating months, quarried rock will be stockpiled at a slope not exceeding 2:1.
4. As each phase of the quarry operation is completed, crushed rock debris covered with topsoil shall be graded onto the benches and/or landings and shall be seeded.
5. That the final cut banks be either terraced or left at a slope no steeper than 1.25 horizontal to one (1) vertical, and that the slope shall be recovered with soils and seeded to encourage revegetation.
6. That dust be controlled subject to controls by the Air Quality Management District. The applicant shall undertake measures to reduce dust generated by the operation and insure that the truck haul road to be used is treated with a dust suppressant or watered during haul periods.
7. Noise levels created by the operation as measured at the nearest residence other than that of the mine owner or operator shall not exceed the following:
 - a. 55 dBA for a cumulative period more than 30 minutes in any hour.
 - b. 70 dBA for a cumulative period of more than 12 minutes in any hour.
 - c. 75 dBA for a cumulative period more than 3 minutes in any hour.
 - d. 80 dBA for a cumulative period more than 1 minute in any hour.
 - e. 85 dBA at any moment.
8. All non-turbo charged equipment shall have approved spark arrestors installed and shall carry an "A,B,C" type fire extinguisher.

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9. This permit is issued without a legal determination having been made upon the legal title, number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the legal title, 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.
 10. That the applicant shall grant access to the property during hours of operation to permit Department of Fish and Game personnel and 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.
 11. The applicant shall annually supply to the Director of the Department of Planning and Building Services, no later than July 1 of each year, an annual accounting of the quantities and types of materials extracted and/or processed from each location (Mendocino County Code Section 22.16.140, Ordinance Number 4031 (part), adopted 1999). The accounting report shall indicate the dates on which the specified volumes were removed, the method used to calculate the volume figures and the signature of the person responsible for establishing the volume figures.
 12. That there be no signing allowed for the operation other than those directional or warning signs allowed by Mendocino County Code Section 20.476.035(A).
 13. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
 - a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That 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.
14. There shall be no on-site fuel storage in association with this project.
 15. a. Financial Assurance. The applicant shall provide Mendocino County with a cash or surety bond or other acceptable form of financial assurance for the reclamation plan and mitigation measures. The bond shall be available to both the County 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 the annual

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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 Sections 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.

- b. Implementation and Verification. The financial assurance shall name both the County and the Department of Conservation as payees per the requirements of AB 3551. 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.
- 16. That the hours of operation be limited to between 7:00 a.m. and 6:00 p.m. on weekdays and Saturdays.
 - 17. The applicant shall comply with the recommendations of the Mendocino County Archaeological Commission with reference to Section 22.12.090 and 22.12.100 of the Mendocino County Code pertaining to discoveries.
 - 18. The applicant/operator shall maintain the operation in compliance with the Storm Water Pollution Prevention and Monitoring Program (SWPPP), dated September 1995, prepared by Walls Testing, Inc. The SWPPP shall be updated with the Regional Water Quality Control Board (RWQCB) to reflect any changes, and will designate Ronelle McMahon as the responsible party for implementing the SWPPP. The new SWPPP shall be approved by the RWQCB and submitted to the Department of Planning and Building Services within six months of approval of this permit.
 - 19. All major grading operations and/or project related activity which may promote erosion and sedimentation to existing and/or adjacent water courses shall be confined to non-winter months or during dry winter periods. Winter quarry operations may continue if the following conditions are met:
 - a. Do not haul rock products during periods of measurable precipitation and for at least 24 hours after the end of a period of significant precipitation. Significant precipitation is defined as an amount of precipitation on which more than 1/4 inch falls in any 24 hour period and/or the aggregate rainfall total during the previous 48 hours exceed 2 inches.
 - b. The Storm Water Pollution Prevention and Monitoring Program prepared by Walls Testing, Inc., dated September 1995, shall be the operational plan for the quarry, processing site and haul road.

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20. Any trees removed as a result of the operation shall be replaced with native trees and shrubs at a ratio of 2:1 (minimum replacement size - 10 gallons). The final reclamation and revegetation of the site shall be done in conformance with the Reclamation Plan, dated November 11, 2000 and Addendum to the Reclamation Plan, dated May 7, 2001, prepared by Walls Testing, Inc. and updated by Ronelle McMahon.
21. Within 60 days of approval of this permit the limits of the quarry as they appear in the grading plan shall be staked by a licensed surveyor, registered civil engineer or engineering geologist, indicating the quarry boundaries. The stakes shall remain in place until the operation is reclaimed.
22. A copy of the reclamation plan, grading plan, and Storm Water Pollution Prevention and Monitoring Program shall be kept on site at all times.

AYES: Calvert, Lipmanson, Berry, Little, McCowen
NOES: None
ABSENT: Nelson, Barth

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**STAFF REPORT FOR RENEWAL OF COASTAL DEVELOPMENT
USE PERMIT AND RECLAMATION PLAN**

**#CDUR 7-94/2000
JUNE 21, 2001
PAGE PC-1**

OWNER: JACKSON GRUBE FAMILY, INC.
P.O. BOX 430
MIDDLEBURY, VT 05753

AGENT/APPLICANT: RONELLE MCMAHON
P.O. BOX 2115
FORT BRAGG, CA 95437

REQUEST: Renewal of a coastal development use permit and reclamation plan for the extraction and processing (crushing and screening) of up to 15,000 cubic yards of rock per year for ten years from a hillside quarry.

LOCATION: In the Coastal Zone, approximately 2.5 miles south of Westport, lying approximately 1/2 mile east of Highway 1, approximately 1 mile south of its intersection with Bruhel Point Road (private road); AP# 015-070-40.

TOTAL ACREAGE: 96 acres (18 acre site)

ZONING: FL-160/RL-160

ADJACENT ZONING: North: T-P (Timber Production Zone: 160 acre minimum)
East: T-P (Timber Production Zone: 160 acre minimum)
South: F-L (Forestland: 160 acre minimum)
R-L (Rangeland: 160 acre minimum)
West: R-L (Rangeland: 160 acre minimum)
U-R:L:40 (Upland Residential: 40 acre minimum)

GENERAL PLAN: FL-160/RL-160

EXISTING USES: Rock Quarry, Residential and Rangeland

SURROUNDING LAND USES: Timberland

SURROUNDING LOT SIZES: North: 40 acres
East: 714.45 acres
South: 148.75 acres
West: 126.35 acres

SUPERVISORIAL DISTRICT: 4

GOV. CODE 65950 DATE: September 6, 2001

OTHER RELATED APPLICATIONS ON SITE OR SURROUNDING AREA: The quarry operation was originally commenced in 1976 by the Mendocino County Department of Public Works in accordance with Use Permit #U 40-76, which allowed the annual extraction of up to 8,000 cubic yards of rock. That use permit was renewed in 1978 (#UR 40-76/78), but subsequently expired in July of 1983, which necessitated #U 98-83.

On February 2, 1984, the Planning Commission approved Use Permit #U 98-83 allowing the extraction of up to 5,000 cubic yards of rock per year for ten years. On December 7, 1995, the Planning Commission approved Use Permit #CDU 7-94 allowing the extraction and processing (crushing) of up to 10,000 cubic yards of rock per year

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for five years with a one time extraction of 15,000 cubic yards in any one year. This entitlement (#CDU 7-94) expired on December 6, 2000.

PROJECT DESCRIPTION: The applicant is requesting the renewal of a Coastal Development Use Permit and Reclamation Plan for the extraction and processing of 15,000 cubic yards of rock per year for ten years from a hillside quarry.

