

**CALIFORNIA COASTAL COMMISSION**

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**W19a**

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**APPEAL SUBSTANTIAL ISSUE DETERMINATION & DE NOVO HEARING**

Appeal number.....A-3-SCO-02-088, RMC Production Increase  
Applicant.....RMC Pacific Materials  
Appellants.....Sierra Club, Coastal Advocates for Small Towns (COAST), & David Kossack  
Local government.....Santa Cruz County  
Local decision.....Approved with Conditions (October 8, 2002)  
Project location.....RMC Pacific Materials cement plant in the town of Davenport on Santa Cruz County's north coast.  
Project description.....Increase allowable cement plant production capacity from 875,000 tons annually to 980,000 tons annually.  
File documents.....Santa Cruz County Certified Local Coastal Program (LCP); Santa Cruz County CDP Application File 02-0159; Monterey Bay ReCAP.  
Staff recommendation ...Substantial Issue Exists; Denial

**Summary of staff recommendation:** Santa Cruz County approved a proposal to allow an increase in the annual production limit for the Applicant's Davenport cement plant from 875,000 tons of cement to 980,000 tons of cement per year. Among other things, the County's approval was conditioned for the Applicant to submit an application for a complete review of the cement plant operation to assess overall impacts and evaluate possible project modifications and/or mitigations to address them. The complete review was a condition of the base coastal permit's original approval and was to have occurred by 1995, but has not yet taken place. The three Appellants generally allege that the approval is inconsistent with the LCP because the County did not have adequate information regarding expected impacts of the project, and that because of this, there may be negative impacts to coastal resources (including, but not limited to, habitat for listed species in San Vicente Creek, water quality, water supply, public access and recreation in the Highway One corridor, and cumulative impacts to each).

The County found that the proposed increase would not increase the intensity of use of the site, and that it would not result in an increase in water or air quality impacts. This finding was based on the Applicant's statement that the production increase was possible without any associated impacts because of increased production efficiencies.

**California Coastal Commission****January 2003 Meeting in Los Angeles**

Staff: D. Carl Approved by: DSL

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Other than the Applicant's assertions, the County application file doesn't include any evidence evaluating potential project impacts applicable to the proposed production increase. The County exempted the project from CEQA, and the file does not otherwise include analysis of the effect of the project on coastal resources. Staff is particularly concerned about the potential effect of the project on San Vicente Creek because this creek provides habitat for State and Federally listed species such as Coho and Steelhead, and the effect of the Applicant's existing Creek withdrawals on these species is already not well understood. NMFS and CDFG have indicated that significant caution is warranted when dealing with San Vicente Creek water withdrawals. In past Davenport projects, the Commission has exercised great care with projects involving San Vicente Creek.

Staff believes that the County's approval of a production increase was premature because there wasn't adequate analysis of potential project impacts on coastal resources, and the coastal permit required re-review intended to provide this type of information and analysis was not done. The Applicant is out of compliance with their base coastal permit, and production increases that are not supported by thorough and complete analysis of potential impacts should not be approved. While it is acknowledged that the County conditioned the current production increase approval for the required re-review to take place, such sequencing is backwards inasmuch as the re-review information is the type of in-depth analysis of project impacts that is necessary to be able to make the current production limit increase decision, and it was already required in the base coastal permit.

Staff recommends that the Commission find that a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County Local Coastal Program (LCP) and take jurisdiction over the coastal development permit for the project. Staff further recommends that because the application does not include adequate information to make a decision in this matter, that the Commission deny the application.

The Applicant should be encouraged to comply with the base coastal permit approval and submit to the County the information required for a thorough evaluation of ongoing operational impacts and associated mitigation measures to assure that coastal resources are not being adversely affected. It would be during the course of this re-review that it would be appropriate for the Applicant to identify changes to the base coastal permit that they would like to pursue (such as the production increase). Any such changes would likewise need to be evaluated for their impacts to coastal resources. Modifications to the base permit outside of this context are not appropriate.

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## **1. Appeal of Santa Cruz County Decision**

### **A. Santa Cruz County Action**

The application was approved by the Santa Cruz County Zoning Administrator on August 16, 2002. Following Zoning Administrator approval, and because of many of the same issues raised by the Appellants in this appeal, the application was elevated to the Board of Supervisors (by the Supervisor for the district that includes Davenport) for them to make the coastal permit decision in this matter. On October 8, 2002, the Board approved the project, slightly modifying the Zoning Administrator's conditions. Notice of the Board's action on the coastal permit was received in the Commission's Central Coast District Office on October 21, 2002. The Commission's ten-working day appeal period for this action began on October 22, 2002 and concluded at 5pm on November 4, 2002. Three valid appeals (see below) were received during the appeal period.



## **B. Appeal Procedures**

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. The base permit, which this application amends, was appealable because it required a public hearing above the County's identified level 4 hearing procedures (thus making it a conditional as opposed to a principally permitted use here). The current action was identified as appealable by the County in part because of the same reason, and in part because the base permit that it amends was appealable.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is not so located and thus this additional finding would not need to be made in a de novo review in this case.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, 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. Any person may testify during the de novo stage of an appeal.

## **C. Appellants' Contentions**

The three Appellants (the Sierra Club, Coastal Advocates for Small Towns (or COAST), and David Kossack) generally allege that the County's approval is inconsistent with the LCP because the County did not have adequate information regarding expected impacts of the project, and that because of this, there may be negative impacts to coastal resources (including, but not limited to, habitat for listed species in San Vicente Creek, water quality, water supply, public access and recreation in the Highway One corridor, air quality, and cumulative impacts to each). Please see exhibits D, E, and F for the Appellants' complete appeal documents.



## 2. Procedural History (Post-County Action)

On December 12, 2002, the Commission opened and continued the substantial issue hearing on the appeal because Commission staff had not received the complete administrative record on the project from the County in time to prepare a staff report with a full analysis and recommendation for the Commission's December 2002 meeting. The County's administrative record on the application was subsequently received in the Commission's Central Coast District Office on December 2, 2002 (i.e., the week before the Commission's December meeting).

## 3. Staff Recommendation

### A. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action.

*Motion. I move that the Commission determine that Appeal Number A-3-SCO-02-088 raises no substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act.*

*Staff Recommendation of Substantial Issue. 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 Number A-3-SCO-02-088 presents a substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program.*

### B. Staff Recommendation on Coastal Development Permit

The staff recommends that the Commission, after public hearing, **deny** a coastal development permit for the proposed development.

*Motion. I move that the Commission approve Coastal Development Permit Number A-3-SCO-02-088 pursuant to the staff recommendation.*

*Staff Recommendation of Denial. Staff recommends a no vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.*



*Resolution To Deny The Permit. The Commission hereby denies a coastal development permit for the proposed development on the grounds that the development will not conform with the policies of the Santa Cruz County Local Coastal Program. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.*

## **Recommended Findings and Declarations**

The Commission finds and declares as follows:

### **4. Project Description**

#### **A. Project Location**

The cement plant is located in the unincorporated town of Davenport, approximately ten miles north of the City of Santa Cruz. The cement plant site is located along the inland Highway One frontage just upcoast of the main commercial area of town. Davenport is a small coastal town in Santa Cruz County's North Coast planning area and is the only concentrated development area along Highway One between Santa Cruz and Half Moon Bay. This larger stretch of California's coastline is characterized by lush agricultural fields and extensive State Park and other undeveloped public land holdings. Davenport provides a convenient stopping place and a visitor destination for travelers along this mostly undeveloped coastline.

The overall cement plant operation includes significant quarrying and associated delivery apparatus stretching miles inland from the actual cement plant proper; including water diversion facilities to, from, and in San Vicente and Mill Creeks.

See exhibit A for location maps.

#### **B. County Approved Project**

The County approved project amends the base coastal permit (County coastal permit 88-0188) to allow a permanent increase in the annual production limit for the Applicant's Davenport cement plant from 875,000 tons of cement to 980,000 tons of cement. See exhibit B for the Applicant's application request and justification for it, and exhibit C for the adopted County staff report, coastal permit findings and conditions approving the Applicant's proposed project.



## 5. Substantial Issue Findings

### A. Applicable Policies

The Appellants' LCP allegations generally focus on the project's potential to adversely impact coastal resources due to water withdrawals (and their effect on habitat and water supply), wastewater discharge, increased traffic in the Highway One corridor, and cumulative impacts when each of these issues are considered together and when combined with the impacts of reasonably foreseeable projects.<sup>1</sup>

There are a sizeable number of LCP policies that apply to the proposed project. Part of the reason for this is because the range of coastal resources potentially involved (i.e., ESHA, public access and recreation, water quality, water supply, viewshed/character, etc.), and part of the reason is because of the way the certified LCP is constructed where there are a significant number of policies within each identified issue area, and then other policies in different LCP issue areas that also involve other issue areas (e.g., habitat policies that include water quality requirements, and vis versa). In addition, there are a number of Davenport specific policies because the town is an LCP-designated Coastal Special Community. In terms of habitat resources, there are also two zoning chapters that include requirements for protecting streams, riparian corridors, and ESHA.

Because the project impacts (and the associated applicability of particular policies) are unclear from the application file, and for brevity's sake in these findings, applicable policies are shown in exhibit G. There may be more applicable policies, depending on the nature of the as yet unidentified impacts of the project. At any rate, and in general, the LCP protects ESHA (like San Vicente Creek), water supply streams (like San Vicente, Mill, and Liddell Creeks), water quality, public access and recreation capacity of Highway One, and the character of the town of Davenport from adverse impacts.

### B. Analysis of Consistency with Applicable Policies

#### Stream Resources

ESHA and Sensitive Habitat (including, per the LCP definition, San Vicente, Mill, and Liddell Creeks) are to be preserved, restored, protected against significant disruptions, and any development authorized in or adjacent to them must maintain or enhance the habitat (LCP Objectives and Policies 5.1 et seq and 5.2 et seq, IP Chapters 16.30 and 16.32). Water quality is required to be protected and improved (LCP Objectives and Policies 5.4 et seq, 5.7 et seq, and 7.23 et seq, and LCP Policies 2.23 et seq). The LCP

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<sup>1</sup> The Appellants also allege that there are CEQA inconsistencies with the project and that air emissions weren't evaluated thoroughly. However, CEQA inconsistency of itself is not an LCP issue per se. Rather, the impacts that are typically considered under CEQA, and that the Appellants' allege weren't evaluated here, represent the LCP issues engendered by the appeals. Likewise, although air quality and emissions are clearly a General Plan issue, air quality impacts are not categorically an LCP issue per se. In other words, there are not specific air quality LCP provisions akin to the water quality provisions of the LCP. Protection of air quality in an LCP context broadly revolves around preserving the overall integrity of the coastal zone, and its recreational, habitat, and other resource features. In that broad context, many, if not most, of the LCP policies enumerated above could be read to protect air quality. In addition, in Davenport, the LCP designates Davenport as a Coastal Special Community whose character is to be preserved and enhanced (LCP Objective and Policies 8.8 et seq and IP Section 13.20.143 et seq); preservation of air quality is thus inherent in these policies as well.



requires a biotic assessment, and potentially a full biotic report, for development within sensitive habitats (LCP Policy 5.1.9 and IP Section 16.32.070), and requires environmental review for all development proposed that affect riparian corridors, and preparation of an EIR or a full biotic report for projects which may have a significant effect on these resources (LCP Policy 5.2.8 and IP Section 16.32.070). The LCP requires adequate stream flows to protect anadromous fish runs, including restoration of same if in-stream flows are inadequate for fisheries, designates San Vicente Creek, Mill Creek, and Liddell Creek as Critical Water Supply Streams that are currently being used at full capacity, and prohibits additional withdrawals of water from designated Critical Water Supply Streams (LCP Objective and Policies 5.6 et seq). The LCP requires that development be evaluated for its potential to impact water supply systems (LCP Policy 7.18.3).

The Appellants allege that the County's approval did not include adequate information to understand the effect of the proposed production increase on stream water supply and habitat resources, and particularly San Vicente Creek. The Appellants further allege that the approved project will result in additional water withdrawals from San Vicente Creek to the detriment of habitat and water supply.

The County's application file does not include any analysis of the impacts to Creek resources of existing water withdrawals by the Applicant, and does not contain any information as to how much additional water withdrawal would be necessary to allow for the production increase. Rather, the County's action in this matter appears to have been based on the Applicant's conclusion that increased plant efficiencies allow for additional production without any "water quality impacts."<sup>2</sup> However, the Applicant's conclusion does not specifically identify how 'increased efficiencies' accomplish this effect. The County findings repeat the language of the Applicant's submittal.<sup>3</sup> The County's findings also repeat the language of past actions by the County to allow temporary increases applicable to single years only; in fact, the staff report texts are essentially identical.<sup>4</sup> Absent information to the contrary in the application file, the Appellants' presumption that additional production would require additional water is a valid hypothesis.

From what the Commission understands,<sup>5</sup> the Applicant withdraws water directly from both San Vicente Creek and Mill Creek. The diverted water is used in the Applicant's cement manufacturing processes, and for water supply to the town of Davenport (through the Davenport Water and Sanitation District (DWSD) which is managed by the Santa Cruz County Public Works Department). The Commission is also aware<sup>6</sup> that the State Water Resources Control Board recently completed an investigation of the Applicant's right to withdraw water from San Vicente and Mill Creeks that concluded, among other

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<sup>2</sup> Since the County file and the Applicants conclusions are otherwise silent on water supply and habitat impacts, it is presumed for the purpose of these findings that the phrase "water quality impacts" is meant to encompass these related water issues. If it does not encompass these issues, then the County's file is silent on these habitat and water supply issues.

<sup>3</sup> See exhibit B for the Applicant's request for expanded limits.

<sup>4</sup> Temporary production increases (limited to single year production targets in each case) were approved by the County for calendar years 1987, 1988, 1997, 1999, 2000, and 2001.

<sup>5</sup> Not from the County file in this matter because the file did not include such information.

<sup>6</sup> Ibid.





things, that the Applicant does not have a riparian right and appears to have only a partial appropriative water right (pre-1914) to divert water from the two creeks, that the Applicant appears to have diverted water in excess of the pre-1914 right, and that approximately 30% of the water diverted was spilled and not used for a beneficial use.<sup>7</sup>

At a minimum, San Vicente Creek is known habitat for State and Federally listed coho salmon, steelhead salmon, and red-legged frog,<sup>8</sup> and the California Fish and Game Commission has designated San Vicente Creek as an endangered coho salmon spawning stream. NMFS indicates that San Vicente Creek is the southern-most creek where coho salmon is still extant in its entire North American range, and that protection of this creek is therefore of significant importance. CDFG echoes NMFS concerns in this regard, and have asked that the County not approve additional development without an understanding of such development's potential impact to in-stream flows of San Vicente Creek.

It is not clear from the County file whether existing water withdrawals are leading to listed species habitat degradation, nor is it clear whether the production increase would exacerbate any such impacts or cause impacts of its own. In fact, the Commission is not aware of any comprehensive evaluations, whether in this project context or otherwise, of habitat impacts due to the Applicant's water diversion activities on the San Vicente Creek.<sup>9</sup> Without such information, and because of the sensitivity of the habitat present in the San Vicente Creek, the Commission believes the most conservative (and most protective of habitat) approach is warranted. There needs to be a clear understanding that a project will not impact San Vicente Creek habitat resources before it can be considered. Note, for example, that on the Trust for Public Land's (TPL's) Coast Dairies property that surrounds Davenport, and that includes in part San Vicente Creek, NMFS and CDFG this year have gone as far as to inform TPL that all agricultural diversions should stop immediately due to their harm to fisheries resources (see exhibit A for a map showing Coast Dairies in relation to Davenport).

In terms of public water supply issues, the County approval does not include an analysis of potential impacts to water supply systems, including the creeks that supply the water and the associated larger surrounding watershed and recharge areas associated with the creeks (e.g., the City of Santa Cruz's system that draws water from Liddell Creek, and Davenport's DWSD system that draws water from San Vicente Creek). Again, it is unclear what effect the project may have on water supply since no information or analysis is presented. The Commission has been asked by the City of Santa Cruz Water Department to deny the current production increase due to its potential effect on public water supply (see exhibit H).

<sup>7</sup> State Water Resources Control Board, December 27, 2001.

<sup>8</sup> Coho are State-listed as an endangered species and Federally listed as a threatened species, steelhead are Federally listed as a threatened species, and red-legged frog are Federally listed as a threatened species and State listed as a special concern species.

<sup>9</sup> Note that the State Board Investigation from December 2001 did not include such an evaluation, noting that such an evaluation was beyond the scope of that investigation due to limited State Board resources available to develop the required body of evidence. The State Board investigation did indicate, however, that if valuable public trust resources exist in a stream, if these resources are being adversely affected by diversions, and if modification to diversions would help alleviate such impacts (all of which may be the case for San Vicente Creek), then the Board can step in to reallocate water for beneficial uses.



In sum, the Applicant and the County conclude that there wouldn't be any water quality impacts, but this conclusion is not supported by any analysis regarding the effect of existing withdrawals and whether the production increase would lead to additional withdrawals. The application does not include a biotic assessment, biotic report, or CEQA analysis as would be required by the LCP for development including withdrawal of water from the subject creeks, and does not include any information regarding the project's effect on in-stream flows, fisheries, ESHA, Critical Water Supply Streams, and water supply systems. As a result, consistency with core LCP policies cannot be confirmed in this case.

Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.

### **Wastewater Generation**

The LCP protects coastal water quality (LCP Objectives and Policies 5.4 et seq, 5.7 et seq, and 7.23 et seq, and LCP Policies 2.23 et seq). The Appellants allege that the County's approval did not include adequate information to understand the effect of the proposed production increase on coastal water quality due to wastewater discharges. Similar to water withdrawals, the Appellants' presumption is that additional production would result in additional wastewater discharge.

The County's file does not include any information regarding the Applicant's existing wastewater discharges, where and how they are directed, nor any information regarding additional discharges that may be attributable to the production increase. As with the stream and water discussion above, and in the same manner, the Applicant and the County conclude that there wouldn't be any water quality impacts. However, and again in the same manner, it is not clear from the County file whether the Applicant's existing wastewater generation is leading to resource degradation, nor is it clear whether the production increase would exacerbate any such impacts or cause impacts of its own.

The Commission is aware<sup>10</sup> generally that there have been DWSD wastewater capacity problems in Davenport in previous years (due to old collection lines into which excess water infiltrates) that have led to raw wastewater discharges into the Pacific Ocean. Because of this, any increase in flows into the system should be considered significant until the system is upgraded. However, there is no information in the file to be able to understand the water quality of existing wastewater discharge, whether this discharge is into the wastewater delivery system or somewhere else, and the effect of the production increase on wastewater generation and offsite impacts. As a result, consistency with core LCP policies cannot be confirmed in this case.

Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.

### **Highway One Visitor Access**

Santa Cruz County's north coast area is a stretch of mostly undeveloped Central Coast that represents the

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<sup>10</sup> Not from the County file in this matter because the file did not include such information.



grandeur of a bygone (in many places) agrarian setting and coastal wilderness California that attracts visitors to it. Davenport itself is an important visitor destination; its proximity to Santa Cruz heightening its appeal in this regard. Highway One is the primary (and in some places only) means of travel on the north coast, and is thus widely used by visitors and those otherwise seeking to enjoy the region's coastal resources.

The LCP contains a series of interwoven policies which, when taken together, reinforce and reflect the Coastal Act mandate to maximize public access and recreational opportunities, protect existing public access and encourage public access and recreational enhancements (such as public parking, trails, and other facilities) to increase enjoyment of coastal resources and to improve access within the coastal region (LCP Chapters 3 and 7). The LCP also targets Davenport for specific enhancements, such as clear parking and circulation (including IP Section 13.20.143 et seq). The LCP establishes a priority of uses within the coastal zone where recreational uses and facilities are a higher priority than residential uses, and the LCP prohibits the conversion of a higher priority use to a lower priority use (LCP Policy 2.22 et seq); in road improvement projects, priority is given to providing recreational access (LCP Policy 3.14 et seq). Existing public access use is protected (LCP policy 7.7.10).

The Appellants allege that the County's approval will lead to additional truck traffic in the Highway One corridor that will adversely affect public visitor access along Highway One, and particularly within Davenport itself.

The County approval would mean that additional cement would be produced annually. This additional cement would need to be transported off site. The Applicant indicates that this would be accomplished by additional truck traffic on Highway One, and by rail (at least 15% by volume via rail as conditioned by the base coastal permit). The County conditioned the approved project to transport any additional cement by rail if possible, and allowed truck traffic on Highway One during non-peak hours.

The Applicant relies on a 1989 traffic report to conclude that the additional traffic due to the production increase would be insignificant, and the County concurs in their approval. However, reliance on a traffic study from over a decade ago is inappropriate given the amount of regional growth, change to the transportation infrastructure, and increased demand by coastal visitors in that time frame. This is particularly the case within Davenport proper where a burgeoning visitor trade is flourishing in recent years and through circulation (and parking) along the town's Highway One frontage can be difficult as a result. Moreover, and as alleged by the Appellants, it is not clear that there any longer is a 'non-peak' traffic time through the City of Santa Cruz on Highway One.

The County's file does not contain clear information regarding whether the Applicant's existing traffic generation is leading to adverse impacts to coastal visitors in the Highway One corridor, particularly within Davenport proper, and whether the production increase would exacerbate any such impacts or cause impacts of its own. Absent clear and current information on the effect of the proposed production increase on current Highway One usage and visitor traffic needs, consistency with LCP access and recreation policies cannot be confirmed in this case.



Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.

#### **Cumulative Impacts**

The LCP requires that development not adversely affect, individually or cumulatively, coastal resources (LCP Policy 2.1.4), including the coastal resources thus far discussed in these findings.

The Appellants allege that there are a series of projects contemplated by the Applicant in the foreseeable future, and a number of commercial projects either permitted or pending in Davenport, that could lead to impacts that cumulatively are greater than those potentially associated with the current proposal to increase annual production limits alone.

The County's file does not include information regarding the Applicant's future projects, and does not include information on projects otherwise permitted or pending in Davenport. The Commission is aware<sup>11</sup> that the Applicant is pursuing an expansion of their mining operation (and that an application and EIR is pending at the County level), and that the Applicant is also pursuing several cement production related projects; there are also two recently permitted major commercial projects along Davenport's Highway One frontage (i.e., the conversion of the former Odwalla building and the rebuilding of Forrester's Hall) and one recently approved by the County that has been appealed to the Commission (i.e., the demolition of the Davenport Barn and construction of a replacement structure). All of these projects are either under construction (i.e., Odwalla) or could be in the reasonably foreseeable future. It is reasonable to assume that their combined effect on coastal resources when considered along with the of the project under appeal here, particularly the combined effect of those projects currently being pursued by the Applicant, could lead to cumulative impacts to the types of coastal resources detailed above.

Again, the County's approval does not describe these reasonably foreseeable projects, and does not include any analysis of the potential for cumulative adverse impacts to coastal resources when their impacts are combined with the impacts of the current project. All of the above potential impacts, which themselves are not clearly understood in relation to the current project, could be cumulatively worse, but there is no information or analysis in the file to evaluate whether this is the case. As a result, consistency with applicable LCP and policies cannot be confirmed in this case.

Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.

#### **Non-Compliance with Base CDP**

The base CDP (County coastal permit 88-0188) requires the Applicant to submit an application for a complete review of the cement plant operation to assess overall impacts and evaluate possible project modifications and/or mitigations to address them. The complete review was a condition of the base

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<sup>11</sup> Again, not from the County file in this matter but from other sources.



permit's original approval and was to have occurred by 1995, but has not yet taken place. As a result, the Applicant is out of compliance with the base permit.

The re-review condition was a fundamental tool used in the base coastal permit to evaluate its effectiveness at protecting coastal resources. As such, it was an integral part of the reason the base permit was found by the County to be consistent with the LCP. Lacking the required re-review analysis and information, it is not clear that the existing operation is consistent with LCP requirements, let alone the proposal to allow more production when associated impacts are not well understood. As a result, consistency with core LCP policies cannot be confirmed in this case.

Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.

### **C. Substantial Issue Conclusion**

The three Appellants generally allege that the approval is inconsistent with the LCP because the County did not have adequate information regarding expected impacts of the project, partially because the base CDP-required review never occurred, and that because of this, there may be negative impacts to coastal resources due to water withdrawals (and their effect on habitat and water supply), wastewater discharge, increased traffic in the Highway One corridor, and cumulative impacts when each of these issues are considered together and when combined with the impacts of reasonably foreseeable projects

The County found that the proposed increase would not increase the intensity of use of the site, and that it would not result in an increase in water or air quality impacts. This finding was based on the Applicant's conclusion that the production increase was possible without any associated impacts because of increased production efficiencies.

It is not clear from the very limited information in the County file that the production limit increase is as innocuous as the Applicant states. Other than the Applicant's assertions, the County application file does not include evidence evaluating potential project impacts applicable to the proposed production increase. The County exempted the project from CEQA, and the file does not include an analysis of the effect of the project on coastal resources. The lack of impact assessment raises issues relevant to San Vicente Creek particularly because the Applicant diverts water from the Creek for industrial production and this creek provides habitat for State and Federally listed species such as Coho and Steelhead. The effect of existing water withdrawals on habitat is not well understood; partially because of this NMFS and CDFG have indicated that extreme caution is warranted when dealing with San Vicente Creek resources, and particularly when dealing with water withdrawals. Per the LCP, additional withdrawals from San Vicente Creek are prohibited and in-stream flows are to be restored to protect habitat there. In past Davenport projects, the Commission has exercised great care with projects involving San Vicente Creek.

The lack of impact assessment also raises issues regarding the potential for the project to negatively impact public water supplies (including those of the City of Santa Cruz and Davenport), off-site water quality due to industrial discharges, and recreational access within the Highway One corridor. In



addition, the lack of cumulative impact assessment, particularly the cumulative impact of this project in relation to others being pursued by the Applicant at their industrial facility, raises issues in each of the issues areas discussed.

Absent thorough project impact assessment as required by the LCP, consistency with core LCP policies cannot be confirmed in this case. As a result, the Commission finds that a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County Local Coastal Program and takes jurisdiction over the coastal development permit for this project.

## **6. Coastal Development Permit Findings**

By finding a substantial issue in terms of the project's conformance with the certified LCP, the Commission takes jurisdiction over the CDP for the proposed project. The standard of review for this CDP determination is the County LCP.

### **A. Analysis of Consistency with Applicable Policies**

The substantial issue findings above are incorporated directly herein by reference.

The County's approval of a production increase was premature without adequate analysis of potential project impacts on coastal resources, and was premature without the coastal permit required re-review intended to provide this type of information and analysis from which to make informed coastal permit decisions. The Applicant is out of compliance with their base coastal permit, and production increases that are not supported by thorough and complete analysis of potential impacts should not be approved. While it is acknowledged that the County conditioned their production increase approval for the required re-review to take place, such sequencing is backwards inasmuch as the re-review information is the type of in-depth analysis of project impacts that is necessary to be able to make the current production limit increase decision.

An option that is often considered when the Commission takes jurisdiction over a coastal permit and additional information is necessary for de novo review is to have Applicants submit the requisite information and/or analyses prior to that de novo review. In this case, however, such an option does not make common sense. The base coastal permit, with which the Applicant is out of compliance, is a County coastal permit. The required re-review is a County coastal permit condition. The Applicant is currently preparing information for the overdue and required re-review and the County expects that it will be submitted in short measure. The appropriate vehicle to propose and evaluate production increases is within the comprehensive re-review of the cement plant operation that is upcoming, and not a separate stand alone component heard by the Commission outside of that context. Modifications to the base permit outside of the required re-review context (or where such re-review does not occur at all) are not appropriate.

Therefore, because the current application does not include adequate information from which to make



informed coastal permit decisions in this matter, at least partly because the Applicant is out of compliance with their base coastal permit, the Commission finds that the proposed project is inconsistent with the certified LCP and denies the current production increase application. Such denial is without prejudice to the Applicant's upcoming re-review inasmuch as it is based on the lack of information in the current application. In the re-review context, the Commission expects that the Applicant will comply with the base coastal permit approval and submit to the County the information required for a through evaluation of ongoing operational impacts and associated mitigation measures to assure that coastal resources are not being adversely affected. The Commission expects that the issues raised in these findings, particularly the lack of comprehensive information on water withdrawals and their effect on habitat resources, will be addressed in the County re-review context. It would be during the course of this re-review that it would be appropriate for the Applicant to identify changes to the base coastal permit that it would like to pursue (such as the production increase). Any such changes would likewise need to be thoroughly evaluated for their impacts to coastal resources.

## **B. California Environmental Quality Act (CEQA)**

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The County, acting as the lead CEQA agency, exempted the project from CEQA review.

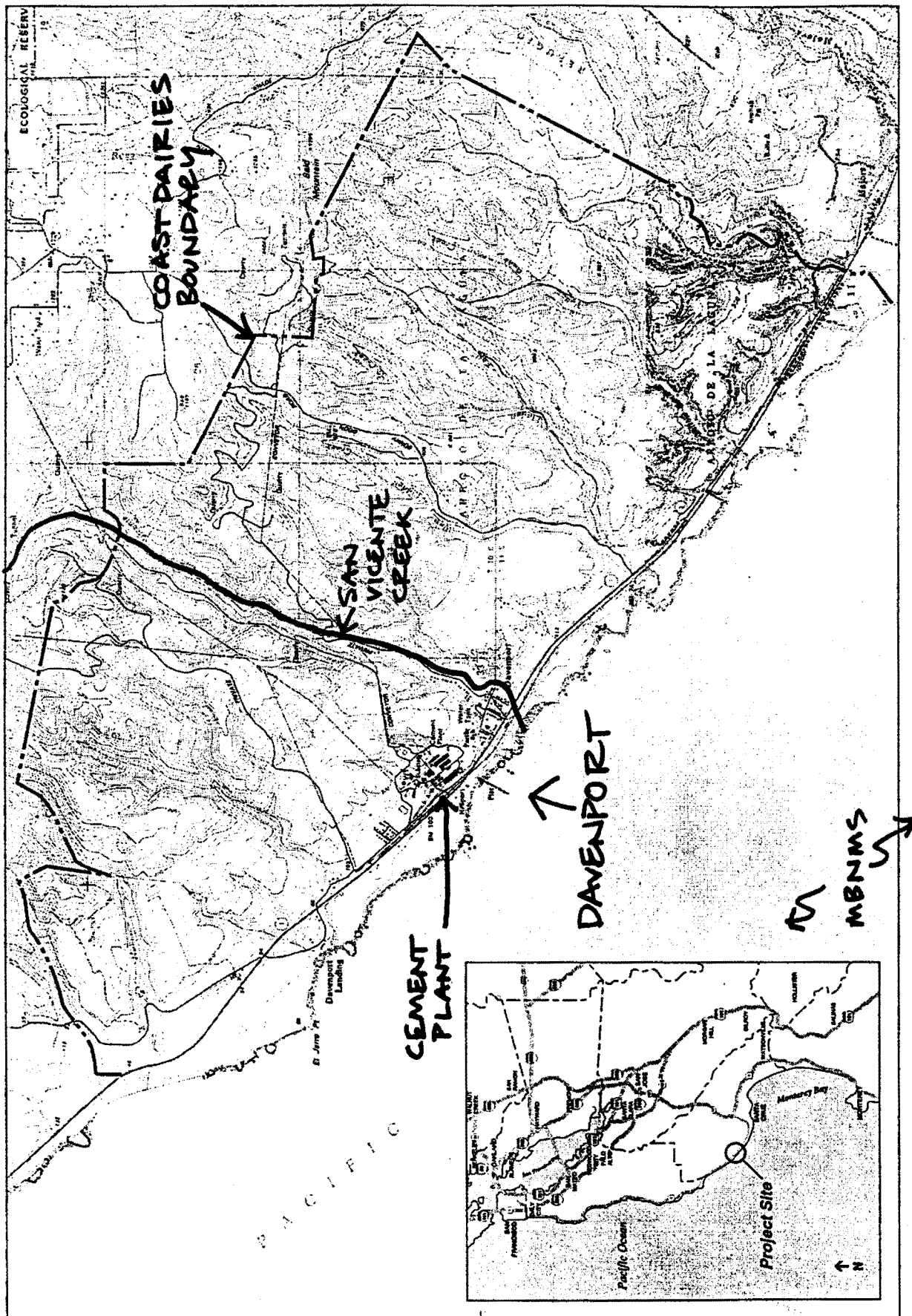
The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This report has discussed the relevant coastal resource issues with the proposal. All public comments received to date have been addressed in the findings above. All above substantial issue and coastal development permit findings are incorporated herein in their entirety by reference. As detailed in the findings above, there appear to be less environmentally damaging feasible alternatives to the proposed project (including the no project alternative), and there appear to be additional coastal resource impacts that weren't identified (and thus weren't mitigated) associated with the proposed project. Because the requisite project impact assessment is missing, and to err on the side of resource protection when impacts are not well understood, the Commission finds that there are additional feasible alternatives and feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project would have on the environment within the meaning of CEQA. Thus, the proposed project will result in significant environmental effects for which feasible mitigation measures have not been employed inconsistent with CEQA Section 21080.5(d)(2)(A). Therefore, the project is not approvable under CEQA and is denied.











