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April 9, 2008

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Mr. Tim Haddad, Environmental Coordinator
Marin County Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903

RE: Draft Environmental Impact Report, San Rafael Rock Quarry Amended
Reclamation Plan and Amended Surface Mining and Quarrying Permit

Dear Mr. Haddad:

Marin Conservation League appreciates this opportunity to comment on the adequacy of the above referenced DEIR. The DEIR is generally adequate in separating and describing these two, intertwined projects; with a notable exception (see Comment II.1, below), we can distinguish those impacts associated solely with reclamation from those associated with mining operations, and recognize the impacts that would result from the simultaneous occurrence of the two projects as well as cumulative impacts when past, present and reasonably foreseeable future actions are considered. The DEIR is generally adequate in its analysis of impacts, and we agree with many of the findings of significant and unavoidable impact. We believe that the DEIR considers an adequate range of alternatives for both reclamation and the quarrying operation.

There are also deficiencies in the DEIR that must be addressed in the Final EIR before it is certified. If, as appears likely, the San Rafael Rock Quarry (SRRQ) continues to operate within its vested right into the future, it must do so under conditions that will insure minimum impact on neighboring residents and wildlife habitat. The EIR must provide a solid basis for these conditions in identifying impacts and proposing effective mitigation measures and/or alternatives. We find a number of impacts that are understated or deferred to a later time because of the "baseline problem," and we find too many mitigation measures that would be ineffectual as presented in the DEIR. Further, we feel that the EIR is not absolutely clear in assuring the public that there will be an open planning and permit review process for SRRQ's continuing operations and phases of reclamation activities.

I. Baseline Problems

1. Actions that exceeded permit conditions are included in baseline. The DEIR defines baseline for the ARP as the extent of permitted activities contained in the amended 1982 reclamation plan, when the quarry operation became legally non-conforming. Differences between what is now proposed in ARP04 and what has been allowed under ARP82 are evaluated as potential impacts. The DEIR does not adequately explain why activities found by the court to exceed the scope of the SRRQ 1982 legal mandate in the Northeast Quadrant appear to be included in the baseline. These

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include deposition of overburden and other waste materials in the Brick Resource Area (the northeast quadrant). The DEIR, on page 3-15, refers to these deviations as “certain activities” but does not reveal what they are or their legal history. At a minimum, the noise, air quality, and other impacts of these unauthorized activities on the neighboring community should be included in a cumulative analysis that covers past, present, as well as foreseeable future actions of the project. Certainly they should not be considered as part of ARP82 baseline conditions.

2. Important impacts of post-reclamation development are minimized as less-than-significant. With the exception of impacts of water quality in the proposed deep-water harbor and impacts on wetlands, which receive some analysis, the DEIR provides only limited insight into the effects of post-reclamation land uses. This is in part due to the “baseline problem.” Where conceptual post-reclamation land uses shown in ARP04 do not differ greatly from those envisioned in ARP82 (except for a ferry landing), only refinements to that concept are considered of potential impact significance. The DEIR minimizes impacts as less-than-significant because the “delta” between ARP04 and ARP82 is relatively minor, at the same time admitting that air quality, noise and traffic impacts, or impacts to biological resources from post-reclamation development could be *substantial*. For example, on Page 4.2-38, the DEIR states that emissions (from pleasure craft in the proposed marina) would exceed BAAQMD significance thresholds for CO, ROG, and PN-10, but since these emissions were already anticipated to occur under ARP82 they would not result in net increase in emissions from post-reclamation land use development over baseline conditions. *These impacts and other impacts of post-reclamation development envisioned in ARP82 did not receive environmental review in 1982, and therefore should not be dismissed as less than significant simply because ARP04 does not show substantial differences from a baseline.* (See also next comment below).
3. Impact analyses such as for traffic, air quality, and water and other service demands are deferred until the end of mining operations (some 17 years hence). A related problem results from deferring impact analyses to the end of mining operations. The DEIR states that future land uses (generally proposed by ARP04 to be residential, commercial/professional, recreational, and open space) and densities will be determined after approved traffic studies have been conducted. Therefore they cannot be known now; detailed plans will not be developed until three-years preceding cessation of mining operations. However, reclamation activities such as surcharging the Northwest Quadrant for future commercial uses, will be carried out in phases over the entire period. This phased reclamation will configure the site to accommodate some *presumed but not yet approved* future land uses. The DEIR lists these presumptions on Page 3-64, but does not provide sufficient programmatic analysis of their possible future impacts to support provisional approvals of future land use at this time.