The applicant proposes to continue using the same operating practices that have been used the past several years. Extraction and removal of quarry rock will primarily involve the use of a front-end loader and truck transport. Explosives or a bulldozer would be utilized occasionally, and only when practical to fracture and shape the face of the rock formations. The extracted rock will be sorted through a screen and placed into stockpiles. Although the operator does not own or regularly use a crusher, she requests that this entitlement allow the use of a crusher on the occasion when one may be needed for future jobs. No washing or other processing will occur at the project site.

The operator anticipates the maximum extraction and processing of quarry rock to be approximately 100 cubic yards of material per day. Hours of operation are Monday through Saturday, 7:00 a.m. to 6:00 p.m., April through October. Although the quarry does not operate during the winter months, stockpiled material is available for purchase year round.

The project site is located approximately 2.5 miles south of Westport, approximately ½ mile east of State Highway One. The site represents an 8 ± acre portion of a 96 ± acre parcel owned by the Jackson Grube Family, Inc. The project site is accessed by an existing haul road, which also provides access to two existing single family residences and the remainder of the ranch. The quarry was initially developed by the County Department of Public Works and subsequently became a commercially operated quarry.

ENVIRONMENTAL REVIEW: In completing the environmental review for this project, staff has noted the following potential environmental impacts as identified in the Environmental Review Checklist.

Earth and Water (Items 1A-1F, 3B and 3E): Disruption of soil and vegetation by the operation would increase the potential for erosion on the site and sedimentation of natural drainage courses.

The extraction of the bedrock is located at the base of a northwest facing slope. The quarry exposes bedrock consisting of undivided cretaceous marine sedimentary rocks. Most of the overburden soil has already been removed within the quarry limits as a result of 25 years of active extraction at this quarry. Nearly all of the overburden native soils that have been removed within the quarry limits have been stockpiled at the middle eastern portion of the quarry landing, and will be used as topsoil for quarry reclamation. Overland flow drains naturally from quarry slopes to Kibesilah Creek, a small ephemeral creek located approximately 200 feet west of the quarry that drains southwest into the Pacific Ocean. Surface runoff is redirected and filtered before reaching the creek.

The extraction operation will continue into the hillside without increasing the existing quarry limits. The operator will continue to operate according to the Environmental Assessment for Wilsey Ranch Quarry, prepared by Pat Conway on April 11, 1995, with minor modifications recommended by George Rau in his letter dated November 28, 2000. Essentially, the quarry will maintain the slopes of the quarry face between benches at a maximum of 1.25H:1V (1.25 feet of horizontal distance for each foot of vertical fall). The final grading configuration would consist of benches approximately 40 to 65 feet wide, located at a maximum 60 foot vertical interval. According to Mr. Rau, the proposed 75,000 cubic yards of material to be removed,

"Would amount to approximately a five foot cut perpendicular to the slopes within the quarry as diagrammed in the existing permit. Because the scale of these drawings is 1"=100', there is no discernable difference between the existing drawings and the new configuration after an additional five feet of thickness is extracted."

Storm runoff from the site is directed generally as sheet flow over the rock benches and slopes. The benches are graded to direct the sheet flow towards a "V" ditch located at the eastern portion of the site. The "V" ditch directs the runoff to an existing culvert which discharges to the west side of the quarry, flowing approximately 200 feet down a vegetated slope to Kibesilah Creek. The Creek is protected along the access road by a hay bale berm

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**STAFF REPORT FOR RENEWAL OF COASTAL DEVELOPMENT
USE PERMIT AND RECLAMATION PLAN**

#CDUR 7-94/2000

PAGE PC-3

vegetated with perennial grasses. Hay bales are strategically placed in drainage ditches to reduce flow velocity and filter sediment. Hay bales are also placed at locations along the creek where surface runoff may be concentrated. Upon recommendation by the Department of Conservation, the bales will be replaced annually by October 15th.

George Rau recommended that a sedimentation basin be constructed on the quarry floor. Based on annual site inspections by staff, a site visit by Cathy Gaggini, Associate Geologist with Department of Conservation Office of Mine Reclamation, and consultation with the County Water Agency, it was determined that drainage at the site is well contained with existing measures, and that a sedimentation basin is not necessary. All drainage features and erosion control measures will continue to be inspected following storm events. During post-storm inspection, bales of hay will be checked and replaced as necessary. Sediment accumulation will be removed and stockpiled for topsoil for future reclamation.

As the quarry is developed, the operation will involve shaping the bedrock and providing drainage and annual seeding of grasses for erosion control. Extraction and processing of bedrock will not be performed between October and April of each year. Should there be a need to conduct winter operations, which is not anticipated at this time, staff would propose special restrictions on winter operations found in Condition Number B-19. Prior to closing down the operation in October of each year, erosion control measures such as seeding of soil stockpiles and placement of silt fences and hay bales around stockpiles will be implemented. Further, as the extraction process continues, the site will be graded to control runoff of storm water.

Water will only be used at the site for dust control and should dissipate by percolation and evaporation. The reclamation plan also states that no gas, oil, diesel or other foreign materials will be permanently stored at the quarry site at any time.

When the operation has been completed, the area will be reclaimed for wildlife habitat. All equipment will be removed from the site. The gravel surfacing will be removed from the area and will be used as a product to sell commercially. Any compacted surfaces, with the exception of the road, will be ripped and scarified, the overburden and topsoil spread, native vegetation planted, and erosion control devices installed. The drainage patterns will be reestablished, except that the ditches shall be left in tact with rock lining to handle the runoff and control erosion and migration of sediment. The road will remain open to provide access to the existing residences.

Specifically, for final reclamation of the quarry site, all previously stockpiled overburden and topsoil will be used for final reclamation to promote the growth of native vegetation. The reclamation plan requires that the applicant plant grasses, shrubs and trees to replace and augment those which were removed during quarry operations. The shrubs will be planted in the late fall/early winter after the rainy season has begun. The seedlings will be comparable to commercial nursery seedlings and shall be similar in composition to species removed as a result of the project. Periodic monitoring and replanting will continue until two consecutive years of monitoring have demonstrated successful establishment without supplemental irrigation. Total herb and shrub plant cover (combined) shall be 80 percent or greater to ensure that effective erosion control is in place. Species richness of trees and shrubs (combined) shall be 4 at a minimum. If a drought occurs, the plant's condition shall be checked regularly by a qualified individual to determine the need for irrigation. The reclamation plan also calls for each of the benches to be seeded and fertilized with a mixture of grasses and legumes to prevent erosion. Geotextile fabric or silt fences are to be placed at the inside portion of the benches to prevent soil migration. The fabric and/or the silt fences will remain until the vegetation is established in these areas. Revegetation of the site as outlined within the reclamation plan will anchor the soil, reduce the potential for erosion, and help to restore wildlife habitat.

Compliance with Conditions Number A-1, A-2, A-3, A-9, B-1, B-2, B-3, B-4, B-5, B-11, B-15, B-18, B-19, B-20, B-21 and B-22 will mitigate any potential adverse environmental impacts upon drainage, erosion, and on/off site water quality and will insure that the required reclamation is completed properly.

Air (Items 2B and 2C): While dust from the mining and processing of aggregate material as well as that which is generated by vehicle movement could adversely affect air quality, the closest off-site residence is over 1/2 mile from the project, and staff does not anticipate that air quality impacts will significantly affect neighboring residents. To staff's knowledge, dust generated from previous operation of the quarry has not been objectionable to neighbors.

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Mendocino County Air Quality Management District (MCAWMD) commented that applicant's MCAWMD Permit/Authority to Construct is current. Staff would recommend that truck routes on the property be treated with a dust suppressant during haul periods. Compliance with recommended Conditions Number A-7 and B-6 will adequately mitigate concerns regarding dust generation from the proposed project.