CCC Exhibit A  
 (page 2 of 6 pages)

Coast Dairies / 200071  
**Figure I-1**  
 Coast Dairies Property  
 Location Map

SOURCE: Environmental Science Associates

CEMENT  
PLANT  
✓

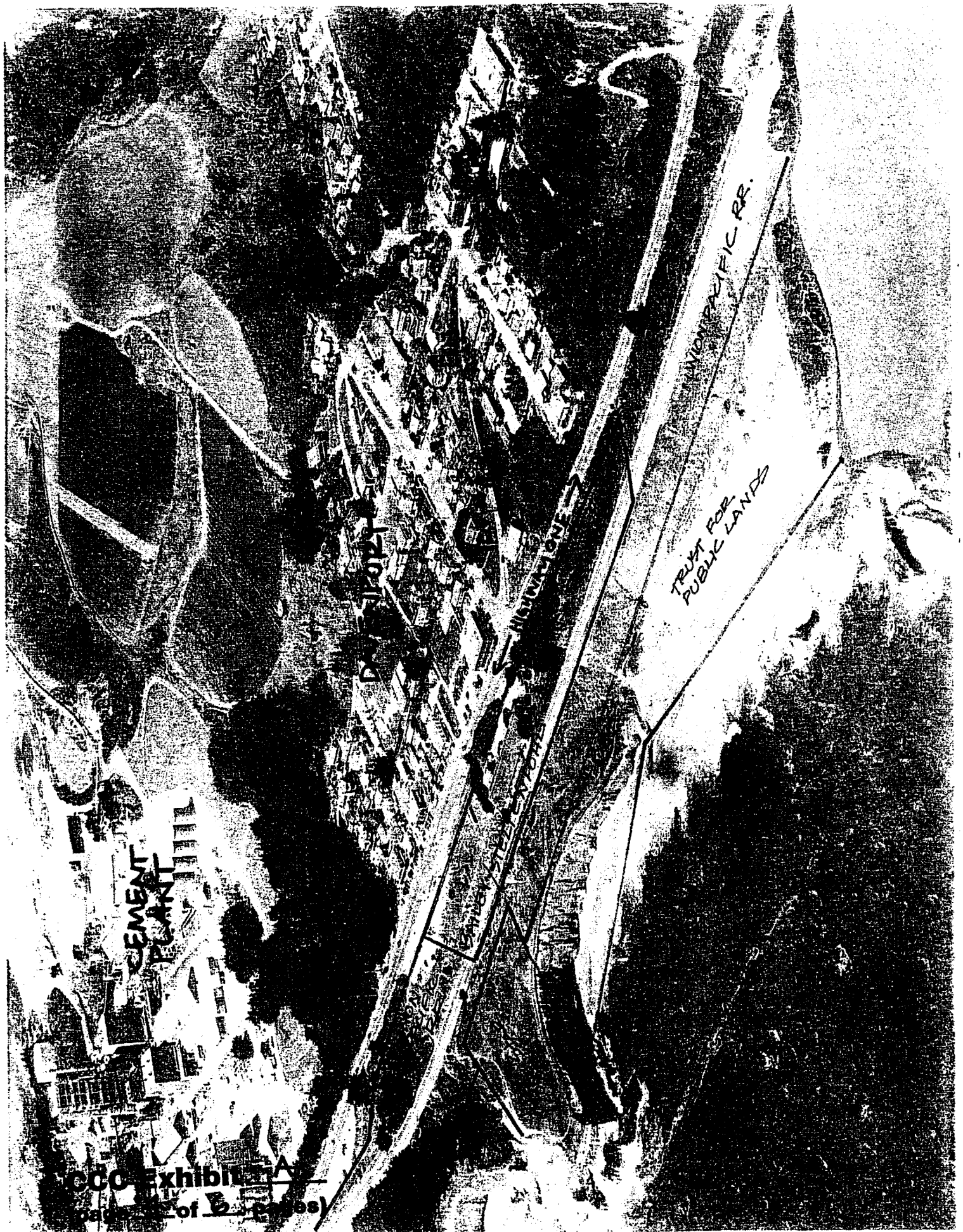
BEFORE

ENTERING DAVENPORT ON HIGHWAY  
ONE FROM SANTA CRUZ

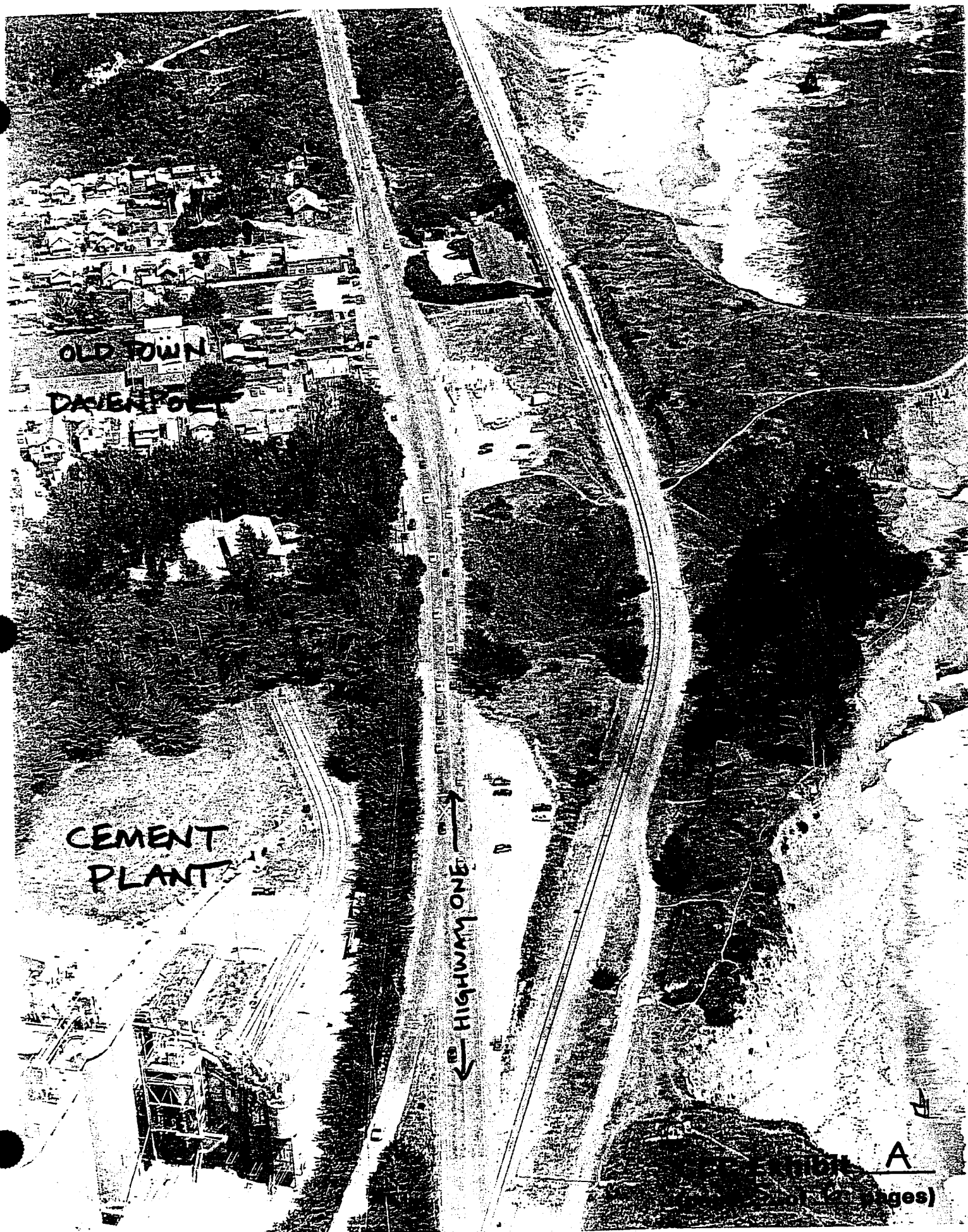
**Davenport**  
POP 200 ELEV 80

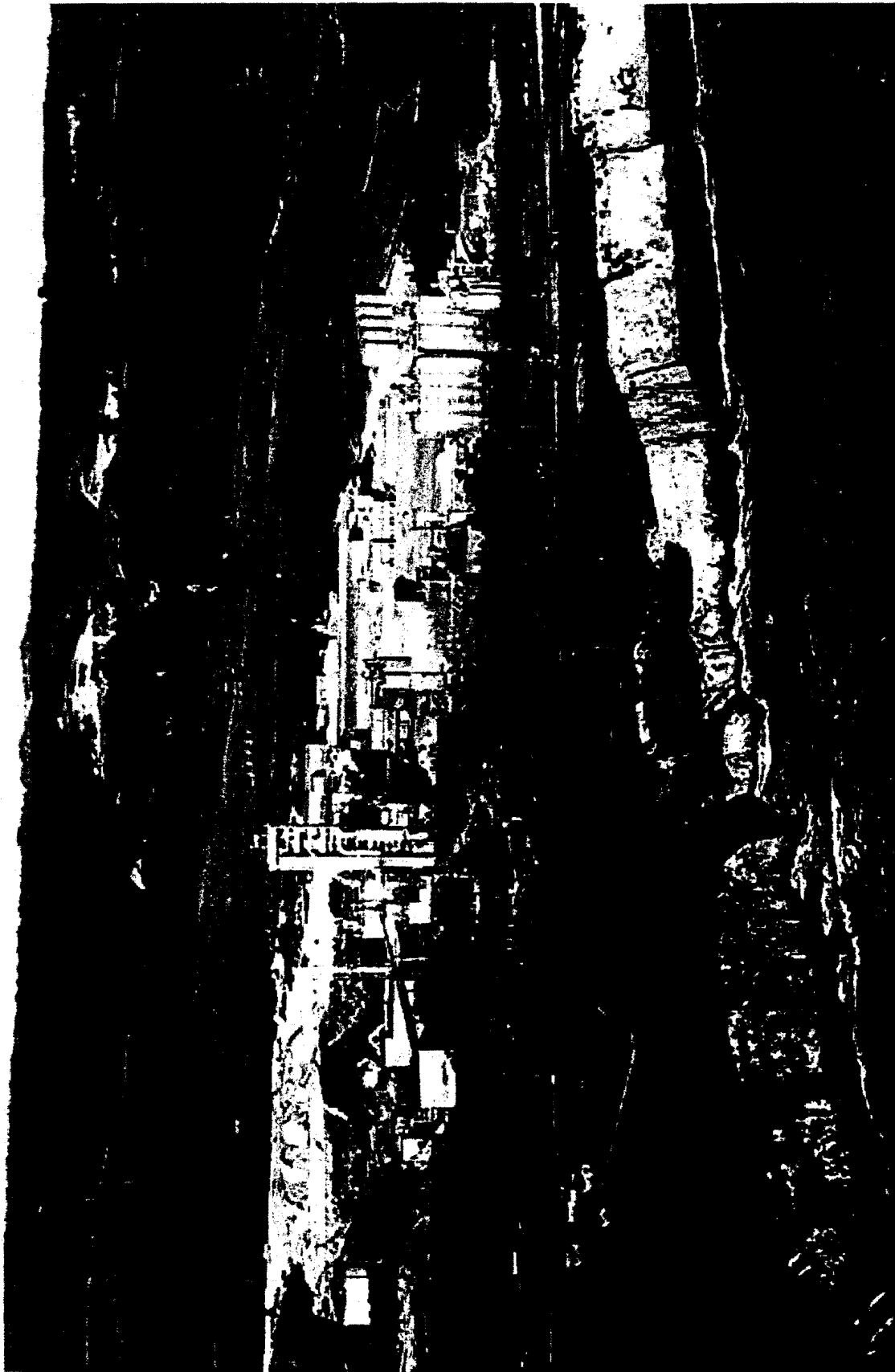
**EMERGENCY  
CALL 9-1-1**

45  
MILES  
PER HOUR









CEMENT PLANT AS VIEWED FROM OFFSHORE

JOHN L. RITCHEY III  
STEPHEN N. WYCKOFF  
MARSHA B. SHANLE

WYCKOFF, RITCHEY & SHANLE  
LAW OFFICES  
615 WATER STREET  
POST OFFICE BOX 1111  
SANTA CRUZ, CALIFORNIA 95061-1119  
AREA CODE 831 • 426-2111

STEPHEN WYCKOFF (1912-1992)  
H. C. LUCAS (1879-1952)  
HARRY C. LUCAS, JR. (1912-1983)  
LOYD R. MILLER (1908-1988)

March 11, 2002

County of Santa Cruz  
Planning Department  
701 Ocean Street  
Santa Cruz, CA 95060

HAND DELIVERED

Re: **DEVELOPMENT AND COASTAL PERMIT AMENDMENT APPLICATION**

Assessor's Parcel Number: 058-071-04

Site Address: 700 Highway 1, Davenport

Owner: RMC Pacific Materials

Permit 88-0188

Dear Ladies and Gentleman,

On December 12, 2001, the Santa Cruz County Planning Commission approved a Minor Variation to Permit 88-0188 allowing for an increase in cement production of 5.7% for the calendar year ending December 31, 2001. I would like to express the appreciation of this office and RMC Pacific Materials for the professional, prompt and courteous manner in which the minor variation application was processed by the Santa Cruz County Planning Department. Condition 1. of the minor variation specifically provided that "[t]he permit holder must apply for a permit amendment to request any future year increases in the annual production limit. . ." . Based upon the requirement of Condition 1., RMC Pacific Materials (RMC) requests an amendment to Development and Coastal Permit 88-0188 to increase the permitted annual production limit for their Davenport Cement Plant to 980,000 tons annually.

**BACKGROUND.**

The current annual production limit is 875,000 tons. This limit was established in 1988 and reiterated in 1990 in Permits 88-0188\*2 and 88-0188. The limit amount was the amount requested by RMC and was based upon RMC's calculation as to maximum peak production achievable under all other permitting constraints.

WYCKOFF, RITCHEY & SHANLE  
LAW OFFICES

0387

Re: RMC DEVELOPMENT AND COASTAL PERMIT APPLICATION

March 11, 2002

Page Two.

RMC is proposing to continue to operate under all other permitting constraints (such as the 330-day of operation limit per year, and maximum coal usage requirements; the County's limitation of hours of quarrying, and rail shipment requirements; and the Air Pollution Control District emissions standards). However, because of increased efficiencies in plant operations, maximum peak production has increased. If market demand is high, RMC wants to operate at maximum peak production for the allowable 330 days per year.

A number of factors and improvements have occurred since 1990 to increase plant efficiency. See the explanation of the factors in the attached letter, dated February 11, 2002 from Albert J. Cornibe, Jr., Quality Control Manager at the plant, to John L. Ritchey, 111.

### IMPACTS.

RMC now calculates that a 12% increase in its production might be achievable and, therefore, is seeking the limit increase to 980,000 tons annually. It is clear that if market demand exists, and barring unforeseen occurrences, peak production will exceed the permitted 875,000 tons. Minor Variations allowing for greater production have been requested by RMC and granted by the County in four out of the past five years (97-0786, 99-0767, 00-0723 and 01-0525). The impacts of increased production have been tested, and, as anticipated, were nonexistent.

#### Peak Production under existing production limitation.

It is important to understand that the plant will operate at peak production for as long as it can. If it could average production of 2969 tons per day (which creates an output of 980,000 tons over a 330-day-of-operation year), and if the production limit is not increased, the plant would operate for 295 days and then shut down, laying off its workers for part of November and all of December. RMC would then be required to import foreign cement during that period to meet customer demand. Of course, it is unlikely that peak production could be maintained over a full year of operation, and projected shut downs would most likely be for less than 40 days. But the history of the last five years shows that some end-of-year shutdown would be required under the existing production limitation. RMC would much prefer to keep its workforce year-round and sell product manufactured at its Davenport plant rather than sell imported cement.

#### Peak production under proposed production limitation.

While the annual volume of production would be increased, there would be no increase in the overall intensity of use. There would be no additional work shifts and no increase in plant operations over the current level. No increase in daily air emissions or water quality impacts



WYCKOFF, RITCHEY &amp; SHANLE

0388

LAW OFFICES

Re: RMC DEVELOPMENT AND COASTAL PERMIT APPLICATION

March 11, 2002

Page Three

over current levels would occur. RMC would continue to operate in compliance with all permitting requirements of the Air Pollution Control District and the Regional Water Quality Control Board.

All material produced in excess of the current annual limit will be used to resupply the storage silos at the plant or be transported by rail or trucks as allowed by permit conditions.

When the production increase from 775,000 tons to 875,000 tons was initially approved in 1988 (88-0188\*2), a minimum of 130,000 tons was required to be shipped by rail, and a traffic study was ordered to be prepared. In July 1989 DKS Associates released "... Evaluation of RMC Lonestar Davenport Cement Plant Truck Impacts on Mission Streets". The 1990 Permit (88-0188) modified the rail shipment requirement to no less than 15% of total annual production. The DKS study pointed out that peak hours of truck generation from the plant correspond to non-peak traffic conditions on Mission St. (SR 1). It analyzed three scenarios, assessing truck impact at decreasing rail shipment levels. One of the scenarios was 810,000 tons shipped by truck. This is close to the level of truck shipment if the proposed increase is approved (960,000 tons less 15% by rail [144,000 tons] = 816,000 tons by truck). The study calculated that going from the 775,000 ton level of production to 743,750 tons shipped by truck would increase cement truck two-way trips down the Mission Street corridor by 3 trips per day over then existing number, and that shipping 810,000 tons by truck would increase the trips by 11 trips per day over then existing numbers. No more that one additional trip would be added during a one hour period over the then existing number.

The impact of the truck trip level has been put to the test. Increases in truck traffic of this insignificant amount have an inconsequential impact. (In 1989 RMC traffic was estimated to be less than 1 percent (0.58 percent) of traffic on Mission Street, and was projected to be less than 0.2 percent of the total traffic by the year 2005). The DKS report (p. 14) concluded "(t)he additional truck trips associated with any of the alternatives (including one with 875,000 tons shipped by truck) will have negligible effects over existing conditions."

Two other points are worth noting in assessing any traffic impact from the proposed production increase. First, substantial improvements have been made to Highway 17 since 1989 and are nearly completed to Mission Street. Second, the impact will only be of consequence in late November and early December. Either cement truck traffic will be occurring in those months, as it had in earlier months of the year, or it won't. Traffic in the earlier months will remain the same whether this increase is approved or not.

