



Planning Commission Staff Report
Item # 1, May 19, 2022
Appeal to the Planning Commission for Site Approval No. PA-1700279
Prepared by: Giuseppe Sanfilippo

STAFF ANALYSIS ONLY: The full report is available on the CDD website.

PROJECT SUMMARY

Applicant Information

Property Owner: William E. Jr. & Marilyn Van Tassel
Project Applicant: North Central Valley Energy Storage, LLC
Project Appellant: Adams Broadwell Joseph and Cardozo

Project Site Information

Project Address: 24300 E. Flood Rd., Linden
Project Location: The project site is on the south side of East Flood Road, 0.8 miles west of Escalon-Bellota Road, Linden

Parcel Number (APN):	093-100-20,-24	Water Supply:	Private (Well)
General Plan Designation:	A/G	Sewage Disposal:	Private (Septic)
Zoning Designation:	AG-40	Storm Drainage:	Private (On-site)
Project Size:	14.85-acres	100-Year Flood:	Yes
Parcel Size:	57.28-acres	Williamson Act:	Yes
Community:	Linden	Supervisory District:	4

Environmental Review Information

CEQA Determination: Mitigated Negative Declaration. (Attachment E, Environmental Review)

Project Description

This project is an Appeal for an approved Site Approval application, and the associated environmental determination, for the construction, operation, and decommissioning of the North Central Valley Energy Center (Project). The Project consists of a 132-megawatt (MW) battery energy storage system (BESS) which would include up to 300 lithium iron phosphate battery storage containers (totaling up to 45,000 square-feet) and associated on-site support facilities including an 11,000-square-foot Project collector substation with up to 50 inverters (totaling up to 6,500 square-feet), collector lines, fencing, access roads, an operations and maintenance (O&M) building, a supervisory control and data acquisition (SCADA) system, and other ancillary facilities and equipment.

The Project also includes 2 power poles and a 115-kilovolt (kV) overhead generation transmission line (gentie line), to connect the BESS to the adjacent Pacific Gas and Electric (PG&E) Bellota substation. An expansion of the Bellota Substation footprint is also required to support grid interconnection of the Project.

Recommendation

1. Deny the Appeal and uphold Community Development Department approval of Site Approval No. PA-1700279 with the Findings (Attachment F), Williamson Act Principles of Compatibility (Attachment G), and Conditions of Approval (Attachment H) contained in the Staff Report.

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NOTIFICATION & RESPONSES

(See Attachment D, Response Letters)

Legal ad for the public hearing published in the Stockton Record: May 9, 2022.

Number of Public Hearing notices: 37

Date of Public Hearing notice mailing: May 6, 2022

Referrals and Responses

- **Early Consultation Date:** December 8, 2017
- **Early Consultation-New Project Description Referral Date:** July 16, 2021
- **Project Referral with Environmental Determination Date:** November 12, 2021

Agency Referrals	Response Date -Early Consultation December 8, 2017	Response Date – New Project Description July 16, 2021	Response Date – Environmental Determination November 12, 2021
County Departments			
Supervisor District 4			
Ag Commissioner			
Animal Control			
Assessor			
Community Development			
Building Division			
Fire Prevention Bureau			
Enforcement			
Public Works	January 8, 2018	July 19, 2021	November 15, 2021
Environmental Health	January 2, 2018	July 26, 2021	November 18, 2021
Sheriff Office			
Resource Conservation			
State Agencies			
Department of Conservation		August 11, 2021	December 6, 2021
Department of Transportation: 10			
CA N.A.H.C.			
C.H.P.			
C.R.W.Q.C.B.	January 2, 2018		December 13, 2021
C.V.F.P.B.			
CA Fish & Wildlife, Division: 2			
California Department of Food and Agriculture			
California Department of Recycle and Recovery			
California Energy Commission			