Plant and Animal Life (Items 4A-4C, 5A and 5D): Staff initially reviewed the Natural Diversity Data Base and found no rare or endangered plants or wildlife species on the subject property. As of the writing of this report, the Department of Fish and Game has not submitted any comments regarding the proposed project.

Staff notes that Kibesilah Creek is located approximately 200 feet northwest of the quarry site. Kibesilah Creek supports a well-developed stand of riparian vegetation along its channel. Coastal Element Policy 3.1-7 states in pertinent part:

"A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and shall not be less than 50 feet in width..."

As the project site is located approximately 200 feet away from the creek with no riparian vegetation to be removed, and as the reclamation plan provides mitigation such as the placement of silt fences, hay bales, and other erosion control devices around the quarry boundaries, staff believes no significant adverse impacts to the creek and its riparian vegetation will result. Based on this, staff does not anticipate any conflicts with Coastal Element Policy 3.1-7.

The project site is accessed by an existing 20 foot wide road which follows the south side of Kibesilah Creek. However, according to the applicant's surveyor, the road will not need to be improved or widened, therefore, not impacting the riparian vegetation. Compliance with Condition A-10 will further insure no significant impacts will occur to the riparian vegetation along Kibesilah Creek.

In response to comments from the Department of Conservation Office of Mine Reclamation, the operator modified the plant list that will be used to revegetate the site upon final reclamation. Non-native species have been replaced with native grasses, shrubs and trees, many of which the operator is raising at her onsite nursery in efforts to increase plant inventory and determine species viability. In addition, the project will be monitored annually for exotic invasive species (ie; Pampas grass) and weed eradication measures will be implemented as necessary until reclamation is complete. Compliance with the resoiling and revegetation section of the reclamation plan will ensure the successful re-establishment of native plant species and wildlife habitat upon closure of the operation (see Condition Number B-20).

Noise (Items 6 A and 6B): Adjacent properties in the area generally consist of large acreage parcels, primarily used for rangeland and timberland, with very few homes in the vicinity. The two residences within one-quarter mile of the quarry are owned by the applicant.

Operation of the quarry and associated truck and machinery noise will increase ambient noise levels in the area. The Division of Environmental Health recommends that noise generated by the proposed project not exceed the levels as defined in Condition Number B-7. Additionally, staff recommends limiting the hours of operation to weekdays and Saturdays between 7:00 a.m. and 6:00 p.m. to further reduce any potential noise conflicts (see Conditions Number B-7 and B-16).

Natural Resources (Item 9A): The applicant has requested removal of 150,000 cubic yards of material over a 10 year period. Coastal Element Policy 7.1-17 requires that:

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**STAFF REPORT FOR RENEWAL OF COASTAL DEVELOPMENT
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**#CDUR 7-94/
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"Time limits of up to five years shall be placed upon all such permits to allow for periodic public and agency review of mining operations."

Staff will therefore recommend that the term of this entitlement not exceed 5 years, with a total extraction and processing allowance of 75,000 cubic yards of rock at an extraction rate of 15,000 cubic yards per year. Staff will recommend submission of annual reports prepared by the operator that address rock removal activities, including amount of material extracted, processed, stockpiled, and removed off-site, to ensure compliance with limitations on rock removal and to monitor development of the quarry (see Conditions Number A-1, A-2, and B-11). While the quarry operation will deplete the rock resource at this site, staff does not consider this to be a significant adverse environmental impact, given the abundance of similar resources in the general area.

Transportation/Circulation (Items 12A and 12C): When the original use permit was applied for in 1994, the Department of Transportation (Caltrans) recommended that the existing road approach to State Route One be upgraded to Caltrans' current commercial road approach standards, and this has been completed. No comment was received from Caltrans on the current application, therefore staff defers to the comments of the previous use permit, which state that any road approach improvements or other work within the State Highway right-of-way as a result of this project will require an encroachment permit from Caltrans. Provisions for adequate site distance and turning geometrics will be required through that process. Early consultation on engineering plans and drainage plans that affect State Highway right-of-way is also recommended by Caltrans (see Conditions Number A-7 and A-8). The County Department of Transportation had no comment on the proposed project.

The project was reviewed with regard to the State Route One Corridor Study, 1994, using the 75/50 development scenario with a horizon year of 2020 (the 75/50 scenario represents what staff believes to be the maximum reasonable buildout potential based upon a projected development of 75 percent of existing vacant parcels and 50 percent of new parcels created by land divisions). #CDU 7-94 was originally projected to generate 12 vehicle trips per day. Using a peak hour trip rate of 10 percent, the peak hour trip rate was determined to be 1.2 trips (summer weekend or weekday). The project does not access State Route 1 at an intersection evaluated by the study. The project accesses Route One at road segment 24 (Ten Mile River Bridge to post mile 90). Segment 24 currently and in the year 2020 is projected to operate at Level of Service B.

Based on current operator records, the quarry operation generated an average of 2.24 vehicle trips per day in 1999 and 2.45 vehicle trips per day in 2000. Because the project generates considerably less than the 24 trip per hour threshold at which a traffic study is recommended by the State Route 1 Corridor Study and no change in level of service is projected, no significant impact is expected to occur.

Aesthetics (Item 17A): Most of the visual impact has already occurred and continued use of the quarry will not significantly increase the severity of that impact. Visually, the site represents a natural hillside originally covered with grasses and brush which has been largely denuded from previous rock removal and as such, it may be described as aesthetically unpleasant. This situation is true of most ongoing quarry operations where revegetation does not occur during active operations. The site is in a very secluded canyon and is not visible from neighboring residences or State Highway One. Quarry design and management will result in the deepening of the existing quarry where it will continue to be blocked by topography from Highway One views.

The general area of the project within the Coastal Zone is designated by the Coastal Element to be "Highly Scenic" where visible from Highway 1. Because no portion of the project is visible from Highway 1 or other public view, Highly Scenic policies of the Coastal Element do not apply to this project.

The quarry is naturally screened from surrounding residences by the topography and natural vegetation surrounding the site, however adjacent neighbors may be able to see the quarry from other locations on their property. The processing site (screen and crusher) is located at the base of the quarry which would also be located out of public view and view from surrounding residences. The proposed project would continue extraction within the quarry limits delineated in the previous permit, therefore staff does not anticipate the aesthetics of the quarry to be worse than what has been permitted previously.

The reclamation plan calls for the benches that have been cut to final grade to be seeded and fertilized with a mixture of grasses and legumes. Final reclamation of the site would further call for the placement of trees and other

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woody plantings to be located at the base of the quarry. The woody plants will be comprised of conifers and large shrubs planted every 20 feet in each direction for the entire base area. These measures will result in the site being returned to a more aesthetically pleasing condition. Therefore, staff does not anticipate any significant adverse environmental impacts upon the aesthetic characteristics of the area (see Conditions Number B-1, B-12 and B-20).

Cultural Resources (Item 19): Use Permit #U 98-83 which established the existing quarry, was reviewed by the Mendocino County Archaeological Commission, which recommended that further study for archaeological resources was not required. Based on this previous review and that the site has been used as a quarry, staff does not anticipate any significant adverse impacts upon archaeological/cultural resources, and finds the project consistent with Coastal Element Policy 3.5-10, which requires protection of archaeological resources (see Condition Number B-17).

Fire Protection: The proposed project site is located within the jurisdiction of the California Department of Forestry. The subject property has been identified as having a "moderate fire hazard severity" classification. Comments received by the California Department of Forestry and Fire Protection indicate that the project is exempt from Fire Safe requirements. However, staff recommends that all heavy equipment/machinery shall be fitted with State approved ABC spark arrestors prior to operating on site (Condition Number B-8). Additionally, staff recommends that there shall be no on-site fuel storage at the quarry site. This shall include gasoline, oil, or other similar materials (see Condition Number B-14). These measures will minimize fire hazards in the area.