II. Impacts and Mitigation Measures

1. Impact R4.2-1 and Impact C4.2-8 (Air Quality) represent contradictory conclusions. On Page 4.2-29, Impact R4.2-1 states that the proposed Amended Reclamation Plan (Phases 1,2,and 3 and parts of Phase 4) would result in an increase in daily emissions of criteria air pollutants as a result of reclamation activities being conducted *simultaneously with mining activities*, instead of at the end of quarrying activities, as contemplated in the 1982 ARP. As a consequence, PM-10 and NOx emissions will

remain significant and unavoidable. In apparent contradiction to this, Impact C4.2-8 (Page 4.2-43) states that cumulative air quality impacts could result from quarrying activities implemented under the Amended Surface Mining and Quarrying Permit but that, with mitigations, these emissions would be no more than baseline and therefore less-than-significant. *“While emissions associated with reclamation grading cannot be reduced to less-than-significant, operational emissions would not contribute to the reclamation-related impact to a cumulatively considerable manner (our emphasis).”* Apparently the activities will occur simultaneously, but viewed from two different perspectives (ARP04 and AQP1982), the same simultaneous occurrence of reclamation and quarrying activities delivers two different impact conclusions. The FEIR must explain this apparent contradiction.

2. C4.2-10 and 4.2-52ff. The DEIR’s analysis of the health risk from Crystalline Silica dust concludes that the highest level of chronic exposure would be less than significant and, therefore, does not require mitigation. We challenge that conclusion inasmuch as the DEIR does not appear to take into consideration the cumulative impacts of past quarrying operations since 1982 along with the future levels of operation being proposed. We understand that there are Federal Health Risk Standards that may apply and have zero tolerance for exposures to Crystalline Silica beyond a certain cumulative exposure level. The DEIR needs to examine and analyze in greater detail the cumulative effects of past, present, and proposed future operations with respect to the health risk of Crystalline Silica on the neighborhood. We submit that C4.2-10 should more properly be determined to be a significant and unavoidable risk that requires mitigation measures.
3. R4.5-6. Regardless of whether or not the area of the Main Quarry Bowl is to be used for a Marina or some other use, it will require filling with mining wastes or other materials including dredge spoils. The DEIR lacks detailed information of exactly how the Main Quarry Bowl will be reclaimed for future use and what will or should be used to fill it. The Mitigated Alternative appears to propose that dredge spoils from the San Francisco Bay may be used to reduce the final depth of the Main Quarry Bowl to – 30 feet if it should become a Marina. There will be environmental effects from this proposed operation resulting from both the duration of its operation and the possible use of contaminated dredge spoils containing toxic wastes. The DEIR should expand its analysis of this proposed use of dredge spoils and assess the full range of potential environmental impacts associated with this remedy for filling the Main Quarry Bowl, along with appropriate mitigation measures.
4. Many mitigation measures designed to reduce impacts to biological resources to a less-than-significant level are framed in generic terms that may be ineffectual for an extended, multi-phased project. An example of this is Impact R4.3-4 (. . . damage to or removal of protected trees. . .) and its associated standard mitigation measures R4.3-4a through 4e. These include protective fencing and markers for the duration of work; avoiding encroachment of equipment within drip-line; a five-year monitoring program with performance standards for period of five years; and so on. Other examples include mitigation measures R4.3-3b and c (special status plants); R4.3-10 (special status bat species); R4.3-11 a and b (Special status raptors and other nesting birds); and similar impacts of the AQP and their mitigation measures.