Agency Referrals	Response Date -Early Consultation December 8, 2017	Response Date – New Project Description July 16, 2021	Response Date – Environmental Determination November 12, 2021
Federal Agencies			
F.A.A.			
F.E.M.A.			
Army Corps of Engineers			
Local Agencies			
Mosquito & Vector Control			
S.J.C.O.G.	December 13, 2017	July 20, 2021	
San Joaquin Farm Bureau			
San Joaquin Air Pollution Control District		August 11, 2021	
Stockton East Water District			
Linden-Peters Fire District			
Linden Unified School District			
Miscellaneous			
A.T.&T.			
B.I.A.			
Builders Exchange			
Carpenters Union			
Haley Flying Services			
P.G.&E.		July 20, 2021 August 12, 2021	
Precissi Flying Service			
Sierra Club			
Buena Vista Rancheria			
California Tribal TANF			
CA Valley Miwok Tribe			
North Valley Yokuts Tribe			
United Auburn Indian Community		August 24, 2021	
Public Utilities Commission			
Frontier Telephone			

ANALYSIS

Background

This project is an Appeal of the Community Development Department's approval of Site Approval No. PA-1700279. The project serves to take surplus energy from the energy grid and store it in batteries for use during high-demand periods on the energy grid. The project site is located adjacent to the PG&E Bellota Substation on East Flood Road in Linden. The applicant originally submitted Site Approval No. PA-1700279 on December 1, 2017 to the Community Development Department for review. In May of 2017, project was put on hold pending an Aquatic Resources Delineation study.

The project resumed in July of 2021. Community Development Department staff reviewed the project and prepared an Initial Study/Mitigated Negative Declaration (IS/MND). The IS/MND was circulated for review by local, state, and federal agencies, in addition to stakeholders for a 30 day review period on November 12, 2021. Adams Broadwell Joseph and Cardozo submitted a comment letter on December 13, 2021. All comments received were reviewed by staff and on March 17, 2022, the Community Development Department approved the project subject to specific conditions of approval

Williamson Act

The project site is under Williamson Act contract WA-73-C1-0220. The proposed project site is classified and utilized as grazing land pursuant to the California Department of Conservation Important Farm Land Map. The Community Development Department received comments concerning the project's compatibility with the Williamson Act from the Department of Conservation and from the appellant Adams Broadwell Joseph and Cardozo. A battery energy storage facility is classified under the Utility Services-Major Use Type, which is compatible with the Williamson Act Principles of Compatibility pursuant to Development Title Section 9-1810.3(b)(z). Additionally, the project is consistent with the General Plan and, with the conditions of approval, complies with all applicable development ordinance in the Development Title.

Appeal

On March 28, 2022, the law firm of Adams Broadwell Joseph and Cardozo (Adams Broadwell) filed an Appeal to Staff Action on behalf of Citizens for Responsible Industry (Citizens) regarding the project's approval, and associated environmental determination, by the Community Development Department (Attachment B, Appeal of Staff Action).

The main argument of the Appeal is that the Project would have significant impacts to the environment and that an EIR was required in-lieu of the Initial Study and Mitigated Negative Declaration (MND) that the Department relied on for the approval. Specifically, the Appeal states that the Department's approval fails to include "any CEQA findings, fails to remedy the deficiencies in the MND, and fails to modify any of the MND's deficient mitigation measures. As a result, the Department's approval violated both CEQA and land use laws, and the Community Development Department lacked substantial evidence to approve the Project and make the findings required for the Site Approval Permit under the County Code." It also states that the Conditions of Approval do not resolve the inadequate analysis and mitigation contained in the MND, and fail to adequately remedy the adverse environmental issues caused by the Project. The Project's potentially significant impacts on air quality, greenhouse gas, health risk, energy, biological, and agricultural resources render the Project inconsistent with the findings required for a Site Approval Permit, and approval of the Project violated CEQA."