Agricultural Preserve: At present, the subject property is within a Type II Agricultural Preserve with one year left before the subject property comes out of preserve status due to a notice of non-renewal. In many cases, the closure of many surface mines involves reclaiming the land to another use such as for agricultural or recreational use. According to the project engineer, the quarry site has no history of agricultural use, primarily due to the lack of soil and vegetation. However, once the site is reclaimed, staff believes that the vegetation will exist to provide for some grazing if desired. The quarry will not affect any area of prime soil or viable agricultural land, therefore, staff does not anticipate any significant adverse impacts to the resource preserve or Coastal Element Policies as they relate to agricultural preserves.

No significant environmental impacts are anticipated which cannot be adequately mitigated, therefore, a Negative Declaration is recommended.

GENERAL PLAN CONSISTENCY RECOMMENDATION: In addition to the General Plan goals and policies previously cited, Policy 3.1-17 of the Coastal Element states:

"All applications for sand removal, mining or gravel extraction operations on land or in stream beds within the Coastal Zone shall be subject to a Coastal Development Permit. Detailed extraction and restoration plans shall be submitted as part of all required applications. Responses shall be obtained from appropriate referral agencies, including the State Lands Commission, California Department of Fish & Game, Regional Water Quality Control Board and U.S. Army Corps of Engineers, and this data considered in developing any necessary conditions for approval. All approved operations shall be adequately monitored to ensure protection of wildlife and plant habitats and to prevent any degradation of coastal resources. Time limits of up to five years shall be placed upon all such permits to allow for periodic public and agency review of mining operations. Performance bonds shall be required to ensure proper restoration of the sites.

All mining, gravel extraction and sand removal operations in the coastal zone shall be subject to the following standards:

1. Shall prevent siltation and other sources of pollutants that might enter streams by requiring silt traps or other approved methods for controlling potential pollutants and runoff from each operation;
2. Shall be conducted during times of the year which will have the least adverse impacts on fish and wildlife resources;
3. Shall not be conducted on vegetated bars or dunes;

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4. Shall minimize disturbance to stream banks and shall incorporate measures necessary to prevent increased erosion as a result of the project;
5. For all projects larger than the removal of 1,000 cubic yards cumulatively, a reclamation plan of the project site shall be prepared and submitted and shall be approved prior to issuance of the permit and shall be carried out at such time as designated on the permit. For projects involving the removal of less than 1,000 cubic yards, a reclamation plan shall not be required. In both cases, the applicant shall protect coastal resources by mitigating for adverse impacts on the affected coastal resources. If a categorical exclusion has been granted to the County by the Coastal Commission, the specifics of that exclusion shall apply to those developments."

Compliance with the various elements of the reclamation plan and with the recommended conditions for the use permit and reclamation plan will insure consistency with this policy.

The proposed project is consistent with applicable goals and policies of the General Plan.

STAFF RECOMMENDATION: No significant environmental impacts will result from the proposed project which cannot be adequately mitigated through the conditions of approval, therefore, staff recommends approval of #CDUR 7-94/2001.

RECOMMENDED MOTION: The Planning Commission approves #CDUR 7-94/2000 making the following findings and subject to the following conditions of approval:

Environmental Findings: The Planning Commission finds that no significant environmental impacts would result from the proposed project which can not be adequately mitigated through the conditions of approval, therefore, a Negative Declaration is adopted.

General Plan Consistency Finding: As discussed under pertinent sections of the staff report, the proposed project is consistent with applicable goals and policies of the General Plan as subject to the conditions of approval.

Department of Fish and Game Findings: The Planning Commission has evaluated the Initial Study and other information pertinent to the potential environmental impacts of this project and finds that, based upon the existing development on the subject parcel and surrounding parcels, the project will not have any adverse impact upon wildlife or the habitat upon which wildlife depends and, therefore, the Commission has rebutted the presumption set forth in subdivision (d) of Section 753.5.

Coastal Development Permit Findings: The Planning Commission finds that the application and supporting documents and exhibits contain information and conditions sufficient to establish, as required by Section 20.532.095 of the Coastal Zoning Code, that:

1. The proposed development is in conformity with the certified local coastal program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
3. The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of the Coastal Zoning Code, and preserves the integrity of the zoning district; and
4. The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.

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6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.
8. Environmentally Sensitive Habitat Areas.
 - (a) The resource as identified will not be significantly degraded by the proposed development.
 - (b) There is no feasible less environmentally damaging alternative.
 - (c) All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.
9. The proposed use is compatible with the long-term protection of resource lands.

Project Findings: The Planning Commission, making the above findings, approves #CDUR 7-94/2000 subject to the conditions of approval recommended by staff.

CONDITIONS OF APPROVAL:

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

- ** 1. This permit shall become effective after all applicable appeal periods have expired or appeal processes exhausted. Failure of the permittee to make use of this permit within two years 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 June 21, 2006. 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. That the rock quarry operation not exceed a total of 75,000 cubic yards of rock, with an annual limit of 15,000 cubic yards of rock per year for 5 years.
- ** 3. That the application along with supplemental exhibits and related material be considered elements of this entitlement and that compliance therewith be mandatory, unless a modification has been approved by the Planning Commission. Particularly, the applicant shall develop the site and conduct operations in conformance with measures identified in Storm Water Pollution Prevention and Monitoring Program, dated September 1995, prepared by Walls Testing, Inc., said document being on file with the Department of Planning and Building Services.
4. An Indemnification Agreement which has been signed by the applicant, shall be filed with the Department of Planning and Building Services. The Indemnification Agreement shall be on the form provided by the Department of Planning and Building Services.
5. The applicant shall submit a Mining Inspection and Monitoring fee of \$1,325.00 to the Department of Planning and Building Services within thirty (30) days of permit issuance.
6. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until a fee of \$25.00 is submitted to the Department of Planning and Building Services to cover the cost of filing the Notice of Determination with the County Clerk. Checks must be made payable to the Mendocino County Clerk. The fee must be submitted to the Department of Planning and Building Services by June 22, 2001.

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PAGE PC**

- ** 7.** The applicant shall obtain all authorizations required by and comply with all conditions established by the following agencies having jurisdiction over the project:
- a. California Department of Fish and Game
 - b. California Regional Water Quality Control Board
 - c. Mendocino County Air Quality Management District
 - d. California Department of Transportation
- ** 8.** The encroachment onto Highway 1 shall provide adequate sight distance and turning geometrics acceptable to the California Department of Transportation (Caltrans). The applicant shall secure from Caltrans, an encroachment permit for all work to be conducted within State Highway right-of-way.
- ** 9.** Except for the existing access road, no part of the operation, including processing machinery, stockpiles, and any future sediment ponds, may be located within 100 feet of the edge of the riparian vegetation along the south side of Kibesillah Creek.