#### CONCLUSION.

No one objected to a production increase in 1988 or 1990 or to the minor variations

# RMC PACIFIC MATERIALS



www.rmcpacific.com

ATTACHMENT

1

0389

700 Highway I  
Davenport, CA 95017

February 11, 2002

John L. Ritchey, III  
Wyckoff, Ritchey & Shanle Law Offices  
P.O. Box 1119  
Santa Cruz, CA 95061-1119

Dear Jack:

As we discussed, the request to increase the cement plant production limit is based on incremental efficiency production increases that have gradually taken place over the years, not any new equipment or new processes that have not already been permitted. We did not find ourselves in a position to exceed the 875,000 tons per year permit limit (issued in 1988) until 1997. As we have fine-tuned the process, both mechanically and chemically, plant productivity has improved to the point that we are now bumping against the permitted production limit. This has caused us to request minor amendments in 1997, 1999, 2000, and 2001 to allow us to keep the plant running. In order to be competitive, we must operate the plant in stable conditions at maximum capacity.

Our company imports cement to the Bay Area through our terminal in Redwood City. These imports supplement the production of the Davenport Plant to serve our market. We will continue to regulate imports to maintain our market share. However, it does not make sense to us to shut down our plant in Davenport and send our employees home in December because we have reached our production limit, and import additional cement from overseas. It is our strong desire to keep the Davenport workforce gainfully employed throughout the year. To achieve this goal, we need to increase our production permit limit.

The following items will all contribute to increased production efficiency:

## Electrical Power Crisis

We experienced 20 power curtailments in 2000, and 18 in 2001. This does not include incidental outages (storms, mechanical failures, etc.), but those strictly due to the electricity shortage. Now that the power supply situation has improved, we should be able to consistently reach 330 days of operation, allowed under the current permit, as we did in 1999. This limit allows for incidental downtime and for the annual maintenance and repair to the kiln system. Lately we have averaged approximately 320 days per year. (330 days by permit - 320 days average = 10 additional days); (10 days x 2700 tons per day = 27,000 additional tons of clinker)

## CemStar

We implemented the CemStar Process in the second half of 2001. By adding slag to the back end of the kiln, as opposed to the conventional addition as a raw material at the top of the preheater tower, we have seen a net stabilizing effect on kiln operations. This has resulted in an increase in production without any additional equipment (other than the slag handling system) or emissions. As we optimize the combination of raw materials and slag, we should see even more stable kiln

operation and increased production. We estimate this increase to be 6 tons per hour. (330 days of kiln operation per year x 24 hours per day x 6 tons per hour = 47,520)

0390

#### Crossbelt Analyzer

We are in the process of installing a crossbelt analyzer at our limestone quarry. This instrument will allow us to track the chemistry of limestone, the major component of our raw mix, and allow us to make changes in our quarrying operations to yield a more uniform composition. Past variations in the quality of our limestone have resulted in varying chemistry of our kiln feed. When this happens, the kiln production needs to be reduced in order to adequately burn the clinker. This improvement in chemical stability should equate to approximately 2 additional tons of clinker production per hour. (330 days of kiln operation per year x 24 hours per day x 2 tons per hour = 15,840 additional tons of clinker)

#### Other

As technology evolves we will steadily improve operating efficiencies as we have done in the past. Some allowance in the permit is needed to allow for that future incremental growth. (unknown)

#### Conclusions

Over the years 1996 through 2000 (prior to CemStar), clinker production has averaged 836,021 tons per year. This equates to 877,802 tons of cement, just above the permitted level.

If we add 27,000 (from increased days of operation), 47,520 (from Cemstar) and 15,840 (from crossbelt) to 836,021 (average production), the result is 926,381 tons of clinker production per year. With the addition of gypsum and limestone in the finish grinding process, this equates to 972,678 tons of cement. Thereby justifying the request for the permit limit to be raised by 12% to 980,000 tons of cement production per year.

#### Summary

<u>Source of clinker production</u>	<u>Clinker Tons</u>	<u>Cement Tons</u>
Average annual production	836,021	877,802
No electricity crisis	27,000	28,334
CemStar	47,520	49,869
Crossbelt	15,840	16,623
Total	926,381	972,628

Based on the above data, the request for an annual cement production limit of 980,000 tons is justified. This is an increase of 12% above our current limit. In prior years, the minor variations that we have obtained from the County of Santa Cruz have allowed for Increased production as high as 7% (1999).

Very truly yours,  
RMC Pacific Materials



Albert J. Cornibe, Jr.  
Quality Control Manager





# County of Santa Cruz

0371

## PLANNING DEPARTMENT

701 OCEAN STREET - 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060

(831)454-2580 FAX: (831)454-2131 TDD: (831)454-2123

ALVIN D. JAMES, DIRECTOR

Agenda Date: October 8, 2002

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, Ca 95060

Application Number: 02-0159  
APN: 058-071-04

Owner: RMC Pacific Materials  
Applicant: Jack Ritchey

**Subject: Special Consideration of a proposal to increase production capacity at the RMC Pacific Materials Davenport Cement Plant from 875,000 tons annually to 980,000 tons annually. Requires a Commercial Development Permit and a Coastal Permit to amend 88-0188**

### Members of the Board:

This application was filed with the Planning Department March 27, 2002, deemed complete on May 23, 2002 and approved by the Zoning Administrator on August 16, 2002. Davenport residents have expressed concern regarding potential impacts of this increase in the plant's annual production, particularly air emissions, traffic and cumulative impacts.

### DISCUSSION

RMC Pacific Materials Inc. (RMC) has requested an Amendment to permit 88-0188 to allow an increase in the permitted annual production limit for their Davenport Cement Plant to 980,000 tons. Permit 88-0188 limits annual cement production to no more than 875,000 tons annually; therefore, RMC has requested a 12% increase in the annual production limit. Because of increased efficiencies in plant operations, an increase in maximum peak production might be achievable and, therefore, the applicant is seeking the limit increase to 980,000 tons annually. See Attachment 1, Exhibit D for an explanation of the factors and improvements that have occurred since 1990 to increase plant efficiency.

Prior to permit 88-0188 annual cement production was limited to 775,000 tons per year. Minor Variations have been allowed for increased cement production for specific calendar years without actually changing the production limit established in 88-0188 as follows:

**CCC Exhibit C**  
**(page 1 of 11 pages)**

Year	Permitted Annual Production	Permitted Annual Increase
1987	775,000 tons	10%
1988	775,000 tons	10%
1997	875,000 tons	5%
1999	875,000 tons	7%
2000	875,000 tons	5.7%
2001	875,000 tons	5.7%

0372

Approval of this request for Major Amendment to 88-0188 to allow an increase in the permitted annual production limit to 980,000 tons will, in the foreseeable future, eliminate the need for Minor Variation permits each year that production levels will exceed 875,000 tons.

While this Major Amendment would increase the volume of production, there would be no actual increase in the overall concept or intensity of use for the following reasons:

1. There will be no physical expansion of the plant, no additional work shifts and no increase in plant operations over the current level.
2. No increase in air emissions or water quality impacts over current levels is expected or allowed. RMC Pacific Materials maintains concurrent and ongoing permit approvals from the Monterey Bay Unified Air Pollution Control District and the California Regional Water Quality Control Board.
3. All material produced in excess of the current annual limit will be used to resupply the storage silos at the plant or be transported by rail or trucks as currently allowed within the existing permit conditions.

Because of these three factors, and because this is a limited request, this would not be considered an increase in the intensity of the operation. The approvals of Minor Variations in the past have been based, in part, on the same conclusion.

Permit 88-0188 requires that the Planning Commission shall conduct a complete review of the permit within five years of the Commission's final action on the 1989 permit review, which occurred in February 1990. The permit condition states further that RMC shall cooperate with this review. The Planning Commission never conducted the required permit review. Therefore, the approval of this Major Amendment will contain a condition that requires RMC Pacific Materials to make application for a complete review of the 88-0188 permit within four months of the effective date of the approval of this Major Amendment.

#### CONCLUSION AND RECOMMENDATION

The proposed increase in production capacity at the RMC Pacific Materials Davenport Cement Plant from 875,000 tons annually to 980,000 tons annually meets the criteria found in County Code Section 18.10.134 for a Major Amendment. It is therefore RECOMMENDED, that your Board:

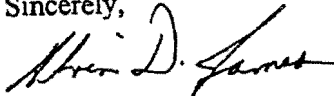
1. APPROVE Application Number 02-0159, based on the attached findings and conditions.

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CCC Exhibit C 2  
(page 2 of 11 pages)

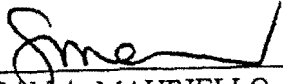
2. Certify that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.

Sincerely,



Alvin D. James  
Planning Director

RECOMMENDED:



SUSAN A. MAURIELLO  
County Administrative Officer

Cc: RMC Pacific Materials  
Jack Ritchey

Attachment

1. ZA Staff Report
2. Comments and Correspondence

**STAFF REPORT TO THE ZONING ADMINISTRATOR**

APPLICATION NO.: 02-0159

APN: 058-071-04

APPLICANT: John L. Ritchey, III; Wyckoff, Ritchey & Shanle Law Offices

OWNER: RMC Pacific Materials

**PROJECT DESCRIPTION:** Proposal to increase the permitted annual production limit at the RMC Pacific Materials Davenport Cement Plant from 875,000 tons annually to 980,000 tons annually. Requires an Amendment to Commercial Development and Coastal Permit 88-0188.

**LOCATION:** 700 Highway 1, Davenport

**PERMITS REQUIRED:** Commercial Development Permit and Coastal Permit Amendment

**ENVIRONMENTAL DETERMINATION:** categorical exemption

**COASTAL ZONE:** X Yes N o

**APPEALABLE TO CCC:** X Yes — No

**PARCEL INFORMATION**

**PARCEL SIZE:** 109 acres

**EXISTING LAND USE:**

**PARCEL:** Heavy Industrial

**SURROUNDING:** Commercial Agriculture, Neighborhood Commercial, and Residential

**PROJECT ACCESS:** Highway 1

**PLANNING AREA:** North Coast

**LAND USE DESIGNATION:** I (Heavy Industry)

**ZONING DISTRICT:** M-2 (Heavy Industrial)

**SUPERVISORIAL DISTRICT:** Third District

**ENVIRONMENTAL INFORMATION**

a. Geologic Hazards	a. NIA
b. Soils	b. N/A
c. Fire Hazard	c. N/A
d. Slopes	d. N/A
e. Env. Sen. Habitat	e. N/A
f. Grading	f. NIA
g. Tree Removal	g. N/A
h. Scenic	h. N/A
i. Drainage	i. N/A
j. Traffic	j. NIA
k. Roads	k. NIA
l. Parks	l. N/A
m. Sewer Availability	m. N/A
n. Water Availability	n. NIA

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o. Archeology

o. N/A

0375

### SERVICES INFORMATION

Inside Urban/Rural Services Line: X Yes N o

Water Supply: Existing Stream Diversion

Sewage Disposal: Davenport County Sanitation District

Fire District: County Fire/CDF

Drainage District: No Zone

### ANALYSIS AND DISCUSSION

RMC Pacific Materials Inc. (RMC) has requested an Amendment to permit 88-0188 to allow an increase in the permitted annual production limit for their Davenport Cement Plant to 980,000 tons. Permit 88-0188 limits annual cement production to no more than 875,000 tons annually; therefore, RMC has requested a 12 percent increase in the annual production limit. This request will not result in any physical expansion of the plant, any additional work shifts, or any operation in excess of the current level. However, because of increased efficiencies in plant operations, an increase in maximum peak production might be achievable and, therefore, the applicant is seeking the limit increase to 980,000 tons annually. See Exhibit D for an explanation of the factors and improvements that have occurred since 1990 to increase plant efficiency.

An amendment to a planning approval may be made due a change of circumstances such as increased efficiencies in plant operations. Types of permit amendments include Minor Variation and Major Amendment. A Minor Variation to a planning approval is an amendment that does not affect the overall concept, density, or intensity of use of the approved project, and does not involve a modification of a design consideration, improvement or condition of approval that was a matter of discussion at the public hearing at which the planning approval was granted. A Major Amendment is a change to a planning approval that does not qualify as a Minor Variation.

Minor Variations have been allowed for increased cement production for specific calendar years 1987, 1988, 1997, 1999, 2000 and 2001 without actually changing the production limit established in 88-0188. Copies of the staff reports for these Minor Variation permits are attached as Exhibit E. Due to indications of a possible sustained increase in production the Minor Variation permit approved in 2001 (01-0525) was conditioned to require an application for Major Amendment to formally change the condition of 88-0188, which limits annual production to no more than 875,000 tons. Approval of this request for Major Amendment to 88-0188 to allow an increase in the permitted annual production limit to 980,000 tons will, in the foreseeable future, eliminate the need for Minor Variation permits each year that production levels will exceed 875,000 tons.

The hearing on an application for amendment filed by the current holder of the planning approval shall be limited to that part of the planning approval affected by the application, unless the approving official or body finds that the amendment proposed should not be considered in isolation from all or any part of the effective planning approval.

While this Major Amendment would increase the volume of production, there would be no actual

increase in the overall concept or intensity of use for the following reasons:

0376

1. There will be no physical expansion of the plant, no additional work shifts and no increase in plant operations over the current level.
2. No increase in air emissions or water quality impacts over current levels is expected. RMC Pacific Materials maintains concurrent and ongoing permit approvals from the Monterey Bay Unified Air Pollution Control District and the California Regional Water Quality Control Board.
3. All material produced in excess of the current annual limit will be used to resupply the storage silos at the plant or be transported by rail or trucks as currently allowed within the existing permit conditions.

Because of these three factors, and because this is a very limited request, this would not be considered an increase in the intensity of the operation. The approvals of Minor Variations in the past have been based, in part, on the same conclusion.

The production limit itself, which is a condition of approval of permit 88-0188, was not a matter of discussion at the public hearing before the Planning Commission. Issues associated with overall production and plant operation, such as pollution, traffic, noise, dust, and water quality were issues of substantial controversy, and are all addressed by specific permit conditions. Approval of this Major Amendment will be subject to all conditions of permit 88-0188 that address the concerns discussed at the public hearing. Permit 88-0188, including conditions, is attached as Exhibit F.

Permit 88-0188 requires that the Planning Commission shall conduct a complete review of the permit within five years of the Commission's final action on the 1989 permit review, which occurred in February 1990. The required permit review was never conducted; therefore, the approval of this Major Amendment will contain a condition that requires an application for a complete review of the 88-0188 permit within one year of the effective date of the approval of this Major Amendment.

The proposed increase in production capacity at the RMC Pacific Materials Davenport Cement Plant from 875,000 tons annually to 980,000 tons annually meets the criteria found in County Code Section 18.10.134 for a Major Amendment.

#### RECOMMENDATION

Staff recommends:

1. **APPROVAL** of Application Number **02-0159**, based on the attached findings and conditions.
2. Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.

**EXHIBITS**

- A. Conditions
- B. Findings
- C. Categorical Exemption (CEQA determination)
- D. Amendment Request and Factors Contributing to Increased Production Efficiency
- E. Minor Variations 87-1118, 88-0913, 97-0786, 99-0767, 00-0723 and 01-0525.
- F. Permit 88-0188

SUPPLEMENTARY REPORTS AND INFORMATION REFERRED TO IN THIS REPORT ARE ON FILE AND AVAILABLE FOR VIEWING AT THE SANTA CRUZ COUNTY PLANNING DEPARTMENT, AND ARE HEREBY MADE A PART OF THE ADMINISTRATIVE RECORD FOR THE PROPOSED PROJECT.

Report Prepared By: David Carlson  
Santa Cruz County Planning Department  
701 Ocean Street, 4th Floor  
Santa Cruz CA 95060  
Phone Number: (831) 454-3173

**NOTICE OF EXEMPTION FROM THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The County of Santa Cruz has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15329 of CEQA for the reason(s) which have been checked on this document.

Application No.: 02-0159

Assessor Parcel No.: 058-071-04

Project Location: 700 Highway 1, Davenport

Project Description: Proposal to increase production capacity at the RMC Pacific Materials Davenport Cement Plant from 875,000 tons annually to 980,000 tons annually.