The Appeal comments were nearly identical to comments in a December 13, 2022, letter that Adams Broadwell sent as part of the public review period for the IS/MND prepared for the project pursuant to the California Environmental Quality Act (CEQA). Staff reviewed each comment in the December 13th letter and made changes to the project description and MND in response to those comments. With the revisions, staff determined that the MND was the appropriate level of environmental review for the Project and no Environmental Impact Report (EIR) was required. Similarly, staff has reviewed the Appeal comments and, again, found that the MND was appropriate. The Appeal does not provide substantial evidence, and there is not substantial evidence in the Project record, supporting a fair argument that the Project may result in

significant adverse impacts that are not sufficiently mitigated through the MND and, therefore, no EIR is required.

The County's response to each comment in the Appeal is included as Attachment C, Response to Appeal of Staff Action.

RECOMMENDATION

It is recommended that the Planning Commission:

1. Deny the Appeal and uphold Community Development Department approval of Site Approval No. PA-1700279 with the Findings (Attachment F), Williamson Act Principles of Compatibility (Attachment G), and Conditions of Approval (Attachment H) contained in the Staff Report.

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Attachment A **Site Plan and Vicinity Map**

This section of the Staff Report is available in the full version located on the CDD website at:

<https://www.sjgov.org/commdev/cgi-bin/cdyn.exe/file/APD%20Documents/PA-1700279/Planning%20Commission%20Staff%20Report.pdf#>



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Attachment B **Appeal of Staff Action**

This section of the Staff Report is available in the full version located on the CDD website at:

<https://www.sjgov.org/commdev/cgi-bin/cdyn.exe/file/APD%20Documents/PA-1700279/Planning%20Commission%20Staff%20Report.pdf#>



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Attachment C

Response to Appeal of Staff Action

This section of the Staff Report is available in the full version located on the CDD website at:

<https://www.sjgov.org/commdev/cgi-bin/cdyn.exe/file/APD%20Documents/PA-1700279/Planning%20Commission%20Staff%20Report.pdf#>



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Attachment D **Response Letters**

This section of the Staff Report is available in the full version located on the CDD website at:

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Attachment E **Environmental Review**

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Attachment F

Findings for Site Approval

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FINDINGS FOR SITE APPROVAL

PA-1700279

WILLIAM E. JR. & MARILYN VAN TASSEL / NORTH CENTRAL VALLEY ENERGY STORAGE, LLC

1. The proposed use is consistent with the goals, policies, standards, and maps of the General Plan, any applicable Master Plan, Specific Plan, and Special Purpose Plan, and any other applicable plan adopted by the County.
 - **This finding can be made because the Utility Services-Major use type may be conditionally permitted in the AG-40 (General Agriculture, 40-acre minimum) zone with an approved Site Approval application. The AG-40 zone implements the General Plan's A/G (General Agriculture) designation. The subject parcel has an A/G General Plan designation and is zoned AG-40. Therefore, the use is consistent with the goals, policies, standards, and maps of the General Plan. There are no Master Plans, Specific Plans, and/or Special Purpose Plans in the project vicinity.**
2. Adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, and the proposed improvements are properly related to existing and proposed roadways.
 - **This finding can be made because the 57.28-acre project site is of adequate size and shape to accommodate the proposed battery storage facility and all necessary improvements. The site plan shows that there is sufficient area for the project improvements, in compliance with Standards of the Development Title.**
3. The site is physically suitable for the type of development and for the intensity of development.
 - **This finding can be made because the parcel is of adequate size and shape to accommodate the proposed use and the requirements of the Development Title. The applicant has demonstrated that the proposed solar farm will be setback an adequate distance from any existing wetland or vernal pool areas. The site plan shows that there is sufficient area for the project improvements, in compliance with Standards of the Development Title.**
4. Issuance of the permit will not be significantly detrimental to the public health, safety, or welfare or be injurious to the property or improvements of adjacent properties.
 - **This finding can be made because the Initial Study prepared for this project found no potentially significant environmental impacts.**
5. The use is compatible with adjoining land uses.
 - **This finding can be made because the proposed uses will not interfere with nor alter the current land uses on adjacent properties. Surrounding properties are mainly agricultural with scattered residences. The nearest residence is on the adjacent parcel to the west and is approximately 0.25 miles west of the project site. The proposed use may be conditionally permitted in the AG-40 zone subject to an approved Site Approval application.**