Such mitigation measures could apply to a single construction phase for a typical project where it is possible to conduct surveys for sensitive or protected species *once*, design a protection or restoration plan such as for revegetation, implement it, and, where required, monitor success for a post-construction period of five years. The SRRQ reclamation and quarrying activities won't work that way. Instead, most of the impacts associated with reclamation activities will occur in *eight to ten week episodes yearly over a period of many years*. This will be like a never-ending construction project. Biological resources in the Northeast, Northwest, and Southwest Quadrants will be disturbed and re-disturbed for up to 17 years as topsoil is removed, moved and stockpiled and eventually distributed over the site. Overburden will also be removed, moved, mixed with pond fines, used to construct a large berm that will later be removed and for surcharge that will also be graded again. Impacts of the AQP also resemble those of a continuous construction project for which the only end is cessation of operations.

The FEIR must describe what extra measures will be taken to insure that each proposed measure can be applied to mitigate continuous disturbance over the life of the operation. One such measure is suggested below.

5. Oversight to monitor and ensure effective and continuous mitigation. With this kind of moving target and extended periods of activity, the effectiveness of mitigation measures such as the one cited above to reduce impacts to less –than– significant levels is dependent on a high degree of human attention and continuity of effort over time. The DEIR cites a single agency, Marin County Department of Public Works (DPW), repeatedly as being responsible for monitoring mitigation. In some instances where biological resources are involved, this would be done in collaboration with chronically underfunded and understaffed resource agencies. This does not inspire public confidence! To ensure that the mitigations proposed by both applicant and DEIR are consistently implemented, the DEIR also needs to specify an overriding mitigation measure – that is, a mechanism for independent oversight, funded by the applicant. This could take the form of a technical and/or community advisory group to report periodically that mitigation measures are being implemented and to evaluate their effectiveness over the life of the operation.

Permit Reviews and Discretionary Actions

The DEIR states on Page 3-28 that each phase of reclamation would be preceded by application for permits specific to that phase and that this document (DEIR) may be used as a basis for tiering of additional CEQA review of those permits. On Page 3-79, the DEIR under the topic of Administrative Actions and Next Steps states that “Improvement plans (e.g., grading plans for each reclamation phase) will be filed with the County prior to implementation. Approvals of the plans are administrative actions by County staff.” The FEIR must clearly lay out the conditions under which approvals would be discretionary, possibly prompting further CEQA review and public process, and those conditions under which approvals would be purely administrative, essentially excluding discretion and public review.

Miscellaneous Comments and Clarifications

Page 4.3-57: Mitigation Measure C4.3-18a cross references Mitigation Measure C4.3-5a. We could not find a mitigation measure so identified.

Page 4.3-58: Mitigation Measure C4.3-18b (Tidal Marsh Restoration Plan) lists as one element submitting a schedule for annual monitoring reports to the Community Development Agency. Under the following Mitigation Monitoring and Reporting paragraph, the responsibility for monitoring implementation of the Plan lies with the Department of Public Works. The FEIR needs to clarify how the relationship between the two agencies will work – or is the CDA referenced in error?

Page 4.4-18: Impact R4.4-2 (Soil erosion and loss of topsoil) is followed by Mitigation Measures that specify Best Management Practices and cross references measures in the Hydrology and Water Quality Section 4.5. There is no cross reference to Element 12 of the ARP04 (Standards for Revegetation of Reclaimed Areas) on Page 3-60, which should be one of the most important means of controlling erosion and loss of topsoil, particularly the topsoil that is destined to be removed from South Hill and stockpiled in the Northwest Quadrant.

Thank you for responding to our comments.

Sincerely,

Roger Roberts
President