Person or Agency Proposing Project: John L. Ritchey, III; Wyckoff, Ritchey & Shanle Law Offices

Contact Phone: (831) 426-2111

- A. ☐ The proposed activity is not a project under CEQA Guidelines, Sections 1928 and 501.  
B. ☐ ~~Ministerial Project~~ involving only the use of fixed standards or objective measurements without personal judgment.  
C. ☐ Statutory Exemption other than a Ministerial Project.  
Specify type:

D. Categorical Exemption

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> 1. Existing Facility                                     | <input type="checkbox"/> 20. Changes in Organization of Local Agencies  |
| <input type="checkbox"/> 2. Replacement or Reconstruction                                    | <input type="checkbox"/> 21. Enforcement Actions by Regulatory Agencies   |
| <input type="checkbox"/> 3. New Construction of Small Structure                              | <input type="checkbox"/> 22. Educational Programs   |
| <input type="checkbox"/> 4. Minor Alterations to Land  | <input type="checkbox"/> 23. Normal Operations of Facilities for Public Gatherings  |
| <input type="checkbox"/> 5. Alterations in Land Use Limitations                              | <input type="checkbox"/> 24. Regulation of Working Conditions   |
| <input type="checkbox"/> 6. Information Collection   | <input type="checkbox"/> 25. Transfers of Ownership of Interests in Land to Preserve Open Space   |
| <input type="checkbox"/> 7. Actions by Regulatory Agencies for Protection of the Environment | <input type="checkbox"/> 26. Acquisition of Housing for Housing Assistance Programs   |
| <input type="checkbox"/> 8. Actions by Regulatory Agencies for Protection of Nat. Resources  | <input type="checkbox"/> 27. Leasing New Facilities   |
| <input type="checkbox"/> 9. Inspection   | <input type="checkbox"/> 28. Small Hydroelectric Projects at Existing Facilities  |
| <input type="checkbox"/> 10. Loans   | <input type="checkbox"/> 29. Cogeneration Projects at Existing Facilities   |
| <input type="checkbox"/> 11. Accessory Structures  | <input type="checkbox"/> 30. Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances |
| <input type="checkbox"/> 12. Surplus Govt. Property Sales                                    | <input type="checkbox"/> 31. Historical Resource Restoration/Rehabilitation   |
| <input type="checkbox"/> 13. Acquisition of Land for Wild-Life Conservation Purposes         | <input type="checkbox"/> 32. In-Fill Development Projects   |
| <input type="checkbox"/> 14. Minor Additions to Schools                                      |   |
| <input type="checkbox"/> 15. Minor Land Divisions  |   |
| <input type="checkbox"/> 16. Transfer of Ownership of Land to Create Parks                   |   |
| <input type="checkbox"/> 17. Open Space Contracts or Easements                               |   |
| <input type="checkbox"/> 18. Designation of Wilderness Areas                                 |   |
| <input type="checkbox"/> 19. Annexation of Existing Facilities Lots for Exempt Facilities    |   |

E. ☐ Lead Agency Other Than County:

\_\_\_\_\_  
David Carlson, Project Planner

Date: \_\_\_\_\_

**COASTAL DEVELOPMENT PERMIT FINDINGS:**

1. THAT THE PROJECT IS A USE ALLOWED IN ONE OF THE BASIC ZONE DISTRICTS, OTHER THAN THE SPECIAL USE (SU) DISTRICT, LISTED IN SECTION 13.10.170(d) AS CONSISTENT WITH THE GENERAL PLAN AND LOCAL COASTAL PROGRAM LUP DESIGNATION.

The property is zoned Heavy Industrial (M-2), a designation which allows heavy industry uses. The proposed increase in the permitted annual production limit at the RMC Pacific Materials Davenport Cement Plant is an allowed use within the zone district, consistent with the site's (I) Heavy Industry General Plan designation.

2. THAT THE PROJECT DOES NOT CONFLICT WITH ANY EXISTING EASEMENT OR DEVELOPMENT RESTRICTIONS SUCH AS PUBLIC ACCESS, UTILITY, OR OPEN SPACE EASEMENTS.

The proposed increase in the permitted annual production limit at the RMC Pacific Materials Davenport Cement Plant does not conflict with any existing easement or development restriction such as public access, utility, or open space easements.

3. THAT THE PROJECT IS CONSISTENT WITH THE DESIGN CRITERIA AND SPECIAL USE STANDARDS AND CONDITIONS OF THIS CHAPTER PURSUANT TO SECTION 13.20.130 et seq.

The proposed increase in the permitted annual production limit at the RMC Pacific Materials Davenport Cement Plant is consistent with the design and use standards pursuant to Section 13.20.130 in that this request will not result in any physical expansion of the plant, any additional work shifts, or any operation in excess of the current level. Therefore, issues such as site planning, building design, landscaping and grading are not applicable.

4. THAT THE PROJECT CONFORMS WITH THE PUBLIC ACCESS, RECREATION, AND VISITOR-SERVING POLICIES, STANDARDS AND MAPS OF THE GENERAL PLAN AND LOCAL COASTAL PROGRAM LAND USE PLAN, SPECIFICALLY CHAPTER 2: FIGURE 2.5 AND CHAPTER 7, AND, AS TO ANY DEVELOPMENT BETWEEN AND NEAREST PUBLIC ROAD AND THE SEA OR THE SHORELINE OF ANY BODY OF WATER LOCATED WITHIN THE COASTAL ZONE, SUCH DEVELOPMENT IS IN CONFORMITY WITH THE PUBLIC ACCESS AND PUBLIC RECREATION POLICIES OF CHAPTER 3 OF THE COASTAL ACT COMMENCING WITH SECTION 30200.

Application #: 02-0159  
APN: 058-071-04  
Owner: RMC Pacific Materials

ATTACHMENT 1  
0384

The project site is not located between the shoreline and the first public road and the proposed increase in the permitted annual production limit at the RMC Pacific Materials Davenport Cement Plant will not result in any physical expansion of the plant, any additional work shifts, or any operation in excess of the current level. Consequently, the proposal will not interfere with public access to the beach, ocean, or any nearby body of water.

5. THAT THE PROPOSED DEVELOPMENT IS IN CONFORMITY WITH THE  
CERTIFIED LOCAL COASTAL PROGRAM.

The project is located in the Heavy Industry (I) land use designation. The proposed increase in the permitted annual production limit at the RMC Pacific Materials Davenport Cement Plant is in conformity with the County's certified Local Coastal Program in that it meets the objective of and is consistent with the policies specified in General Plan Objective 2.19a.

## **CONDITIONS OF APPROVAL**

**Application Number: 02-0159**

**Assessor's Parcel Number: 058-071-04**

**Owner: RMC Pacific Materials**

**Applicant: Jack Ritchey**

**Approved by Board of Supervisors October 8, 2002**

1. This approval applies only to the annual production capacity at the RMC Pacific Materials Davenport Cement Plant, which allows a 12 percent increase from 875,000 tons annually to a maximum of 980,000 tons annually.
2. All standards of the Monterey Bay Unified Air Pollution Control District and the Central Coast Regional Water Quality Control Board shall be continually met, as well as all other conditions of Permit 88-0188.
3. All material produced in excess of the 875,000-ton limit shall be transported by rail if possible. Any truck shipping of the excess material shall be north on Highway 1 or if rail transport is not possible, south on Highway 1 and over Highway 17 only during non-peak hours.
4. Permit 88-0188 requires that the Planning Commission shall conduct a complete review of the permit within five years of the Commission's final action on the 1989 permit review, which occurred in February 1990. An application for a complete review of the 88-0188 permit shall be submitted within four months of the effective date of the approval of this Major Amendment.
5. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.
6. This permit only amends permit 88-0188 with respect to production capacity. All other permit conditions of 88-0188 remain in effect.
7. RMC Pacific Material (RMC/PM) shall minimize its use of fresh water by maximizing its use of treated effluent in the plant gas conditioning tower process. On an average annual basis a minimum of 75% of the total liquid usage in the cement plant gas conditioning tower process shall consist of treated effluent. Exceptions shall be made to the minimum effluent usage for periods of equipment breakdowns, maintenance and periods when treated effluent is not available in sufficient quantities, or when health-related problems exist as determined by the County Health Officer. RMC/PM shall monitor the inflow of treated effluent and the total liquid usage in the gas conditioning towers and provide this information to the Department of Public Works monthly. RMC/PM shall provide a summary of the volumes of treated effluent and total liquids used in the gas conditioning system to the Department of Public Works, be February 1<sup>st</sup> of the following year.

*(Added by Board of Supervisors 10/8/02)*





## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE

725 FRONT STREET, SUITE 300

SAN CRUZ, CA 95060

408-27-4863



RECEIVED

NOV 04 2002

APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENTCALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Please review attached appeal information sheet prior to completing this form.

SECTION I. Appellant(s):

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

Sierra Club c/o George Jammal, co-Chair  
P.O. Box 604, Santa Cruz, CA 95061  
(831) 426-4453  
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

Santa Cruz County

2. Brief description of development being appealed:

RMC / Pacific Materials 12% permanent increase of cement  
production w/ no environmental review.

3. Development's location (street address, assessor's parcel number, cross street, etc.):

RMC / Pacific Materials, Hwy 1, Danvers, CA

4. Description of decision being appealed:

- a. Approval; no special conditions: \_\_\_\_\_  
b. Approval with special conditions: ✓  
c. Denial: \_\_\_\_\_

Note: For jurisdictions 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-3-SC0-02-088DATE FILED: 11-4-02DISTRICT: Central

CCC Exhibit D  
(page 1 of 4 pages)

**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: Oct 8, 2002

7. Local government's file number: 02-0159

**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:

RMC / Pacific Materials, Hwy 1, Davenport  
\_\_\_\_\_  
\_\_\_\_\_

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

(1) R B D A / Ted Benbari, Benny Deon, CA  
\_\_\_\_\_  
\_\_\_\_\_

(2) Nat'l Coast Improvement Assoc., Marilyn Farnel  
Davenport, CA  
\_\_\_\_\_

(3) COAST c/o Susan Young, P.O. 42, Davenport.  
\_\_\_\_\_  
\_\_\_\_\_

(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.

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (PAGE 3)**

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.)

See 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/our knowledge.

[Signature]  
Signature of Appellant(s) or Authorized Agent

Date 11/4/2002

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

**SECTION VI. Agent Authorization**

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

\_\_\_\_\_  
Signature of Appellant(s)

Date \_\_\_\_\_

**GCC Exhibit D**  
**(page 3 of 4 pages)**

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT  
Section IV. Reasons Supporting This Appeal

1. Planning staff recommends certification that RMC's proposal is exempt from further Environmental Review under the California Environmental Quality Act ("CEQA"). This recommendation is incorrect. Class 1, the Existing Facilities exemption (Sec. 15301, PRC), applies only to the operation, repair, maintenance, or minor alteration of existing structures or facilities not expanding existing uses. In this case, RMC is indeed expanding the existing use, and to an extent that cannot be considered negligible. Further, all exemptions are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time will have a significant effect on the environment (Sec. 15300.2, PRC). RMC has several permit applications in progress, including a quarry expansion permit and a dome construction permit. The instant application for a 12% expansion in production is certainly connected with these other permits and the cumulative impact of all the permits together should be studied.
2. Planning staff claims that no increase in air emissions or water quality impacts over current levels is expected, but gives no documentation to support this contention. Certainly the production of an additional 105,000 tons of cement will cause an increase in air emissions or water quality impacts – the increase in particulate matter alone should trigger appropriate environmental studies. (Note: RMC is currently attempting to circumvent testing of its toxic stack emissions, even though its last testing triggered a risk assessment due to extremely high mercury output; see attached RMC letter to the Monterey Bay Unified Air Pollution Control District ("MBUAPCD") dated September 26, 2002).
3. With an expansion of production, more water will be drawn from San Vicente Creek, an important, protected coho salmon habitat, which the Santa Cruz County Local Coastal Program ("LCP") already identifies as being utilized at full capacity. Water availability studies for such an expansion should be conducted.
4. No traffic study has been conducted to analyze the impact of extra truck traffic on streets in the vicinity and countywide. In recent years RMC has requested temporary increases in production which have resulted in heavy traffic on Hwy. 1 and Hwy. 17. The current proposal, if accepted, will add to this already unacceptable burden. An appropriate traffic analysis will look not only at the amount of extra trucks on the road, but will also study the conflict between this truck traffic and the heavy visitor-serving traffic during the summer months and on weekends throughout the year. In addition, no study has been conducted to determine the impact extra rail trips will have on the county neighborhoods through which the trains run.
5. The Planning Commission never conducted the required review of Permit 88-0188. Such review was to take place within five years of February 1990. It is inappropriate to award a permanent increase to RMC without this completed study in hand.

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE

725 FRONT STREET, SUITE 300

SANTA CRUZ, CA 95060

427-4863



**APPEAL FROM COASTAL PERMIT  
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):

"COAST" c/o Susan Young, Steering Committee  
P.O. #2  
Davenport, CA 95017

(831) 457-0872

Zip

Area Code Phone No.

**SECTION II. Decision Being Appealed**

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

2. Brief description of development being appealed:

12% increase in cement production w/o proper  
environmental review

3. Development's location (street address, assessor's parcel number, cross street, etc.):

RMC Pacific Materials, Hwy. 1, Davenport, CA 95017

4. Description of decision being appealed:

a. Approval; no special conditions: \_\_\_\_\_

b. Approval with special conditions: ☒ \_\_\_\_\_

c. Denial: \_\_\_\_\_

Note: For jurisdictions 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-3-SC0-02-088

DATE FILED: 11-4-02

DISTRICT: Central

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NOV 01 2002

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

**CCC Exhibit E****(page 1 of 3 pages)**

**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: October 8, 2002

7. Local government's file number: Application No. 02-0159

**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:

RBC Pacific Materials, Hwy. 1, Davenport, CA  
95017

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

(1) RBDA - Ted Benhari  
Bonny Doon, California

(2) David Kossak  
Bonny Doon, California

(3) North Coast Improvement Association - Marilyn Fravel  
Davenport, CA 95017

(4) Ed Dickey  
Davenport Ave.  
Davenport, CA 95017

**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.

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (PAGE 3)**

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.)

Expansion inappropriately given Class 1, Existing Facilities Exemption (Sec. 15301, PRC) - this is an expansion of existing use.

Expansion adds to cumulative impact of successive projects of same type in same place. (Sec. 15301.2 PRC) including stone permit and quarry expansion permit

SC County Planning staff inaccurately claims there will be no increase in air emissions or water quality impacts due to the production of an additional 105,000 tons of cement - there certainly will be an increase in particulate matter and toxic emissions.

More water will be drawn from San Vicente Creek, already indicated by our LCP as being utilized at full capacity. There should be water availability studies required. Coho Salmon habitat will be impacted.

No traffic studies have been conducted - our LCP requires clear circulation. 3 new projects are being built in Downtown,

**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/our knowledge. *with no regard for their cumulative impact in terms of traffic. County did not conduct required review for Permit*

*Jason Goy* 8-8-0188, before  
Signature of Appellant(s) or Authorized Agent permitting expansion

Date 11/1/02

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

**SECTION VI. Agent Authorization**

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

Signature of Appellant(s)

Date \_\_\_\_\_

**CCC Exhibit E**  
(page 3 of 3 pages)





David S. Kossack, Ph.D.  
P. O. Box. 268  
Davenport, CA 95017

Sunday, November 03, 2002  
(831) 427-3733  
dkossack@igc.org

California Coastal Commission  
Central Coast District Office  
725 Front Street, Suite 300  
Santa Cruz, CA 95060  
(831) 427-4863

**RECEIVED**

NOV 04 2002

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Appeal from Coastal Permit  
Decision of Local Government

SECTION I. Appellant:

David S. Kossack, Ph. D.  
P. O. Box 268  
Davenport, CA 95017

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of Santa Cruz

2. Brief description of development being appealed:

Proposal to increase production capacity at the RMC Pacific Materials Davenport Cement Plant from 875,000 tons annually to 980,000 tons annually. Requires a Commercial Development Permit Amendment and a Coastal Permit to amend 88-0188.

3. Development's location:

RMC Pacific Material's Davenport Cement Plant  
700 Highway 1  
Davenport, CA 95017

4. Description of decision being appealed:

b. Approval with special conditions: ☒ X

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SC0-02-088  
DATE FILED: 11-4-02  
DISTRICT: Central

**CCC Exhibit F**  
**(page 1 of 6 pages)**

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

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

- a. X Planning Director/Zoning Administrator.
- b. X City Council/Board of Supervisors (Raised by Supervisor Wormhoudt).

6. Date of local government's decision: Zoning: 08/16/02; Board of Supervisors: 10/08/02.

7. Local government's file number: Permit Number 02-0159.

SECTION III Identification of Other Interested Persons

a. Name and mailing address of permit applicant:

RMC Pacific Materials  
6601 Koll Center Parkway  
P. O. Box 5252  
Pleasanton, CA 94566

b. Names and mailing addressees as available of those who testified.

Susan Young  
Steering Committee  
Coastal Advocates for Small Towns  
P. O. Box 252  
Davenport, CA 95017

Bill & Marilyn Fravel  
P. O. Box 175  
Davenport, CA 95017

The Rural Bonny Doon Association  
102 Sunlit Lane  
Bonny Doon, California 95060

Sierra Club, Santa Cruz  
P O Box 604  
Santa Cruz, CA 95061-0604

SECTION IV. Reasons Supporting This Appeal

The County of Santa Cruz approved Application No.: 02-0159, an amendment to permit 88-0188, to allow a permanent increase of 12% in the annual production limit for the RMC Pacific Materials (RMC) Davenport Cement Plant to 980,000 tons annually from 875,000 tons annually. The production increase was approved in the absence of a complete review of Permit 88-0188 after 5 years specified in Operational Conditions 12A of Development Permit No.: 88-0188, 76-606-PD, 78-819-PD that was approved by Santa Cruz County Planning Department on February 28, 1990. Development Permit No.: 88-0188 included its own production increase to 875,000 tons of cement annually from the initial production limit of 775,000 tons annually approved in 1978.

The California Coastal Commission (CCC) approved Coastal Permits for the RMC Cement Plant starting with Permit 78-153 through Permit . The Coastal Permits incorporated the County's conditions identified above as well as specifying conditions independently. In the absence of the review specified by both the County of Santa Cruz and the CCC, information necessary to determine whether Permit 88-0188 presently meets the conditions of the Local Coastal Program (LCP) for Santa Cruz

County, including visitor access, in its present form can not be determined. The growth inducing and cumulative impacts of RMC's current request to increase annual production by another 12 % must be recognized as exceeding the capacity of the North Coast of Santa Cruz County, and coastal San Mateo County, to absorb the additional demand on resources, transportation and the quality of life.