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Attachment G

Williamson Act Principles of Compatibility

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WILLIAMSON ACT PRINCIPLES OF COMPATIBILITY

The proposed project site is currently under Williamson Act contract No. WA-73-C1-0220. The contract restricts development to uses that are compatible with the Williamson Act and Development Title Section 9-1805. "Compatible use" as defined in the Williamson Act includes uses determined by the County to be compatible with the agricultural, recreational, or open-space use of land within the preserve and subject to contract. (Government Code Section 51201[e]) (Development Title Section 9-1810.3[b])

1. The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.

- **The agricultural capacity of the project site is limited. According to the Department of Conservation's Farmland Mapping and Monitoring Program, the Project Site is not designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. However, land designated as Prime Farmland and Unique Farmland is located immediately to the south and west of the Project Site (DOC 2018). The land on the project site has been designated as NRCS Land Capability Class is IV. The BESS construction site, located on Assessor's Parcel Numbers (APNs) 093-100-24 and 093-100-20, is currently used for grazing. Nearby parcels located to the south, east, and west are used for crop production. Therefore, although the location of the Project Site is located in proximity to Prime Farmland and Unique Farmland, the Project would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to nonagricultural uses or significantly compromise the long-term productivity of such farmland. A California Land Evaluation and Site Assessment (LESA) analysis was conducted for the Project, which evaluates the quality of the agricultural resources on the Project Site based on a numerical rating system, including factors such as soil type, water availability, and surrounding agricultural land. The LESA analysis rates the site on a scale from 0-100. A score between 0-39 points is not considered a significant agricultural resource. The LESA analysis resulted in a numerical rating score of 38.75 for the Project Site; therefore, per the site-specific LESA analysis conducted for the Project, the Site is not considered a significant agricultural resource. Impacts to agricultural resources would be less than significant.**

In addition, there would be no permanent conversion of agricultural lands because the project can be decommissioned and the site once again used for grazing. Furthermore, a Utility Services-Major use type may be conditionally permitted for properties under a Williamson Act Contract pursuant to Development Title 9-1810.3(b)(1)(z), which indicates that under the County's implementation of the Williamson Act, the proposed project is not incompatible.

2. The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contacted parcels or parcels or neighboring lands, including activities such as harvesting, processing, or shipping.

- **No agricultural activity is taking place on the contracted parcels, so there is not displacement or impairment of current or reasonably foreseeable agricultural operations. Nonetheless, grazing activity could occur on the 42 acres of the 57-acre project site that would not include battery storage facilities. Due to the nature of battery storage – they do not produce noise, air emissions, or generate traffic – the project would have no impact on adjacent agricultural operations.**

3. The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use. In evaluating compatibility, a board or council shall consider the impacts on non-contracted lands in the agricultural preserve or preserves.
 - **As discussed in Item 2, the Project would have no effect on adjacent contracted, or non-contracted, agricultural or open-space lands. Also as discussed above, adjacent lands in agricultural production and under Williamson Act contracts were considered in the LESA model's score and conclusion that there would be no significant effects on adjacent agricultural lands.**



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Attachment H

Conditions of Approval

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CONDITIONS OF APPROVAL

PA-1700279

WILLIAM E. JR. & MARILYN VAN TASSEL / NORTH CENTRAL VALLEY ENERGY STORAGE, LLC

Site Approval Application No. PA-1700279 was approved by the Community Development Department on March 17, 2022. The effective date of approval is March 27, 2022. This approval will expire on September 26, 2023, which is 18 months from the effective date of approval, unless (1) all Conditions of Approval have been complied with, (2) all necessary building permits have been issued and remain in force, and (3) all necessary permits from other agencies have been issued and remain in force.