B. Conditions which must be complied with for the duration of this permit:

- ** 1.** The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.
- ** 2.** No material shall be placed into or where it may pass into any stream or watercourse in quantities which would be deleterious to fish, wildlife or other beneficial uses.
- ** 3.** During the non-operating months, quarried rock will be stockpiled at a slope not exceeding 2:1.
- ** 4.** As each phase of the quarry operation is completed, crushed rock debris covered with topsoil shall be graded onto the benches and/or landings and shall be seeded.
- ** 5.** That the final cut banks be either terraced or left at a slope no steeper than 1.25 horizontal to one (1) vertical, and that the slope shall be recovered with soils and seeded to encourage revegetation.
- ** 6.** That dust be controlled subject to controls by the Air Quality Management District. The applicant shall undertake measures to reduce dust generated by the operation and insure that the truck haul road to be used is treated with a dust suppressant or watered during haul periods.
- ** 7.** Noise levels created by the operation as measured at the nearest residence other than that of the mine owner or operator shall not exceed the following:
- a. 55 dBA for a cumulative period more than 30 minutes in any hour.
 - b. 70 dBA for a cumulative period of more than 12 minutes in any hour.
 - c. 75 dBA for a cumulative period more than 3 minutes in any hour.
 - d. 80 dBA for a cumulative period more than 1 minute in any hour.
 - e. 85 dBA at any moment.
- ** 8.** All non-turbo charged equipment shall have approved spark arrestors installed and shall carry an "A,B,C" type fire extinguisher.
- 9.** This permit is issued without a legal determination having been made upon the legal title, number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the legal title, 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.

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STAFF REPORT FOR RENEWAL OF COASTAL DEVELOPMENT
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10. That the applicant shall grant access to the property during hours of operation to permit Department of Fish and Game personnel and 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.
- ** 11. The applicant shall annually supply to the Director of the Department of Planning and Building Services, no later than July 1 of each year, an annual accounting of the quantities and types of materials extracted and/or processed from each location (Mendocino County Code Section 22.16.140, Ordinance Number 4031 (part), adopted 1999). The accounting report shall indicate the dates on which the specified volumes were removed, the method used to calculate the volume figures and the signature of the person responsible for establishing the volume figures.
- ** 12. That there be no signing allowed for the operation other than those directional or warning signs allowed by Mendocino County Code Section 20.476.035(A).
13. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
 - a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That 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.

- ** 14. There shall be no on-site fuel storage in association with this project.
- ** 15. a. Financial Assurance. The applicant shall provide Mendocino County with a cash or surety bond or other acceptable form of financial assurance for the reclamation plan and mitigation measures. The bond shall be available to both the County 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 the 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 Sections 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.

- b. Implementation and Verification. The financial assurance shall name both the County and the Department of Conservation as payees per the requirements of AB 3551. 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

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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.

- ** 16. That the hours of operation be limited to between 7:00 a.m. and 6:00 p.m. on weekdays and Saturdays.
- ** 17. The applicant shall comply with the recommendations of the Mendocino County Archaeological Commission with reference to Section 22.12.090 and 22.12.100 of the Mendocino County Code pertaining to discoveries.
- ** 18. The applicant/operator shall maintain the operation in compliance with the Storm Water Pollution Prevention and Monitoring Program (SWPPP), dated September 1995, prepared by Walls Testing, Inc. The SWPPP shall be updated with the Regional Water Quality Control Board (RWQCB) to reflect any changes, and will designate Ronelle McMahon as the responsible party for implementing the SWPPP. The new SWPPP shall be approved by the RWQCB and submitted to the Department of Planning and Building Services within six months of approval of this permit.
- ** 19. All major grading operations and/or project related activity which may promote erosion and sedimentation to existing and/or adjacent water courses shall be confined to non-winter months or during dry winter periods. Winter quarry operations may continue if the following conditions are met:
- a. Do not haul rock products during periods of measurable precipitation and for at least 24 hours after the end of a period of significant precipitation. Significant precipitation is defined as an amount of precipitation on which more than 1/4 inch falls in any 24 hour period and/or the aggregate rainfall total during the previous 48 hours exceed 2 inches.
 - b. The Storm Water Pollution Prevention and Monitoring Program prepared by Walls Testing, Inc., dated September 1995, shall be the operational plan for the quarry, processing site and haul road.
- ** 20. Any trees removed as a result of the operation shall be replaced with native trees and shrubs at a ratio of 2:1 (minimum replacement size - 10 gallons). The final reclamation and revegetation of the site shall be done in conformance with the Reclamation Plan, dated November 11, 2000 and Addendum to the Reclamation Plan, dated May 7, 2001, prepared by Walls Testing, Inc. and updated by Ronelle McMahon.
- ** 21. Within 60 days of approval of this permit the limits of the quarry as they appear in the grading plan shall be staked by a licensed surveyor, registered civil engineer or engineering geologist, indicating the quarry boundaries. The stakes shall remain in place until the operation is reclaimed.
- ** 22. A copy of the reclamation plan, grading plan, and Storm Water Pollution Prevention and Monitoring Program shall be kept on site at all times.

5/15/01
DATE


JULIE PRICE
PLANNER I

5/15/2001
Negative Declaration
Appeal Fee - \$600.00
Appeal Period - 10 days

- ** Indicates conditions relating to Environmental Considerations - deletion of these conditions may effect the issuance of a Negative Declaration.