I include my previous comments to the County of Santa Cruz concerning Permit 02-159 (see attached). In addition, the following points provide representative LCP issues not addressed by the present project:

- GP 5.6.2 (LCP) Designation of Critical Water Supply Streams Designate the following streams, **currently utilized at full capacity**, as Critical Water Supply Streams: ... San Vicente, Mill Creeks.  
GP 7.18.3 (LCP) Information is not provided on the impact of the production increase on the use and additional demand for water from San Vicente Creek.
- GP 2.22.1 (LCP) Maintain a hierarchy of land use priorities within the Coastal Zone:
  - First Priority: Agriculture and coastal-dependent industry
  - Second Priority: Recreation; visitor serving commercial uses; and coastal recreation facilities.
  - Third Priority: Private residential, general industrial, and general commercial uses.

Additional truck traffic will impact visitor accessibility to the coast. This impact will occur to the north inflicted by additional truck traffic traveling through coastal San Mateo County as well as trucks traveling over Highway 17 and south on Highway 1. It is important to recognize that there is no longer an 'off peak' time for traveling on the highways of California. Any additional truck traffic will compromise visitor enjoyment on the coast. The impacts of increasing traffic on visitor enjoyment has already been noted by the Commission in San Mateo County.

- Condition 3, Air Quality, of Permit 88-0188, states that RMC shall monitor air quality as specified by California Air Resources Board and MBUAPCD and that all requirements of both these organizations shall be met. Condition 3 goes on to state that RMC shall further reduce emissions, fallout of PM 10 and large particulate from the cement plant. As of October 1, 2002, RMC had not submitted a '2588, Toxic Inventory' as specified by MBUAPCD. In addition, an increase in cement production directly affects the production of dust released into the Coastal Zone and community of Davenport.

I hope that the Coastal Commission recognizes the importance of enforcing the 5 year review identified in Permit 88-0188. In the absence of enforcing this condition at the present time any additional conditions or extensions of existing conditions can only be considered as perfunctory.

#### SECTION V. Certification

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

  
Signature of Appellant

David S. Kossack, Ph.D.  
P. O. Box. 268  
Davenport, CA 95017

Monday, October 07, 2002  
(831) 427-3733  
dkossack@igc.org

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

Re: Application No.: 02-0159. Amendment to permit 88-0188 to allow a permanent increase of 12% in the annual production limit for the RMC Pacific Materials (RMC) Davenport Cement Plant to 980,000 tons.

Dear Chair Wormhoudt and Supervisors:

I want to thank the Board of Supervisors for addressing RMC's application to amend Permit 88-0188. The growth inducing and cumulative impacts of RMC's requested increase in annual production exceeds the capacity of the North Coast to absorb the additional demand on resources, transportation and the quality of life.

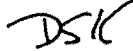
I would like to include my previous letter regarding Application 02-0159 submitted to the Planning Department on August 15, 2002 by reference. In addition to the concerns presented in my previous letter I would like to present the following issues:

- At the Zoning Administrator's hearing the issue of 'water' was raised during RMC's rebuttal after public comment had closed. Don Bussey, Deputy Zoning Administrator repeated RMC's statement referring to an undisclosed contract between RMC and the County regarding 'water' underscoring the apparent significance of the issue, and influence on the decision to grant the permanent increase in cement production. Unfortunately neither was there significant information in the record to address the issue (the staff report for Application 02-0159 contained no discussion of water or its relevance to RMC's cement production request) nor was there an opportunity for public review or comment on the issue. CEQA requires both adequate information and an opportunity for public review and comment. The present staff report does not discuss water, the treatment of waste water or present any data that suggests it is relevant to Application 02-0159.
- The staff report claims that there will be no increase in air pollution, at least not exceeding RMC's current permits. This is not quite accurate. The dust that impacts Davenport and the surrounding communities is directly related to the level of production: The more cement produced the more materials moved around and the more materials, dust, that gets injected into the air. In addition, according to the Monterey Bay Unified Air Pollution Control District RMC has not submitted a '2588 toxic inventory', which was required on October 1. We have no idea on what materials are coming out of RMC's stack subsequent to the changes in their production processes that RMC claims is so beneficial.
- Clearly the five year review that never happened in 1995 as required is needed before any amendments to RMC's operating permits are even considered. This is a condition of approval that the County imposed on the cement plant and the cement plant agreed to the condition. The County needs to enforce their own conditions. The most recent minor amendment allowing a temporary increase in production (2001) stated that RMC would need to file a major amendment for any future production increases. In order to enforce the 2001 condition, and facilitate RMC's participation in the review process, the County needs to reject any potential request from RMC for interim production increases, this year or any other year.

- The issue has been raised by RMC that if they are not allowed to increase their production under this application they will have to lay off their employees when they shut down the cement plant at the end of the year. I am touched by RMC's concern for its employees. However, I would suggest that rather than laying off their employees for the period of time that the cement plant might be shut down RMC chooses to give their employees paid vacations. This would not only relieve the North Coast of the impacts of an increase in the annual production of cement but it would provide RMC's employees with an opportunity to enjoy the holiday season at leisure.

Again, I urge you to deny Application 02-0159 and require that the five year review of permit 88-0188 be carried out before any additional applications are accepted from RMC Pacific Materials for their Davenport/Bonny Doon Cement Complex.

Sincerely



David S. Kossack

**CCC Exhibit F**  
**(page 5 of 6 pages)**

David S. Kossack, Ph.D.  
P. O. Box. 268  
Davenport, CA 95017

Thursday, August 15, 2002  
(831) 427-3733  
dkossack@igc.org

Don Bussey  
Deputy Zoning Administrator, Planning Department  
County of Santa Cruz  
Santa Cruz, CA 95060

Re: Application No.: 02-0159, Amendment to permit 88-0188 to allow an increase of 12% in the permitted annual production limit for their Davenport Cement Plant to 980,000 tons.


Dear Mr. Bussey:

Application No.: 02-0159 is simply one piece of a major expansion project at the RMC Pacific Materials' cement plant in Davenport, Santa Cruz County. An adequate assessment of the growth inducing and cumulative impacts of these amendments can not be made except in the context of all of the expansion projects that RMC has presented to the Planning Department at various time and in various incarnations including: the Bonny Doon Quarry Expansion, the 'Dome' project and the Slag conversion. Under the California Environmental Quality Act (CEQA) this application represents fragmentation of RMC's expansion project.

I have several specific concerns:

- The 12% increase in production is relative to the 1989 permit (88-0188), which was an increase over the initial production limit of 775,000 tons. This represents 26% increase in the production limit from the conditions of approval in 1978 for the coal fired kiln (76-606-PD).
- The present Application will result in an increase in transportation including more trucks over a longer period of the year on Mission Street in Santa Cruz, more trucks on Highway 1 heading north impacting visitor use and a continued avoidance rail transport by RMC. None of the growth inducing and cumulative impacts of the transportation issues were addressed in the previous variances, nor can they be addressed in the present Application.
- If this Application is allowed to proceed when the Bonny Doon Quarry Expansion come up for review we will hear 'Oh, there won't be any increase in production.', which is what we heard with RMC's 'Slag' conversion. They also state that the 'Crossbelt Analyzer' is being installed at the limestone quarry with the intent of increasing production (Staff Report: A. Cornibe, letter dated Feb. 11, 2002). Initially this instrument was a critical component of the 'Dome' project at the RMC plant.
- The five year review of permit 88-0188 that never happened was the responsibility of the Santa Cruz County Planning Commission. A condition of the present Application requires that the 1995 five year review of permit 88-0188 takes place within one year. I question the logic of a condition of approval requiring the Lead Agency to enforce its own condition of approval, it seems a little circular. After all, who failed to carry out the 88-0188 review in the first place, and who is going enforce the one year limit on the 88-1088 permit five year review if this is approved? I also question whether this is an acceptable condition under CEQA or any other Code.

I urge you to deny Application 02-0159 and require that the five year review of permit 88-0188 be carried out before any additional applications are accepted from RMC Pacific Materials for their Davenport/Bonny Doon Cement Plant.

Sincerely,  
  
David S. Kossack

# A-3-SCO-02-088 Applicable Policies

## 1. ESHA and Water Policies

The LCP is very protective of environmentally sensitive habitat areas (ESHAs). LCP wetland and wildlife protection policies include LUP Chapter 5 and Chapter 7 policies, and Zoning Chapters 16.30 (Riparian Corridor and Wetlands Protection) and 16.32 (Sensitive Habitat Protection). In general, these LCP policies define and protect ESHAs, allowing only a very limited amount of development in these areas. These overlap significantly with water resource policies. Relevant LCP policies include:

***LUP Objective 5.1 Biological Diversity.** To maintain the biological diversity of the County through an integrated program of open space acquisition and protection, identification and protection of plant habitat and wildlife corridors and habitats, low-intensity and resource compatible land uses in sensitive habitats and mitigations on projects and resource extraction to reduce impacts on plant and animal life.*

***LUP Policy 5.1.2 Definition of Sensitive Habitat.** An area is defined as a sensitive habitat if it meets one or more of the following criteria: (a) Areas of special biological significance as identified by the State Water Resources Control Board. (b) Areas which provide habitat for locally unique biotic species/communities, including coastal scrub, maritime chaparral, native rhododendrons and associated Elkgrass, mapped grasslands in the coastal zone and sand parkland; and Special Forests including San Andreas Live Oak Woodlands, Valley Oak, Santa Cruz Cypress, indigenous Ponderosa Pine, indigenous Monterey Pine and ancient forests. (c) Areas adjacent to essential habitats of rare, endangered or threatened species as defined in (e) and (f) below. (d) Areas which provide habitat for Species of Special Concern as listed by the California Department of Fish and Game in the Special Animals list, Natural Diversity Database. (e) Areas which provide habitat for rare or endangered species which meet the definition of Section 15380 of the California Environmental Quality Act guidelines. (f) Areas which provide habitat for rare, endangered or threatened species as designated by the State Fish and Game Commission, United States Fish and Wildlife Service or California Native Plant Society. (g) Nearshore reefs, rocky intertidal areas, seacaves, islets, offshore rocks, kelp beds, marine mammal hauling grounds, sandy beaches, shorebird roosting, resting and nesting areas, cliff nesting areas and marine, wildlife or educational/research reserves. (h) Dune plant habitats. (i) All lakes, wetlands, estuaries, lagoons, streams and rivers. (j) Riparian corridors.*

***LUP Policy 5.1.3 Environmentally Sensitive Habitats.** Designate the areas described in 5.1.2 (d) through (j) as Environmentally Sensitive Habitats per the California Coastal Act and allow only uses dependent on such resources in these habitats within the Coastal Zone unless other uses are: (a) consistent with sensitive habitat protection policies and serve a specific purpose beneficial to the public; (b) it is determined through environmental review that any adverse impacts on the resource will be completely mitigated and that there is no feasible less-damaging alternative; and (c) legally necessary to allow a reasonable economic use of the land, and there is no feasible less-damaging alternative.*

**LUP Policy 5.1.6 Development Within Sensitive Habitats.** Sensitive habitats shall be protected against any significant disruption of habitat values; and any proposed development within or adjacent to these areas must maintain or enhance the functional capacity of the habitat. Reduce in scale, redesign, or, if no other alternative exists, deny any project which cannot sufficiently mitigate significant adverse impacts on sensitive habitats unless approval of a project is legally necessary to allow a reasonable use of the land.

**LUP Policy 5.1.7 Site Design and Use Regulations.** Protect sensitive habitats against any significant disruption or degradation of habitat values in accordance with the Sensitive Habitat Protection ordinance. Utilize the following site design and use regulations on parcels containing these resources, excluding existing agricultural operations: (a) Structures shall be placed as far from the habitat as feasible. (b) Delineate development envelopes to specify location of development in minor land divisions and subdivisions. (c) Require easements, deed restrictions, or equivalent measures to protect that portion of a sensitive habitat on a project parcel which is undisturbed by a proposed development activity or to protect sensitive habitats on adjacent parcels. (d) Prohibit domestic animals where they threaten sensitive habitats. (e) Limit removal of native vegetation to the minimum amount necessary for structures, landscaping, driveways, septic systems and gardens; (f) Prohibit landscaping with invasive or exotic species and encourage the use of characteristic native species.

**LUP Policy 5.1.9 Biotic Assessments.** Within the following areas, require a biotic assessment as part of normal project review to determine whether a full biotic report should be prepared by a qualified biologist: (a) Areas of biotic concern, mapped; (b) sensitive habitats, mapped & unmapped.

**LUP Objective 5.2 Riparian Corridors and Wetlands.** To preserve, protect and restore all riparian corridors and wetlands for the protection of wildlife and aquatic habitat, water quality, erosion control, open space, aesthetic and recreational values and the conveyance and storage of flood waters.

**LUP Policy 5.2.1 Designation of Riparian Corridors and Wetlands.** Designate and define the following areas as Riparian Corridors: (a) 50' from the top of a distinct channel or physical evidence of high water mark of perennial stream; (b) 30' from the top of a distinct channel or physical evidence of high water mark of an intermittent stream as designated on the General Plan maps and through field inspection of undesignated intermittent and ephemeral streams; (c) 100' of the high water mark of a lake, wetland, estuary, lagoon, or natural body of standing water; (d) The landward limit of a riparian woodland plant community; (e) Wooded arroyos within urban areas.

**LUP Policy 5.2.7 Compatible Uses With Riparian Corridors.** Allow compatible uses in and adjacent to riparian corridors that do not impair or degrade the riparian plant and animal systems, or water supply values, such as non-motorized recreation and pedestrian trails, parks, interpretive facilities and fishing facilities. Allow development in these areas only in conjunction with approval of a riparian exception.

**LUP Policy 5.2.8 Environmental Review for Riparian Corridor and Wetland Protection.** Require environmental review of all proposed development projects affecting riparian corridors or wetlands and preparation of an Environmental Impact Report or Biotic Report for projects



which may have a significant effect on the corridors or wetlands.

The LCP protects water resources. Relevant LCP policies include:

***LUP Objective 5.6 Maintaining Adequate Streamflows.*** To protect and restore in-stream flows to ensure a full range of beneficial uses including recreation, fish and wildlife habitat and visual amenities as part of an ecosystem-based approach to watershed management.

***LUP Policy 5.6.1 Minimum Stream Flows for Anadromous Fish Runs.*** Pending a determination based on a biologic assessment, preserve perennial stream flows at 95% of normal levels during summer months, and at 70% of the normal winter baseflow levels. Oppose new water rights applications and time extensions, change petitions, or transfer of existing water rights which would individually diminish or cumulatively contribute to the diminishment of the instream flows necessary to maintain anadromous fish runs and riparian vegetation below the 95%/70% standard.

***LUP Policy 5.6.2 Designation of Critical Water Supply Streams.*** Designate the following streams, currently utilized at full capacity, as Critical Water Supply Stream: ...Liddell, San Vicente, Mill Creeks...Oppose or prohibit as legal authority allows, new or expanded water diversion from Critical Water Supply Streams. Prohibit new riparian or off stream development, or increases in the intensity of use, which require an increase in water diversions from Critical Water Supply Streams. Seek to restore in-stream flows where full allocation may harm the full range of beneficial uses.

***Program 5.6(g) Maintaining Adequate Streamflows Program.*** Develop more detailed information on streamflow characteristics, water use, sediment transport, plant and soil moisture requirements, and habitat needs of Critical Water Supply Streams and streams located in the coastal zone. Use this information to formulate a more detailed strategy for maintenance and enhancement of streamflows on Critical Water Supply Streams and to better understand the role of streamflows in watershed ecosystems and provide a basis for cooperative management of watershed ecosystems.

***LUP Objective 5.5a Watershed Protection.*** To protect and manage the watersheds of existing and future surface water supplies to preserve quality and quantity of water produced and stored in these areas to meet the needs of County residents, local industry, agriculture, and the natural environment.

***LUP Policy 5.5.1 Watershed Designations.*** Designate on the General Plan and LCP Resources Maps those Water Supply Watersheds listed in Figure 5-1 [5.1: ...San Vicente Creek, Mill Creek, Liddell Spring...]

***Objective 7.18b Water Supply Limitations.*** To ensure that the level of development permitted is supportable within the limits of the County's available water supplies and within the constraints of community-wide goals for environmental quality.

***LUP Policy 7.18.1 Linking Growth to Water Supplies.*** Coordinate with all water purveyors and water management agencies to ensure that land use and growth management decisions are linked directly to the availability of adequate, sustainable public and private water supplies.

**LUP Policy 7.18.3 Impacts of New Development on Water Purveyors.** Review all new development proposals to assess impacts on municipal water systems, County water districts, or small water systems. Require that either adequate service is available or that the proposed development provide for mitigation of its impacts as a condition of project approval.

**Policy 7.19.1 Sewer Service to New Development.** Concurrent with project application, require a written commitment from the service district. A written commitment is a letter, with appropriate conditions, from the service district guaranteeing that the required level of service for the project will be available prior to issuance of building permits, .... The County decision making body shall not approve any development project unless it determines that such project has adequate sewage treatment plant capacity.