Unless otherwise specified, all Conditions of Approval and ordinance requirements shall be fulfilled prior to the establishment of the use and the issuance of any building permits. Those Conditions followed by a Section Number have been identified as ordinance requirements pertinent to this application. Ordinance requirements cannot be modified, and other ordinance requirements may apply.

1. COMMUNITY DEVELOPMENT DEPARTMENT (Contact: [209] 468-3121)

- a. **BUILDING PERMIT:** Submit an "APPLICATION-COMMERCIAL BUILDING PERMIT". The Site Plan required as a part of the building permit must be prepared by a registered civil engineer or licensed architect. This Plan must show drainage, driveway access details including gates, on-site parking, landscaping, signs, existing and proposed utility services, and grading (refer to the "SITE PLAN CHECK LIST" for details). A fee is required for the Site Plan review. (Development Title Section 9-884)
- b. **APPROVED USE:** This approval is for an unmanned 132 megawatt battery energy storage facility with 2 power poles and a 115 kV overhead gen-tie line utilizing approximately 14.85-acres of a 57.28-acre parcel as shown on site plan dated July 16, 2021. (Use Type: Utility Services - Major)

This approval includes the construction of:

- Battery storage containers totaling 45,000 square-feet
 - Inverters totaling 6,500 square-feet
 - One (1) 11,000-square-foot site substation.
- c. **CAPITAL FACILITY FEE:** This project may be subject to the Capital Facility Fee. If the Capital Facility Fee is applicable, the County shall collect the fees before the issuance of any building permits. (Development Title Section 9-1245.2)
 - d. **REMOVAL OF FACILITIES:** Freestanding structures, battery storage containers, and supporting equipment associated with the energy storage facility shall be removed by the provider of such facilities and the site restored to its pre-construction state if said facilities have not been operational or used for a period of 6 consecutive months. Removal and site restoration shall be completed within 90 days of the end of said 6 month period.
 - e. **PARKING:** Off-street parking shall be provided and comply with the following:
 1. A minimum of 2 parking spaces are required.
 2. Each parking stall shall be an unobstructed rectangle, minimum 9 feet wide and 20 feet long. (Development Title Section 9-1015.5[b])
 - f. **ACCESS AND CIRCULATION:** The following requirements apply and shall be shown on the Site Plan:
 1. Access driveways shall have a width of no less than 25 feet for two-way aisles and 16 feet for one-way aisles, except that in no case shall driveways designated as fire department access

be less than 20 feet wide. (Development Title Section 9-1015.5[h][1])

- g. **TRIBAL CULTURAL RESOURCES:** The project shall be subject to the following requirements:
1. The project applicant shall permit the Northern Valley Yokuts tribe, which has geographical and cultural connections to the project site, to a pre-excavation inspection of the project site.
 2. The project applicant shall permit the Northern Valley Yokuts tribe to perform spot inspections of the project site during the excavation process.
 3. If project construction encounters evidence of human burial or scattered human remains, the contractor shall immediately notify the County Coroner and the project applicant, which shall in turn notify the Yokuts tribal representative. The project applicant shall notify other federal and State agencies as required.
 4. If tribal cultural resources other than human remains and associated funerary objects are encountered, the project applicant shall be immediately notified of the find, and shall notify the Yokuts tribal representative.
- h. **WETLANDS:** Parallel to any wetland or vernal pool feature, a natural open space area for riparian habitat and waterway protection shall be maintained to provide nesting and foraging habitat and the protection of wetland or vernal pool feature quality. The minimum width of said open space shall be 100 feet, measured from the mean high water level of the natural bank or 50 feet back from the existing riparian habitat, whichever is greater

The mean high water level and the edge of the wetland or vernal pool feature shall be shown on the Site Plan. The open space buffer required above shall be shown on the Site Plan with the following note:

1. Pursuant to Section 9-1510.5 of the San Joaquin County Development Title, this area is designated as a natural open space for riparian habitat and waterway protection. No development shall be permitted in this space.