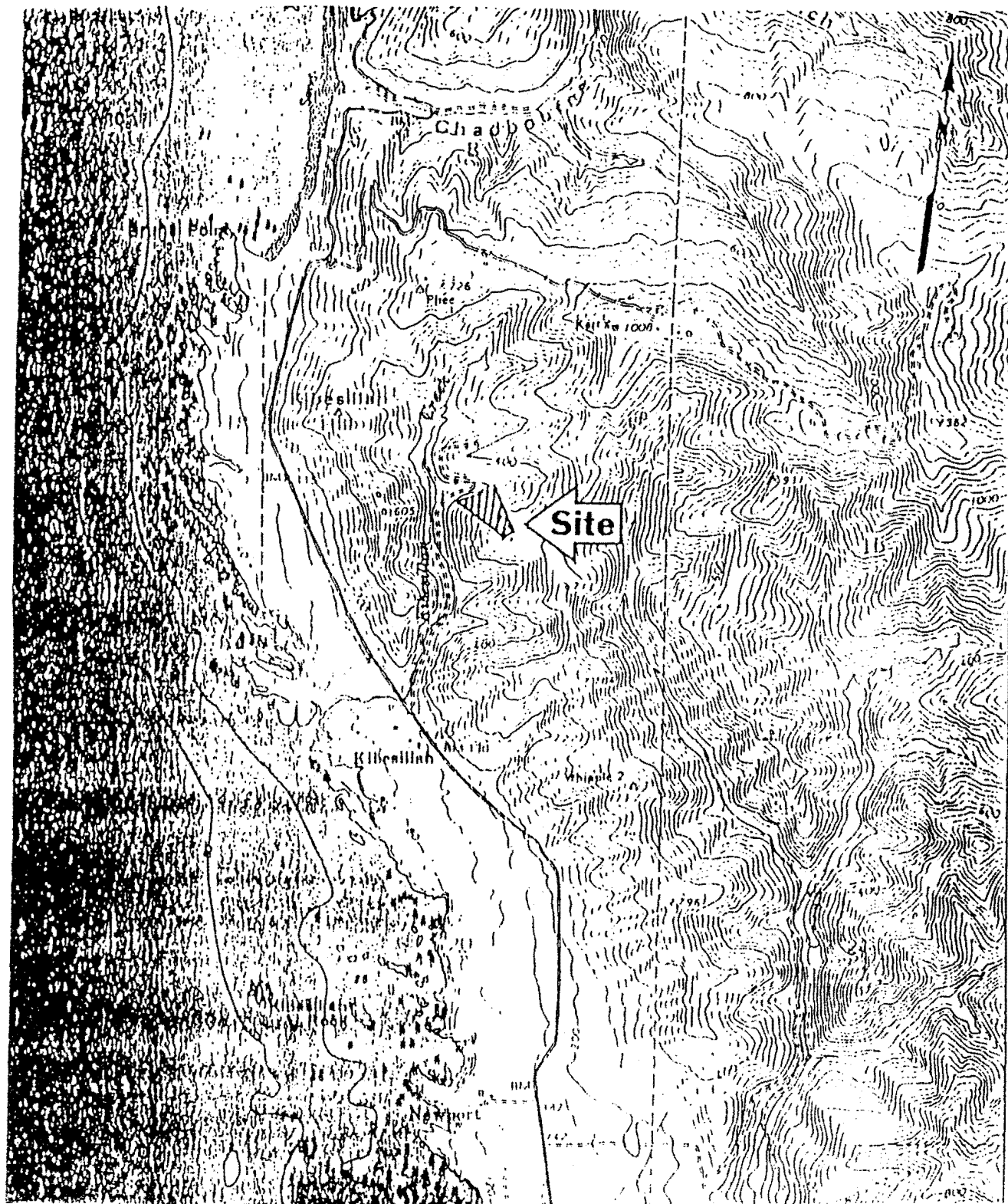
39441

STAFF REPORT FOR RENEWAL OF COASTAL DEVELOPMENT
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REFERRAL AGENCIES	REFERRAL NOT RETURNED	REFERRAL RECEIVED "NO COMMENT"	COMMENTS RECEIVED
Planning - Ft Bragg		X	
Transportation		X	
Env. Health			X
Building Inspection - Ft Bragg		X	
Emergency Services	X		
Assessor	X		
Air Quality			X
Water Agency			X
Caltrans	X		
Department of Forestry			X
Dept. of Fish & Game	X		
Division of Mines & Geology	X		
Coastal Commission	X		
RWQCB	X		
Dept. of Conservation			X

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SITE LOCATION MAP
 Wilsey Ranch Quarry
 AP # 015-070-40
 33051 North Highway T
 Fort Bragg, CA

Scale = 2000 ft

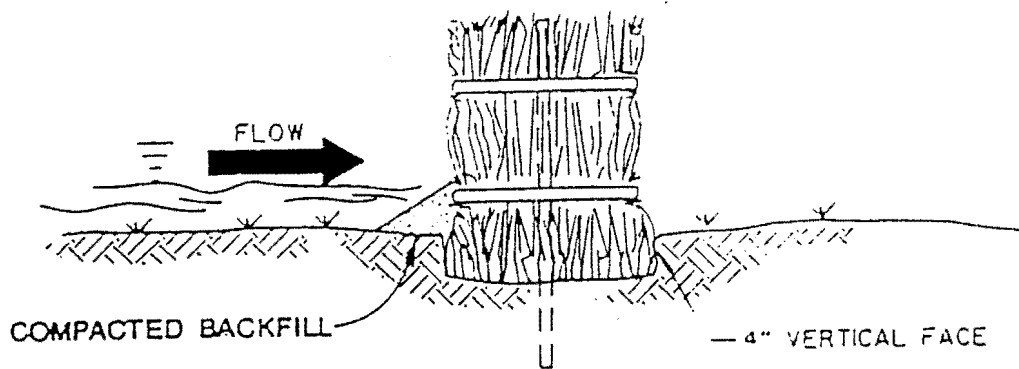
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 Topographic Map

AP # 015-070-40
 Date: 1/1995

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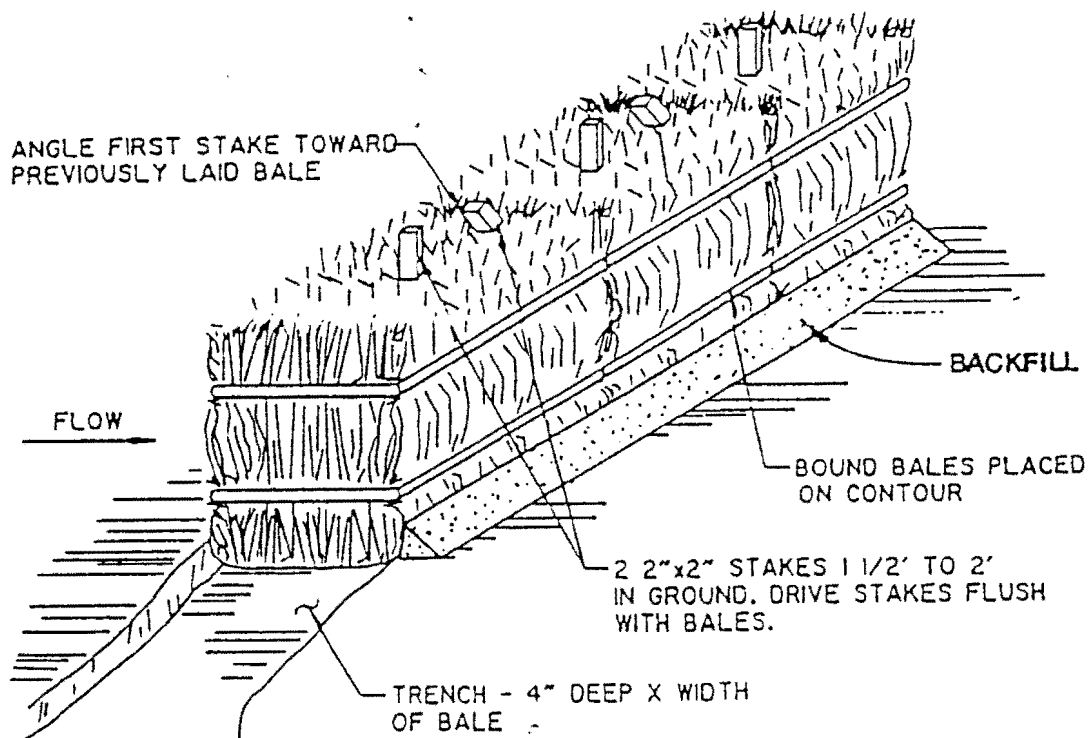
Figure 1

WALLS
 TESTING,
 INC.



- PROMOTES ON SITE SEDIMENTATION
BY CREATING A TEMPORARY POND.

BEDDING DETAIL



SUBSTITUTION OF STEEL BARS FOR
WOODEN STAKES IS NOT RECOMMENDED DUE
TO POTENTIAL FOR DAMAGING CONSTRUCTION EQUIPMENT

ANCHORING DETAIL

Not to Scale

STRAW BALE BARRIERS

Straw Bale Barrier Detail
Wilsey Ranch Quarry
33051 North Highway One
Fort Bragg, California