**Policy 2.2.3 Reservation of Public Works Capacities for Coastal Priority Uses.** In the Coastal Zone, reserve capacity in existing or planned public works facilities for Coastal Priority Uses. For a description of those uses, see sections 2.22 and 2.23 [see below].

In addition to the above policies that incorporate water quality protection into them, the LCP also more categorically protects water quality, including its affect on ESHA and water supply. Relevant LCP policies include:

**Objective 5.4 Monterey Bay and Coastal Water Quality.** To improve the water quality of Monterey Bay and other Santa Cruz County coastal waters by supporting and/or requiring the best management practices for the control and treatment of urban run-off and wastewater discharges in order to maintain local, state and national water quality standards, protect County residents from health hazards of water pollution, protect the County's sensitive marine habitats and prevent the degradation of the scenic character of the region.

**Objective 5.7 Maintaining Surface Water Quality.** To protect and enhance surface water quality in the County's streams, coastal lagoons and marshes by establishing best management practices on adjacent land uses.

**LUP Policy 5.7.1 Impacts from New Development on Water Quality.** Prohibit new development adjacent to marshes, streams and bodies of water if such development would cause adverse impacts on water quality which cannot be fully mitigated.

**LUP Policy 5.7.4 Control Surface Runoff.** New development shall minimize the discharge of pollutants into surface water drainage by providing the following improvements or similar methods which provide equal or greater runoff control: (a) include curbs and gutters on arterials, collectors and locals consistent with urban street designs; and (b) oil, grease and silt traps for parking lots, land divisions or commercial and industrial development.

**LUP Policy 5.7.5 Protecting Riparian Corridors and Coastal Lagoons.** Require drainage facilities, including curbs and gutters in urban areas, as needed to protect water quality for all new development within 1000 feet of riparian corridors or coastal lagoons.

**LUP Policy 7.23.5 Control Surface Runoff.** Require new development to minimize the discharge of pollutants into surface water drainage by providing the following improvements or similar methods which provide equal or greater runoff control:...(b) construct oil, grease and silt traps from parking lots, land divisions or commercial and industrial development. Condition

*development project approvals to provide ongoing maintenance of oil, grease and silt traps.*

LCP Zoning Chapters 16.30 (Riparian Corridor and Wetlands Protection) and 16.32 (Sensitive Habitat Protection) have additional requirements mimicking the LUP requirements (see below in this exhibit for excerpts from these zoning chapters).

## **2. Public Access and Recreation Policies**

The LCP contains a series of interwoven policies which, when taken together, reinforce the Coastal Act mandate for maximizing public access. They also target Davenport for specific enhancement, such as clear circulation and parking. Relevant LCP policies include:

### **Coastal Priority Sites and Priority of Uses**

*LUP Policy 2.22.1 Priority of Uses within the Coastal Zone. Maintain a hierarchy of land use priorities within the Coastal Zone:*

*First Priority: Agriculture and coastal-dependent industry*

*Second Priority: Recreation, including public parks; visitor serving commercial uses; and coastal recreation facilities.*

*Third Priority: Private residential, general industrial, and general commercial uses.*

*LUP Policy 2.22.2 Maintaining Priority Uses. Prohibit the conversion of any existing priority use to another use, except for another use of equal or higher priority.*

### **Circulation and Priority to Recreational Access**

LCP Circulation (LUP Chapter 3) policies encouraging a coordinated recreational circulation system for access to beach recreational areas and giving priority to road improvements that provide access to coastal recreational resources, including:

*LUP Policy 3.14.1 Capacity. Reserve capacity on the existing County road system for recreational traffic.*

*LUP Policy 3.14.2 Priority to Recreational Improvements. In the development of transportation improvement programs, consider giving priority to road improvements which provide access to recreational resources.*

### **Maximizing Public Access and Recreation**

LCP Parks, Recreation, and Public Facilities (LUP Chapter 7) policies and programs generally protect existing public access and encourage public access and recreational enhancements to increase enjoyment of coastal resources, including:

*LUP Objective 7.1a Parks and Recreation Opportunities. To provide a full range of public and private opportunities for the access to, and enjoyment of, park, recreation, and scenic areas, including the use of active recreation areas and passive natural open spaces by all ages, income groups and people with disabilities with the primary emphasis on needed recreation facilities and programs for the citizens of Santa Cruz County.*

**LUP Policy 7.1.3 Parks, Recreation and Open Space Uses.** Allow low intensity uses which are compatible with the scenic values and natural setting of the county for open space lands which are not developable; and allow commercial recreation, County, State, and Federal parks, preserves, and biotic research stations, local parks and passive open space uses for park lands which are developable.

**LUP Objective 7.7a Coastal Recreation.** To maximize public use and enjoyment of coastal recreation resources for all people, including those with disabilities, while protecting those resources from the adverse impacts of overuse.

**LUP Objective 7.7b Shoreline Access.** To provide a system of shoreline access to the coast with adequate improvements to serve the general public and the coastal neighborhoods which is consistent with the California Coastal Act, meets public safety needs, protects natural resource areas from overuse, protects public rights and the rights of private property owners, minimizes conflicts with adjacent land uses, and does not adversely affect agriculture, subject to policy 7.6.2.

**LUP Policy 7.7.10 Protecting Existing Beach Access.** Protect existing pedestrian...and bicycle access to all beaches to which the public has a right of access, whether acquired by grant or through use, as established through judicial determination of prescriptive rights.... Protect such beach access through permit conditions...

#### **Davenport Coastal Special Community**

The Santa Cruz County LCP is protective of the special community character of Davenport. Relevant LCP policies include:

**LUP Policy 8.8.2. Coastal Special Community Designation.** Maintain a Coastal Special Community Designation for...Davenport...

**LUP Objective 8.8. Villages, Towns and Special Communities.** To recognize certain established urban and rural villages as well as Coastal Special Communities for their unique characteristics and/or popularity as visitor destination points; to preserve and enhance these communities through design review ensuring the compatibility of new development with the existing character of these areas.

**LUP Policy 8.8.4. Davenport Character.** Require new development to be consistent with the height bulk, scale, materials and setbacks of existing development: generally small scale, one or two story structures of wood construction.

**Section 13.20.143(c)(1)(i) Davenport Special Community Design Criteria, Highway One Frontage.** Development along Davenport's Highway One frontage shall conform to the following objectives: Davenport shall be emphasized as a rural community center and as a visitor serving area including: Site design shall emphasize the historic assets of the town, its whaling history and whale viewing opportunities.

**Section 13.20.143(c)(2) Davenport Special Community Design Criteria, Highway One Frontage.** Development along Davenport's Highway One frontage shall conform to the following objectives: Clear, coordinated circulation shall be developed...

***LUP Program 8.8(a) Davenport Special Community.*** Enhance Davenport as a visual focus along Highway One. Prepare a landscaping and design plan, in accordance with the policies of this section, to achieve the following objectives: (1) Clear, coordinated circulation including: clear definition of stopping spaces (parking) along the highway frontage for both cars and bicycles; clearly articulated pedestrian crossings; adequate parking off Highway One, nearby, for existing and new uses, and for visitors; bicycle parking facilities to make the town a more attractive bicycle destination/stop over point. (2) Landscaping to enhance commercial areas, and to assist in definition of parking spaces and walkways, and in screening of parking as appropriate. (3) Emphasis on the area's whaling history and whale viewing opportunities. (4) Elimination of visually intrusive overhead wires. (5) Screening of the cement plant and its parking lot from the residential area to the north.

### **3. Other Policies**

The LCP also addresses the issue of cumulative impacts. Relevant LCP policies include:

***LUP Policy 2.1.4 Siting of New Development.*** Locate new residential, commercial or industrial development, within, next to, or in close proximity to existing developed areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on environmental and natural resources, including coastal resources.

## CHAPTER 16.30

### RIPARIAN CORRIDOR AND WETLANDS PROTECTION

#### Section:

- 16.30.010 Purpose
- 16.30.020 Scope
- 16.30.025 Amendment
- 16.30.030 Definitions
- 16.30.040 Protection
- 16.30.050 Exemptions
- 16.30.060 Exceptions
- 16.30.070 Inspection and Compliance
- 16.30.080 Violations
- 16.30.110 Appeals

16.30.010 PURPOSE. The purpose of this chapter is to eliminate or minimize any development activities in the riparian corridor in order to preserve, protect, and restore riparian corridors for: protection of wildlife habitat; protection of water quality; protection of aquatic habitat; protection of open space, cultural, historical, archeological and paleontological, and aesthetic values; transportation and storage of floodwaters; prevention of erosion; and to implement the policies of the General Plan and the Local Coastal Program Land Use Plan. (Ord. 2460, 7/19/77; 3335, 11/23/82)

16.30.020 SCOPE. This chapter sets forth rules and regulations to limit development activities in riparian corridors; establishes the administrative procedure for the granting of exceptions from such limitations; and establishes a procedure for dealing with violations of this Chapter. This Chapter shall apply to both private and public activities including those of the County and other such government agencies as are not exempted therefrom by state or federal law. Any person doing work in nonconformance with this Chapter must also abide by all other pertinent local, state and federal laws and regulations. (Ord. 2460, 7/19/77; 3335, 11/23/82; 4027, 11/7/89; 4166, 12/10/91)

16.30.025 AMENDMENT. Any revision to this chapter which applies to the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision

activities within buffer zones which do not require a discretionary permit; other projects of similar nature determined by the Planning Director to cause minimal land disturbance and/or benefit the riparian corridor.

Perennial stream. Any watercourse designated by a solid line symbol on the largest scale U.S. Geological Survey Topographic map most recently published or verified by field investigation as a stream that normally flows throughout the year.

Riparian Corridor. Any of the following:

- (1) Lands within a stream channel, including the stream and the area between the mean rainy season (bankfull) flowlines;
- (2) Lands extending 50 feet (measured horizontally) out from each side of a perennial stream. Distance shall be measured from the mean rainy season (bankfull) flowline;
- (3) Lands extending 30 feet (measured horizontally) out from each side of an intermittent stream. Distance shall be measured from the mean rainy season (bankfull) flowline;
- (4) Lands extending 100 feet (measured horizontally) from the high watermark of a lake, wetland, estuary, lagoon or natural body of standing water;
- (5) Lands within an arroyo located within the Urban Services Line, or the Rural Services Line.
- (6) Lands containing a riparian woodland.

Riparian vegetation/woodland. Those plant species that typically occur in wet areas along streams or marshes. A woodland is a plant community that includes these woody plant species that typically occur in wet areas along streams or marshes. Characteristic species are: Black Cottonwood (*Populus trichocarpa*), Red Alder (*Alnus oregona*), White Alder (*Alnus rhombifolia*), Sycamore (*Plantanus racemosa*), Box Elder (*Acer negundo*), Creek Dogwood (*Cornus Californica*), Willow (*Salix*).

Vegetation. Any species of plant.

(Ord. 2535, 2/21/78; 2536, 2/21/78; 2800, 10/30/79; 3335, 11/23/82; 3441, 8/23/83; 3601, 11/6/84; 4346, 12/13/94)

16.30.040 PROTECTION. No person shall undertake any development activities other than those allowed through exemptions and exceptions as defined below within the following areas:

- (a) Riparian corridors.
- (b) Areas within the Urban Services Line or Rural Services Line which are within a buffer zone as measured from the

16.30.103 (Repealed 4/2/96, Ord. 4392A)

16.30.107 (Repealed 4/2/96; Ord. 4392A)

16.30.110 APPEALS. All appeals of actions taken pursuant to the provisions of this Chapter shall be made in conformance to the procedures of Chapter 18.10. (Ord. 2460, 7/19/77; 2506, 11/22/77; 2800, 10/30/79; 3335, 11/23/82; 3451-A, 8/23/83) (v001)

## CHAPTER 16.32

### SENSITIVE HABITAT PROTECTION

#### Sections:

- 16.32.010 Purposes
- 16.32.020 Scope
- 16.32.030 Amendment
- 16.32.040 Definitions
- 16.32.050 General Provisions
- 16.32.060 Approval Required
- 16.32.070 Assessments and Reports Required
- 16.32.080 Report Preparation and Review
- 16.32.130 Violations
- 16.32.140 Fees

16.32.010 PURPOSES. The purposes of this chapter are to minimize

the disturbance of biotic communities which are rare or especially valuable because of their special nature or role in an ecosystem, and which could be easily disturbed or degraded by human activity; to protect and preserve these biotic resources for their genetic scientific, and educational values; and to implement policies of the General Plan and the Local Coastal Program Land Use Plan. (Ord. 3342, 11/23/82; 3442, 8/23/83)

16.32.020 SCOPE. This Chapter sets forth rules and regulations for

evaluating the impacts of development activities on sensitive habitats; establishes the administrative procedures for determining whether and what type of limitations to development activities are necessary to protect sensitive habitats; and establishes a procedure for dealing with violations of this Chapter. This Chapter shall



apply to both private and public activities including those of the County and other such government agencies where not exempted therefrom by state or federal law. Any person doing work in conformance with this Chapter must also abide by all other pertinent local, state and federal laws and regulations. (Ord. 3342, 11/23/82; 3442, 8/23/83; 4027, 11/7/89; 4166, 12/10/91)

16.32.030 AMENDMENT. Any revision to this chapter which applies to

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the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision constitutes an amendment to the Local Coastal Program such revisions shall be processed pursuant to the hearing and notification provisions of Chapter 13.03 of the County Code and shall be subject to approval by the California Coastal Commission. (Ord. 3342, 11/23/82; 3342, 8/23/83)

16.32.040 DEFINITIONS. All terms used in this chapter shall be as

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defined in the General Plan and Local Coastal Program Land Use Plan and as follows:

Area of Biotic Concern. Any area in which development may affect

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a sensitive habitat, as identified on the Local Coastal Program Sensitive Habitats maps, the General Plan Resources and Constraints maps and other biotic resources maps on file in the Planning Department, or as identified during inspection of a site by Planning Department staff.

Biotic Assessment. A brief review of the biotic resources

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present at a project site prepared by the County biologist.

Biotic Permit. A permit for development in an area of biotic

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concern issued pursuant to the provisions of this chapter.

Biotic Report. A complete biotic investigation conducted by an

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approved biologist from a list maintained by the county, including but not limited to the following:

1. Identification of the rare endangered, threatened and unique species on the site;
2. Identification of the essential habitats of such species;
3. Recommendations to protect species and sensitive habitats. When a project is found to have a significant effect

on the environment under the provisions of the Environmental Review Guidelines, the biotic report shall be made a part of the Environmental Impact Report.

Building Envelope. A designation on a site plan or parcel map  
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indicating where structures and paving are to be located.

Decision-Making Body. The Zoning Administrator, Planning Commission, or Board of Supervisors, whichever body is considering the development permit, when biotic review is concurrent with review of a development permit. When a biotic permit is required, the decision-making body shall be the Planning Director.

Disturbance. Any activity which may adversely affect the  
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longterm viability of a rare, endangered, threatened, or locally unique species or any part of a sensitive habitat.

Development/Development Activity. On land, in or under water,  
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the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including but not limited to subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; reconstruction, demolition, alteration or improvement of any structure in excess of 50 percent of the existing structure's fair market value, including any facility of any private, public or municipal utility; the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973; the disturbance of any rare, endangered, or locally unique plant or animal or its habitat.

Environmental Coordinator. The Planning Department staff person  
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assigned to review applications and make determinations based upon the County Environmental Review Guidelines adopted pursuant to Chapter 16.01 of the Santa Cruz County Code.

Environmentally Sensitive Habitat Area. See Sensitive Habitat.  
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Essential Habitat. See Sensitive Habitat.

Feasible. Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors, as determined by the County.

Impervious Surface. Any non-permeable surface, including roofs and non-porous paving materials such as asphalt or concrete, but not including directly permeable surfaces such as decks that allow the passage of water or gravel driveways less than five inches thick.

Person. Any individual, firm, association, corporation, partnership, business, trust company, a public agency as specified in Section 53090 of the California Government Code, or the state or a state agency.

Rare and Endangered Species. A plant or animal species designated as rare, endangered or threatened by the State Fish and Game Commission, the United States Department of Interior Fish and Wildlife Service, or the California Native Plant Society.

Resource Dependent Use. Any development or use which requires utilization of a natural resource and must be sited within a sensitive habitat in order to be able to function at all, such as a fish hatchery.

Restoration. Restoring native vegetation, natural drainage, and water quality, including but not limited to replanting native vegetation, removing garbage, and protecting the habitat from the inflow of polluted water or excessive sedimentation.

Sensitive Habitat. An area is defined as a sensitive habitat if it meets one or more of the following criteria.

- (a) Areas of special biological significance as identified by the State Water Resources Control Board.
- (b) Areas which provide habitat for locally unique biotic species/communities including but not limited to: oak woodlands, coastal scrub, maritime chaparral, native rhododendrons and associated Elkgrass, indigenous Ponderosa Pine, indigenous Monterey Pine, mapped grassland in the Coastal Zone and sand parkland; and Special Forests including San Andreas Oak Woodlands, indigenous Ponderosa Pine, indigenous Monterey Pine and ancient forests.