- i. **MITIGATION MONITORING AND REPORTING PLAN:** This project shall comply with the Mitigation Monitoring and Reporting Plan dated February 28, 2022.

2. DEPARTMENT OF PUBLIC WORKS (Contact: [209] 468-3000, see memo dated November 15, 2021)

- a. An encroachment permit shall be required for all work within road right-of-way. (Note: Driveway encroachment permits are for flatwork only - all vertical features, including but not limited to fences, walls, private light standards, rocks, landscaping, and cobbles are not allowed in the right-of-way.) (Development Title Sections 9-1145.4 and 9-1145.5).
- b. Prior to issuance of the occupancy permit, the driveway approach shall be improved in accordance with the requirements of San Joaquin County Improvement Standards Drawing No. R-17. (Development Title Section 9-1145.5).
- c. The owner shall execute an Irrevocable Offer to Dedicate Road to result in a 25-foot wide right-of-way from the centerline of Flood Road to the property line across the parcel's frontage. (A fee based on the current fee schedule is required for processing per Development Title Table 9-240.2 in addition to a copy of the Grant Deed and a legal description of the parcel to be offered for dedication.) (Development Title Section 9-1150.5).
- d. The Traffic Impact Mitigation Fee shall be required for application. The fee is due and payable at the time of building permit application. The fee shall be automatically adjusted July 1 of each year by the Engineering Construction Cost Index as published by the Engineering News Record. (Resolution R-00-433).

- e. The Regional Transportation Impact Fee shall be required for this application. The fee is due and payable at the time of building permit application. The fee will be based on the current schedule at the time of payment. (Resolution R-06-38).
 - f. A copy of the Final Site Plan shall be submitted prior to release of building permit.
 - g. The developer shall provide drainage facilities in accordance with the San Joaquin County Development Standards. Retention basins shall be fenced with 6-foot high chain link fence or equal when the maximum design depth is 18 inches or more. Required retention basin capacity shall be calculated and submitted along with a drainage plan for review and approval, prior to release of building permit. (Development Title Section 9-1135).
 - h. Applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB) and comply with the State "General Permit for Storm Water Discharges Associated with Construction Activity". The Waste Discharge Identification Number (WDID), issued by SWRCB, shall be submitted to Public Works for file. Contact the SWRCB at (916) 341-5537 for further information.
3. ENVIRONMENTAL HEALTH DEPARTMENT (Contact: [209] 468-3420, see memo dated November 18, 2021)
- a. Any geotechnical drilling shall be conducted under permit and inspection by The Environmental Health Department (San Joaquin County Development Title, Section 9-1115.3 and 9-1115.6).
 - b. Before any hazardous materials/waste can be stored or used onsite, the owner/operator must report the use or storage of these hazardous materials to the California Environmental Reporting System (GERS) at cers.calepa.ca.gov/ and comply with the laws and regulations for the programs listed below (based on quantity of hazardous material in some cases). The applicant may contact the Program Coordinator of the CUPA program, Melissa Nissim (209) 468-3168, with any questions.
 - 1. Any amount but not limited to the following hazardous waste; hazardous material spills, used oil, used oil filters, used oil-contaminated absorbent/debris, waste antifreeze, used batteries or other universal waste, etc. - Hazardous Waste Program (Health & Safety Code (HSC) Sections 25404 & 25180 et sec.).
 - 2. Onsite treatment of hazardous waste - Hazardous Waste Treatment Tiered Permitting Program (HSC Sections 25404 & 25200 et sec. & California Code of Regulations (CCR), Title 22, Section 67450.1 et sec.).
 - 3. Reportable quantities of hazardous materials-reportable quantities are 55 gallons or more of liquids, 500 pounds for solids, or 200 cubic feet for compressed gases, with some exceptions. Carbon dioxide is a regulated substance and is required to be reported as a hazardous material if storing 1,200 cubic feet (137 pounds) or more onsite in San Joaquin County - Hazardous Materials Business Plan Program (HSC Sections 25508 & 25500 et sec.).
 - 4. Any amount of hazardous material stored in an Underground Storage Tank- Underground Storage Tank Program (HSC Sections 25286 & 25280 et sec.).
 - A. If an underground storage tank (UST) system will be installed, a permit is required to be submitted to, and approved by, the San Joaquin County Environmental Health Department (EHD) before any UST installation work can begin.
 - B. Additionally, an EHD UST permit to operate is required once the approved UST system is installed.
 - 5. Storage of at least 11320 gallons of petroleum aboveground or any amount of petroleum stored below grade in a vault - Aboveground Petroleum Storage Program (HSC Sections 25270.6 & 25270 et sec.).