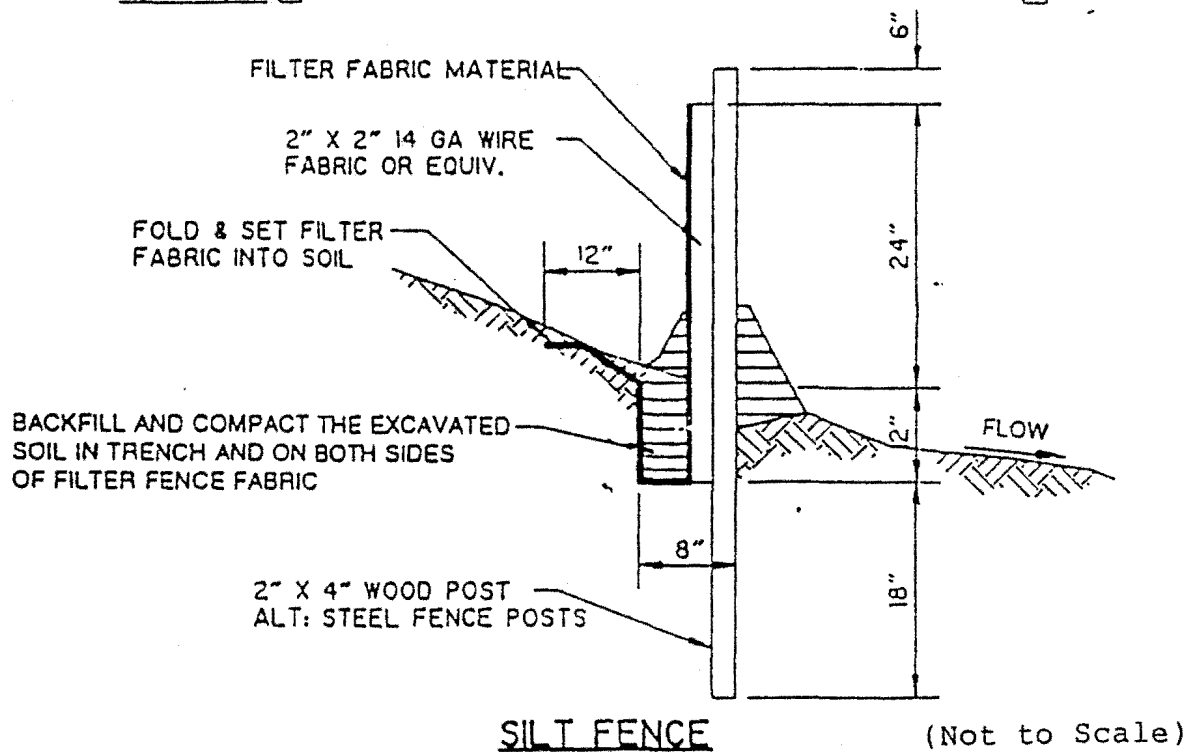
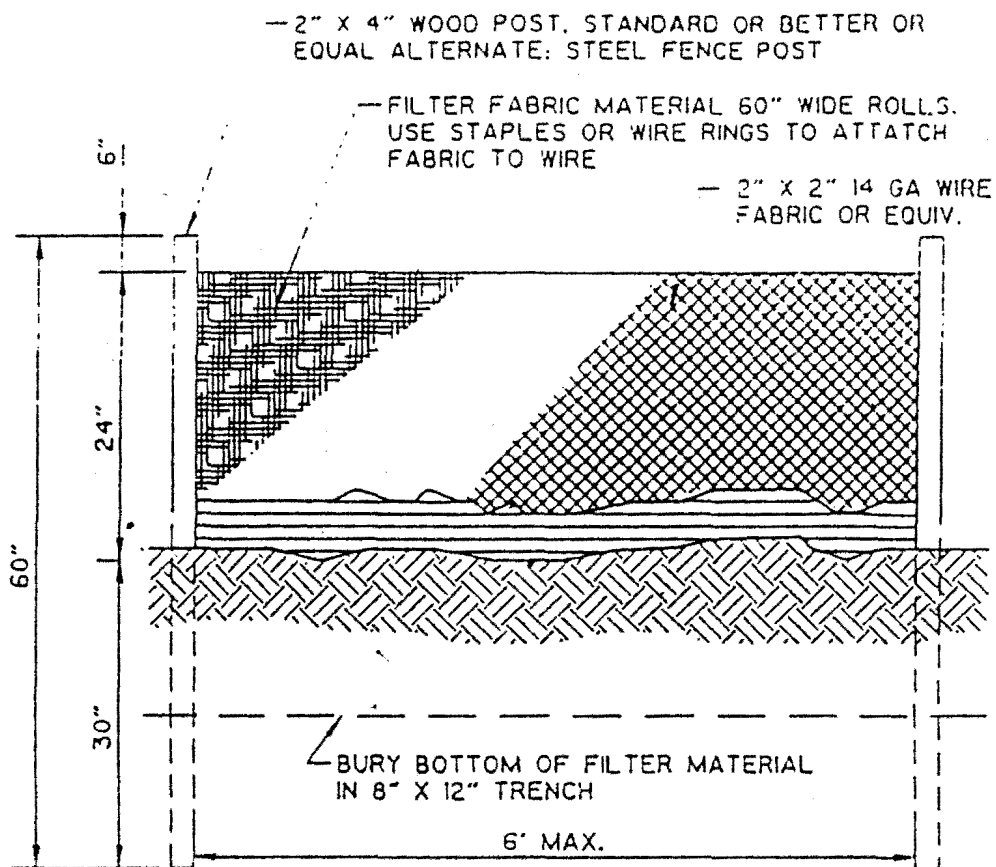
EXHIBIT NO. 7
APPLICATION NO. A-1-MEN-01-062
EXCERPT, STORM WATER POLLUTION PREVENT
PLAN - STRAW BALE SPECIFICATION SHEET (1 of 2)

September, 1995

Job No. 481.400

Figure 3

WALLS
TESTING,
INC.



Silt Fence Detail
Wilsey Ranch Quarry
33051 North Highway One
Fort Bragg, California

September, 1995

Job No. 481.400

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Figure 4

WALLS
TESTING,
INC.

**Mendocino County Water Agency
Memorandum**

To: Julie Price, Planning & Building Services February 22, 2001

From: Dennis Slota, MCWA *WLS*

Subject: CDUR 7-94/2000 (Wilsey Ranch Quarry); Use Permit and Reclamation Plan for extraction of 15,000 CY of rock annually for ten years from a hillside quarry in the coastal zone about 2.5 miles south of Westport.

Staff has reviewed the Use Permit Application and notes that the applicant is submitting a comprehensive and thoughtful Reclamation Plan. Following are additional comments for your consideration:

1. The letter from George Rau that is attached to the Reclamation Plan mentions a condition to "retain all the drainage from the quarry itself within the quarry floor". However, the Grading and Erosion Controls plan sheet shows the entire quarry draining into an 18" culvert that is aimed directly at Kibesillah Creek. I have not been to this site and don't know if this is a problem or not. In general, it is preferable to retain all drainage on site or, secondarily to route drainage through a sediment pond before possible discharge into the surrounding landscape. I recommend that the issue of drainage be clarified. It is possible that the 18-inch culvert should discharge into a sediment pond or be re-oriented to not point directly at the creek.
2. I did not see any provisions to prevent the germination or spreading of weeds or exotic species. The Surface Mining and Reclamation Act (SMARA) CCR 3705(k) requires a description of how weeds will be managed.

Thank you for the opportunity to comment on this project, please call me at 463-4589 with any questions or concerns regarding these comments.

cc: Sue Goodrick, Administration
Mendocino County Water Agency Board of Directors

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EXHIBIT NO. 8
APPLICATION NO. A-1-MEN-01-062
JACKSON-GRUBE CITED REVIEW AGENCY
CORRESPONDENCE (1 of 6)



DEPARTMENT OF CONSERVATION
STATE OF CALIFORNIA

March 9, 2001

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GRAY DAVIS
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Julie Price
Mendocino Department of Planning and Building Services
510 Low Gap Road, Rm 1440
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Dear Ms. Price:

Wilsey Ranch Quarry Reclamation Plan California ID# 91-23-0038

The Department of Conservation's Office of Mine Reclamation (OMR) has reviewed the Wilsey Ranch Quarry Reclamation Plan. The side-hill quarry is located six miles north of Fort Bragg, ½ mile east off of Highway One. Over the next 10 years, 900,000 cubic yards of material will be removed. OMR staff conducted a site visit on March 1, 2001. The following comments prepared by Catherine Gaggini and Vicki Lake are offered to assist in your review of this project.

The Surface Mining and Reclamation Act of 1975 (SMARA) (Public Resources Code Section 2710 et seq.) and the State Mining and Geology Board regulations for surface mining and reclamation practice (California Code of Regulations (CCR) Title 14, Chapter 8, Article 1, Section 3500 et seq., Article 9 Section 3700 et seq.)(copies enclosed) require that specific items be addressed or included in reclamation plans. Though the majority of the requirements of SMARA and the CCR were addressed, the following items were not adequately addressed in the document submitted; we recommend that the reclamation plan be supplemented to fully address these items.