- (c) Areas adjacent to essential habitats of rare, endangered or threatened species as defined in (e) and (f) below.
- (d) Areas which provide habitat for species of special concern as listed by the California Department of Fish and Game in the Special Animals list, Natural Diversity Database.
- (e) Areas which provide habitat for rare or endangered species which meet the definition of Section 15380 of the California Environmental Quality Act guidelines.
- (f) Areas which provide habitat for rare, endangered or threatened species as designated by the State Fish and Game Commission, United States Fish and Wildlife Service or California Native Plant Society.
- (g) Nearshore reefs, rocky intertidal areas, seacaves, islets, offshore rocks, kelp beds, marine mammal hauling grounds, sandy beaches, shorebird roosting, resting and nesting areas, cliff nesting areas and marine, wildlife or educational/research reserves.
- (h) Dune plant habitats.
- (i) All lakes, wetlands, estuaries, lagoons, streams and rivers.
- (j) Riparian corridors.

Structure. Anything constructed or erected which requires a location on the ground or in the water, including but not limited to any building, retaining wall, driveway, telephone line, electrical power transmission or distribution line, water line, road or wharf.

Toxic Chemical Substance:  
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- 1. Any chemical used for killing insects, fungi, rodents, etc., including insecticides, acaricides, fungicides, herbicides, rodenticides, and nematocides.
- 2. Any chemical which would be deleterious to a sensitive habitat.

Water Purveyor. Any agency or entity supplying water to five or more connections.  
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(Ord. 3342, 11/23/82; 3442, 8/23/83; 4346, 12/13/94)

16.32.050 GENERAL PROVISIONS.  
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- (a) No toxic chemical substance shall be used in a sensitive habitat in such a way as to have deleterious effects on the habitat unless an emergency has been declared by a federal,

state, or county agency, or such use has been deemed necessary by the California Department of Fish and Game to eliminate or reduce a threat to the habitat itself, or a substantial risk to public health will exist if the toxic chemical substance is not used.

(b) Pursuant to California Administrative Code Section 2452, the Agricultural Commissioner, in reviewing an application to use a restricted material, shall consider the potential effects of the material on a sensitive habitat, and mitigation measures shall be required as necessary to protect the sensitive habitat. No approval shall be issued if adverse impacts cannot be mitigated. (Ord. 3342, 11/23/82; 3442, 8/23/83)

#### 16.32.060 APPROVAL REQUIRED.

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- (a) Except as provided in Subsection (b) below, no person shall commence any development activity within an area of biotic concern until a biotic approval has been issued unless such activity has been reviewed for biotic concerns concurrently with the review of a development or land-division application pursuant to Chapter 18.10, Level III. (Ord. 3342, 11/23/82; 3442, 8/23/83; 4030, 11/21/89)
- (b) A biotic assessment shall not be required for repair or reconstruction of a structure damaged or destroyed as a result of a natural disaster for which a local emergency has been declared by the Board of Supervisors, when:
  - (1) the structure, after repair or reconstruction, will not exceed the floor area, height or bulk of the damaged or destroyed structure by 10%, and
  - (2) the new structure will be located in substantially the same location. (Ord. 4030, 11/21/89; 4160, 12/10/91)

#### 16.32.070 ASSESSMENTS AND REPORTS REQUIRED. A biotic assessment

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shall be required for all development activities and applications in areas of biotic concern, as identified on maps on file in the Planning Department or as identified during inspection of the site by Planning Department staff. A biotic report shall be required if the Environmental Coordinator determines on the basis of the biotic assessment that further information is required to ensure protection of the sensitive habitat consistent with General Plan and Local Coastal Program Land Use Plan policies. If the Environmental Coordinator determines that the project will have a significant effect on the environment under the provisions of the Environmental Review Guidelines, the biotic report shall be part of

the Environmental Impact Report. (Ord. 3342, 11/23; 3442,  
8/23/83)

16.32.080 REPORT PREPARATION AND REVIEW.

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(a) Submittals Required. When a biotic assessment or biotic

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report is required, the applicant shall submit an accurate plot plan showing the property lines and the location and type of existing and proposed development and other features such as roads, gullies, and significant vegetation. Any other information deemed necessary by the Planning Director shall be submitted upon request.

(b) Report Preparation. The biotic assessment shall be con-

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ducted by the county biologist. The biotic report shall be prepared by a biologist from a list maintained by the Planning Department, at applicant's expense, and shall be subject to acceptance as specified in this section. All biotic assessments and report shall conform to county report guidelines established by the Planning Director.

(c) Report Acceptance and Review. All biotic assessments and

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reports shall be found to conform to county report guidelines by the Environmental Coordinator. When technical issues are complex, the report may be reviewed and found adequate by a biologist retained by the County. All biotic reports shall be referred to the California Department of Fish and Game for review and comment, and shall be available for review by other interested parties.

(d) Report Expiration. A biotic assessment shall be valid for

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one year and a biotic report shall be valid for five years following acceptance of the assessment or report, except where a change in site conditions, development proposal, technical information, or county policy significantly affects and thus may invalidate the technical data, analysis, conclusions, or recommendations of the report. (Ord. 3342, 11/23/82; 3442, 8/23/83).

16.32.090 APPROVAL CONDITIONS.

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(a) Conditions of approval shall be determined by the Environmental Coordinator through the environmental review process. These conditions may be based on the recommendations of the biotic assessment or biotic report and shall become conditions of any subsequent approval issued for the property. Such conditions shall also apply to all development activities engaged in on the property. Any additional measures deemed necessary by the decision-making body shall also become development permit

conditions.

(b) The following conditions shall be applied to all development within any sensitive habitat area:

1. All development shall mitigate significant environmental impacts, as determined by the Environmental Coordinator.
2. Dedication of an open space or conservation easement or an equivalent measure shall be required as necessary to protect the portion of a sensitive habitat which is undisturbed by the proposed development activity or to protect a sensitive habitat on an adjacent parcel.
3. Restoration of any area which is a degraded sensitive habitat or has caused or is causing the degradation of a sensitive habitat shall be required, provided that any restoration required shall be commensurate with the scale of the proposed development.

(c) All development activities in or adjacent to a sensitive habitat area shall conform to the following types of permitted uses, and the following conditions for specific habitats shall become minimum permit conditions unless the approving body pursuant to Chapter 18.10 finds that the development will not affect the habitat based on a recommendation of the Environmental Coordinator following a biotic review pursuant to Section 16.32.070.



A. ENVIRONMENTALLY SENSITIVE HABITAT AREAS

Only resource-dependent uses shall be allowed within any environmentally sensitive habitat area.

<u>Type of Sensitive Area</u>	<u>Permitted or Discretionary uses</u>	<u>Conditions</u>
1. All Essential Habitats	nature study & research, hunting, fishing and equestrian trails that have no adverse impacts on the species or habitat; timber harvest as a conditional use	Preservation of essential habitats shall be required
2. Kelp Beds	nature observation, mariculture, scuba diving	No development shall be allowed which might result in a discharge to the marine environment, whether within or without the sensitive habitat, which might adversely affect this habitat type
3. Rocky Intertidal Areas	nature observation, scientific research, educational instruction, take of marine organisms consistent with Department of Fish & Game regulations	
4. Marine Mammal Hauling Grounds	scientific research	
5. Shorebird Nesting Areas	scientific research	

A. ENVIRONMENTALLY SENSITIVE HABITAT AREAS (Continued)

Type of Sensitive Area	Permitted or Discretionary uses	Conditions
6. Davenport Pier Rock Cliffs and Rock Outcrops offshore which are Seabird/ Shorebird Resting Areas and Roosting Sites	scientific research	
7. Sandy Beaches which are Sea- bird/Shorebird Resting Areas and Roosting Sites	seasonal beach recreation	
8. Dunes and Coastal Strand	scientific research, educational instruction	Wooden boardwalks for trails through dunes shall be required.
9. Cliff Nesting Areas	scientific research	Fifty-foot buffer from blufftop at or above nesting area shall be required.
10. Coastal Scrub	blufftop viewing, hiking, nature observation	Land clear- ing shall be minimized.

A. ENVIRONMENTALLY SENSITIVE HABITAT AREAS (Continued)

Type of Sensitive Area	Permitted or Discretionary uses	Conditions
11. Wetlands, Estuaries, & Lagoons	educational instruction, scientific research, managed nature observation, wetland restoration, maintenance to exist- ing public utilities, aquaculture, recreational fishing subject to Department of Fish and Game regulations	One hundred- foot buffer measured from the high water- mark shall be required  Distance between structures and wetland shall be maximized.
12. Rivers and Streams (includes Anadromous Fish Spawning Areas)	scientific research, educational instruction, aquaculture	
13. Intermittent Wetlands	limited grazing, uses within wetlands (above), existing agriculture	
14. Reservoirs & Ponds	water storage and diversion, aquaculture	

No new development shall be allowed adjacent to marshes, streams, and bodies of water if such development would cause adverse impacts on water quality which cannot be mitigated or will not be fully mitigated by the project proponent.

#### 16.32.095 PROJECT DENSITY LIMITATIONS

The following requirements shall apply to density calculations for new building sites created in habitats of locally unique species through minor land divisions, subdivisions, planned development, or planned unit development:

- (a) Special Forests - Prohibit land divisions within designated Special Forests unless the area to be divided is removed from the mapped special forests habitat area by General Plan - Local Coastal Program amendment. On parcels with existing mapped special forest areas which contain developable land outside those areas, allow development at the lowest density of the land use designation and require that development be clustered and located outside the habitat areas. Allow one single family dwelling unit per existing parcel of record. Where property owners upgrade special forest areas on their parcels; outside of mapped areas, through resource management activities, the prevailing General Plan densities shall not be reduced.
- (b) Grasslands - Prohibit land divisions of native and mixed native grassland habitat mapped in the Coastal Zone unless the area to be divided is removed from the mapped grassland habitat area by General Plan-Local Coastal Program amendment. On parcels with existing mapped native and mixed native grasslands and which contain developable land outside those habitats, allow development at the lowest density of the land use designation and require that development be clustered and located outside the habitat areas. Allow one single family dwelling unit per existing parcel of record. Where property owners upgrade grasslands on their parcels, outside of mapped areas, through resource management activities, the prevailing General Plan densities shall not be reduced.

(Ord. 4346, 12/13/94)

16.32.100 EXCEPTIONS. Exceptions to the provisions of Section 16.32.090 may be approved by the decision-making body.

(a) In granting an exception, the decision-making body shall make the following findings:

- 1. That adequate measures will be taken to ensure consistency with the purpose of this chapter to minimize the disturbance of sensitive habitats; and
- 2. One of the following situations exists:
  - (i) The exception is necessary for restoration of a sensitive habitat; or
  - (ii) It can be demonstrated by biotic assessment, biotic report, or other technical information that the exception is necessary to protect public health, safety, or welfare.



W A T E R   D E P A R T M E N T

809 Center Street, Room 102, Santa Cruz, CA 95060 • (831) 420-5200 • Fax (831) 420-5201

**RECEIVED**

December 12, 2002

DEC 12 2002

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Dan Carl  
California Coastal Commission  
725 Front St.  
Santa Cruz, CA 95060

Dear Mr. Carl:

The City of Santa Cruz Water Department is concerned with the Major Amendment, requested by RMC Pacific Materials (RMC/PM) at their Davenport Cement Plant (County of Santa Cruz Application # 02-0159), which is the subject of Appeal # A-3-02-88 before the Coastal Commission. Among the many concerns that we have with this major amendment request is our conclusion that increased production limits are inextricably linked to the purported urgency of the quarry expansion, for which an EIR is currently in process. As these two issues are so integrally related, it seems appropriate to include a review of quarry activities in any analysis of increased production limits. Additionally, we are on record as having concerns with the proposed improvements proposed for the cement plant expansion (commonly called the "dome project") for which another EIR is currently being processed (attached letter of April 5, 2000). Our concerns are similar in nature, that the separation of these issues amounts to piecemealing of RMC/PM's operations and projects under CEQA.

There have been five minor variation approvals over the last six years, plus two in the late 1980's. Our concern is that these minor variations have the potential to increase cumulative impacts, which were not addressed or envisioned in the original permit review. The Major Amendment appeal before your Commission requests a 12% permanent increase in production, continuing the trend of incrementally increasing production over the years without the benefit of CEQA review, or an integrated analysis of other related projects being processed at the same time.

We maintain that there are existing negative impacts to a significant public water source for the City of Santa Cruz. This noncompliance with existing RMC/PM permit conditions are the result of quarrying activities, the raw material which is utilized for the existing production at the plant. An increase in production volume has the potential to hasten and magnify these existing impacts. For this reason we believe that the required County five-year permit review occur prior to any approval of permanent increases in production. Further, it is inappropriate to continue to

**CCC Exhibit H**  
**(page 1 of 4 pages)**

To: Dan Carl, California Coastal Commission

Page: 2

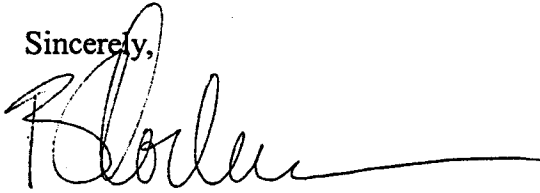
Date: December 12, 2002

segregate production from quarrying, and the proposed plant upgrades (dome). The existing fragmented environmental review for these projects should be consolidated into one thorough comprehensive review because of their obvious linkage.

Therefore, we request that the Coastal Commission uphold Appeal #A-3-02-88, and deny the Major Amendment requested by RMC/PM.

Thank you for the opportunity to comment on this Appeal. If you have questions please feel free to contact me at (831) 420-5200.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Kocher", with a long horizontal flourish extending to the right.

Bill Kocher  
Water Director

cc: Satish Sheth, Terrill Tompkins, Matt Baldzikowski, Chris Berry, David Carlson



WATER DEPARTMENT

**RECEIVED**

April 5, 2000

DEC 12 2002

Mr. Kim Tschantz  
Deputy Environmental Coordinator  
County of Santa Cruz Planning Department  
701 Ocean St., 4<sup>th</sup> Floor  
Santa Cruz, CA 95060

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Dear Mr. Tschantz,

The City of Santa Cruz Water Department serves drinking water to approximately 90,000 customers in the Santa Cruz area. Increased demand upon water resources in the Santa Cruz area require that we are increasingly vigilant in protecting both the quantity and quality of our existing water sources. One of our highest quality water sources is Liddell Spring. This spring is located in Bonny Doon and is surrounded by the RMC Pacific Materials quarry. Since it has yet to be determined whether the mining activities are negatively impacting the Liddell Spring water source, we feel that we must comment on the *Initial Study for the Improvement of the RMC Lonestar Cement Plant in Davenport (As Proposed by RMC Pacific Materials, INC)*.

While the issues of conflict with the Santa Cruz County General Plan, riparian vegetation clearing and degradation of Coho Salmon habitat through potential base flow reduction in San Vicente Creek stand out, our greatest concern is the potential piecemealing of the CEQA process. It is our understanding that the proposed plant improvement would be considered a separate project from the proposed expansion of the quarry if it were demonstrated that the improvement of the plant was in no way connected to the activities of the quarry. The following factors lead us to believe that there is need for increased analysis of the connection of the two plans with regard to piecemealing of CEQA:

- It is stated that the plant upgrade will not affect the rate or extent of mining. However, can the same statement be made in light of the yet to be determined status of the quarry expansion? That is, if the application requesting quarry expansion is not approved, will the plant upgrade project still proceed? We can see a possible scenario where the effort and expense required to upgrade the plant might be put forth as an overriding consideration in an attempt to support the amendment to permit quarry expansion. This question becomes especially compelling given the expected life of the quarry which is stated as on page 5, Attachment 18 as "40 years from 1977". Recent information supplied by several RMC Pacific Materials staff members indicate that the actual amount of raw material available in the currently permitted mining area is sufficient for only another few years. The Bonny Doon quarry is the

**CCC Exhibit H**  
**(page 3 of 4 pages)**

sole source of raw limestone and shale for the plant, the plant would apparently have a limited lifespan should the quarry expansion be denied.

- County Counsel's opinion in regard to piecemealing is that the EIR for the plant may proceed independently of the quarry expansion EIR. This, however, is based solely on Counsel's interpretation of CEQA. Lacking in his analysis are how this opinion specifically applies to this project and any supporting information and documentation. Additionally, the attorney representing RMC Pacific Materials has stated that the improvements proposed for the cement plant are not an expansion of the plant, "but will only serve to make the production process cleaner and more efficient." It would be imprudent to make a CEQA decision of this magnitude without thorough objective analysis of the future of the operations and potential impacts of not only the plant, but also the quarry.

Within the context of this information we believe that the plant improvement and quarry expansion are in fact dependent upon one another, and that it is appropriate to consider the ruling of San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus as an example of piecemealing that is relevant to the projects proposed by RMC Pacific Materials.

Finally, while the Notice of Preparation is dated March 3, 2000, the Water Department received this plan on March 8<sup>th</sup>, 2000. It is imperative that we promptly receive any environmental documents that may involve our drinking water sources.

We appreciate the opportunity to comment on the Notice of Preparation and look forward to reviewing the Draft Environmental Impact Report. Please feel free to contact the Department's Watershed Specialist, Chris Berry at 420-5483 or myself at 420-5200 if you have any questions regarding our position on these matters.

Sincerely,



Bill Kocher  
Director,  
City of Santa Cruz Water Department

cc: CB,RL,TT,JR (City of Santa Cruz Planning Dept.)