6. Spill Prevention, Countermeasures and Control (SPCC) Plan requirement.
7. Threshold quantities of regulated substances stored onsite - California Accidental Release Prevention (CalARP) Program (Title 19, Section 2735.4 & HSC Section 25531 et sec.).
 - A. Risk Management Plan requirement for covered processes
4. SAN JOAQUIN COUNCIL OF GOVERNMENTS (Contact: [209] 235-0600, see memo dated July 20, 2021)
 - a. This project is subject to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). This can be up to a 90-day process and it is recommended that the project applicant contact SJMSCP staff as early as possible. It is also recommended that the project applicant obtain an information package. Compliance with the SJMSCP shall be required prior to issuance of any grading or building permits.
5. SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT (Contact: [559] 230-5820, see memo dated December 9, 2021)
 - a. This project shall comply with District Rule 9510, and complete an AIA application prior to issuance of a building or grading permit.



Planning Commission Staff Report
Item # 2, May 19, 2022
Revision of Approved Action for Quarry Excavation No. PA-0500847
Prepared by: Corinne King

PROJECT SUMMARY

Applicant Information

Property Owner: Triangle Properties Inc
Project Applicant: DSS Company dba Knife River Construction

Project Site Information

Project Address: 34443 S Bird Road, Tracy
Project Location: The project site is on the southeast side of S. Bird Road, 1 mile south of State Route 132, southeast of Tracy

Parcel Number (APN):	253-270-26, 253-280-02, -03, -06, -07, 265-070-07, -08, 265-080-02, -04, 265-090-01, 265-110-01, -02, -07, -10, -11	Water Supply:	Private (Well)
General Plan Designation:	A/G, OS/RC	Sewage Disposal:	Private (Septic)
Zoning Designation:	AG-40	Storm Drainage:	Private (On-site)
Project Size:	790 acres	100-Year Flood:	No
Parcel Size:	1,071 acres	Williamson Act:	Portion
Community:	None	Supervisorial District:	5

Environmental Review Information

CEQA Determination: Addendum to the previously certified Final Environmental Impact Report No. PA-0600028 (SCH#2006022089). (Attachment D)

Project Description

This request is a Revisions of Approved Actions for an approved quarry operation. The applicant proposes to revise Condition of Approval No. 4 of San Joaquin Council of Governments (SJCOG) to be consistent with the mitigation measures contained in the Project’s Final Environmental Impact Report.

Two mitigation measures were included in the Project’s Final Environmental Impact Report (FEIR) to address possible impacts to special status species and habitat loss; Mitigation Measure MM 4.3-2 and identical Mitigation Measure MM 4.3-3.

Those measures provided for two alternative means for the Project to provide mitigation for those potentially significant impacts as follows:

- (a) Prior to site disturbance, the project proponent shall comply with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan ("SJMSCP") (including pre-construction special-status species surveys, and implementation of Incidental Take Minimization Measures) and pay appropriate mitigation fees as determined by the SJMSCP,

Or;

- (b) In carrying out the operations of the proposed project, the applicant shall not take any actions that would violate the provisions of the State or Federal Endangered Species Acts (ESAs) or any regulations promulgated pursuant thereto. Compliance with said laws shall be the sole responsibility of the applicant, and the applicant agrees to indemnify, defend and hold the County harmless from and against any claim or action by affected State or Federal agencies as to the project's compliance with said laws."