Mining Operation and Closure

(Refer to SMARA Sections 2770.5, 2772(c),
CCR Section 3502(b)(2), (b)(5), 3709(a), (b), 3713(a), (b))

1. SMARA 2772(c)(7) requires that the proposed end use of the site subsequent to mining be stated. The reclamation plan states that the end use may possibly be grazing. Based on the final bench configuration and the plan to use native plants for revegetation, we recommend that the end use be stated as wildlife habitat with native

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plant revegetation. If desired, an alternate end use could be provided for the level processing area. However, the reclamation plan would have to be augmented with performance standards to meet a different end use for the process area.

Figures 3, 4 and 5, were omitted from the reclamation plan received by OMR, and thus were not available for review.

Hydrology and Water Quality

Refer to SMARA Sections 2772(h)(1), (h)(2), 2773(a), CCR Sections 3503(a)(3), (b)(1), (d), 3706(c), (d), (e), (f), (g), 3710 (b), (c), 3711(e), 3712)

2. There was no evidence of surface runoff from the mine causing sedimentation to the local drainages. The site is well maintained with hay bales at needed locations. The reclamation plan should include a definitive maintenance program, however, to ensure the ongoing sediment and erosion control. We recommend that the plan state that hay bales will be replaced annually, by October 15th. The plan should specify that these erosion control measures will be inspected following storm events. Further, that hay bales will be repaired if no longer functioning to retain sediment on site, and built up sediment removed.

Geotechnical Requirements

(Refer to CCR Sections 3502(b)(3),(b)(4), 3704 (a),(b),(d),(f))

3. The reclamation plan should be augmented to specifically state that the recommendations of George C. Rau, consulting engineer for the project, will be followed as stated in his November 28, 2000 letter attached to the reclamation plan. The conditions itemized in Mr. Rau's letter will help fulfill the requirements of CCR Sections 3502(b)(30), 3503, 3710, and SMARA Section 2773.

Environmental Setting and Protection of Fish and Wildlife Habitat

(Refer to CCR Sections 3502(b)(1), 3503(c), 3703(a),(b),(c),
3704(g), 3705(a), 3710(d), 3713(b))

4. Kibesillah Creek and its tributary support riparian scrub and open water that provide valuable habitat for dependent plant and wildlife species. CCR 3502(b)(1) requires that sensitive natural communities be identified, and thus the tributary to Kibesillah Creek should be mapped on the site plan. The creek, tributary, and associated riparian habitat should continue to be protected from mining operations, as required by CCR 3503(c). Berms and/or straw bales should be used to direct runoff and

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erosive material away from the open water and associated riparian habitat. Precautions should be taken so that fertilizers and amendments associated with reclamation activities do not contaminate surface waters.

Resoiling and Revegetation

(Refer to SMARA Section 2773(a), CCR Sections 3503(a)(1),(f),(g), 3704(c), 3705(a),(b),(c),(d),(e),(f),(g),(h),(i),(j),(k),(l),(m), 3707(b),(d), 3711(a),(b),(c),(d),(e))

5. The site map should indicate existing and future locations of topsoil stockpiles separate from other stockpiles. Protecting topsoil stockpiles for use during reclamation is very important for successful revegetation.
6. The erosion control and final planting lists in the reclamation plan should be revised to reflect species native to the site and immediate surroundings. Many native species establish readily under the climatic conditions present at the site. Native plants can provide effective erosion control and will serve to visually blend the reclaimed site better with the surrounding slopes. Using native plants will also limit the spread of non-native species into the area.
7. Appropriate native species to include are coyote bush (*Baccharis pilularis*), Douglas fir (*Pseudotsuga menziesii*), sword fern (*Polystichum munitum*), cow parsnip (*Heracleum lanatum*), California brome (*Bromus carinatus*), California melic grass (*Melica californica*), grand fir (*Abies grandis*), and Sitka spruce (*Picea sitchensis*). A botanical survey of the site or discussion with a local native plant nursery may also identify other appropriate species. Seeds for these species can be collected on-site or purchased from suppliers, such as those listed in the Department of Conservation's "Nursery Sources for California Native Plants". We commend the mine operator for taking the initiative to propagate native species and determine what species are most effective. Non-native species that should definitely not be planted include ryegrass (*Lolium multiflorum*) because it has an allelopathic effect which inhibits the growth of other plants, Australian saltbush (*Atriplex semibaccata*) because it would contrast with the native character of the site, and Duro California buckwheat (*Eriogonum fasciculatum*) because it is native only to central and southern California and not northern California.
8. The first paragraph under "Erosion Control Seeding Specifications" should be rephrased to state that erosion control seeding will take place *every year* instead of *any year*.

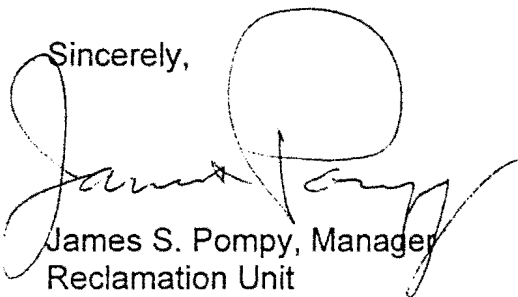
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9. In the discussion of revegetation monitoring, it should be stated that periodic monitoring and replanting will continue until two consecutive years of monitoring have demonstrated successful establishment without supplemental irrigation. The initial seed mix and rate for the slopes, and the container and seed mix and rate for the benches should be provided. As required by CCR 3705(m), performance criteria should be stated in terms of percent cover, density, and species richness. Performance criteria should be based on a percentage of that existing on the naturally vegetated slopes surrounding the mined area.
10. Fortunately, weeds are not currently a significant problem on the project site. CCR 3705(k) requires that weed management be addressed in reclamation plans. Weed abatement standards for species most likely to be invasive (e.g., Pampas grass) should be proposed (e.g., number of plants or cover), with eradication occurring if the standard is exceeded. Additionally, all mulch and straw should be certified "weed-free" to reduce the introduction of weedy species on to the project site.

If you have any questions on these comments or require any assistance with other mine reclamation issues, please contact me at (916) 323-8565.

Sincerely,



James S. Pompy, Manager
Reclamation Unit

Enclosure

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California Regional Water Quality Control Board

North Coast Region



Winston H. Hickox
Secretary for
Environmental
Protection

Daniel F. Crowley, Chairman

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Gray Davis
Governor

June 15, 2001

BY
BUILDING SERVICES
95432

Julie Price
County of Mendocino
Department of Planning and Building Services
501 Low Gap Road, Room 1440
Ukiah, CA 95482

Dear Ms. Price:

Subject: Jackson Grube Family Inc. Hillside Quarry, Westport, Mendocino County
Case No. CDUR 7-94/2000

File: Mendocino County – General Planning

We have reviewed the Notice of Public Hearing and Availability of Draft Negative Declaration for Public Review, dated May 23, 2001, concerning the proposed Jackson Grube Family Inc. Hillside Quarry, located approximately 2.5 miles south of Westport in Mendocino County. The project proposes extraction, screening and crushing of up to 15,000 cubic yards of rock per year for ten years from a hillside quarry. Our comments are as follows:

1. A National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity is required. The applicant must obtain the required permit from this agency.

If you have any questions or comments please do not hesitate to contact me at (707) 576-2065.

Sincerely,

John L. Short
Senior Water Resources Control Engineer

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California Environmental Protection Agency



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