Recommendation

1. Adopt the Addendum to the previously certified Final Environmental Impact Report PA-0600028 based on the determination that the changes and/or additions to conform Condition of Approval No. 4 to the Final Environmental Impact Report (FEIR) are necessary and the following findings can be made:
 - a. The Revision of Approved Action (RAA) did not create substantial changes to the underlying project requiring major revisions to the FEIR because of new or substantially increased significant environmental effects;
 - b. There have been no substantial changes in circumstances requiring major revisions to the FEIR because of new or substantially increased significant environmental effects; and
 - c. There was no new, previously unknown or unknowable, information of substantial importance showing: (a) the RAA will result in the underlying having significant effects not discussed in the FEIR; (b) the RAA will result in substantially more severe significant effects than shown in the FEIR; (c) previously infeasible mitigation measures and project alternatives are now feasible and would substantially reduce significant environment effects; or (d) considerably different mitigation measures than analyzed in the FEIR would substantially reduce significant environmental effects.
2. Adopt the Finding for a Revision of Approved Actions pursuant to Development Title Section 9-878.4, which states that all the findings required for the discretionary application under consideration are true. (see Attachment E, Previously Approved Findings)
3. Approve the Revisions of Approved Actions for Quarry Excavation No. PA-0500847 approved quarry operation to revise Condition of Approval No. 4.

NOTIFICATION & RESPONSES

(See Attachment B, Response Letters)

Legal ad for the public hearing published in the Stockton Record: May 9, 2022.

Number of Public Hearing notices: 122

Date of Public Hearing notice mailing: May 6, 2022

Referrals and Responses

- **Early Consultation Date:** March 15, 2022

Agency Referrals	Response Date - Early Consultation
County Departments	
Supervisor District 4	
Ag Commissioner	
Animal Control	
Assessor	
Community Development	
Building Division	
Fire Prevention Bureau	
Code Enforcement	
Public Works	March 16, 2022
Environmental Health	March 24, 2022
Sheriff Office	
Resource Conservation	
State Agencies	
Dept. of Conservation	
Dept. of Transportation: 10	
CA N.A.H.C.	
C.H.P.	
C.R.W.Q.C.B.	
C.V.F.P.B.	
CA Fish & Wildlife, Division: 2	March 29, 2022
CA Dept. of Food and Agriculture	
CA Dept. of Recycle and Recovery	
CA Energy Commission	

Agency Referrals	Response Date - Early Consultation
Federal Agencies	
F.A.A.	
F.E.M.A.	April 7, 2022
Army Corps of Engineers	
Local Agencies	
Mosquito & Vector Control	
S.J.C.O.G.	March 24, 2022
San Joaquin Farm Bureau	
San Joaquin Air Pollution Control District	
Stockton East Water District	
Linden-Peters Fire District	
Linden Unified School District	
Miscellaneous	
A.T.&T.	
B.I.A.	
Builders Exchange	
Carpenters Union	
Haley Flying Services	
P.G.&E.	March 31, 2022
Precissi Flying Service	
Sierra Club	
Buena Vista Rancheria	
CA Tribal TANF	
CA Valley Miwok Tribe	
North Valley Yokuts Tribe	
United Auburn Indian Community	March 29, 2022
Public Utilities Commission	
Frontier Telephone	

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ANALYSIS

Background

The quarry site was originally approved to mine and reclaim approximately 790 acres of Portland cement concrete (PCC) quality aggregate reserves of the approximately 1,071-acre project site. The mining was approved to occur in 4 phases over a 40-year period. An Environmental Impact Report (PA-0600028) was prepared and on September 6, 2007, the Planning Commission certified the Final EIR (FEIR) and approved the Quarry Excavation permit subject to conditions of approval. Phase I of the excavation was completed by Teichert Aggregates, and the additional phases are expected to be completed by Knife River Construction (KRC).

Certification of EIR & Conditions of Approval

In order to certify the FEIR, the Commission determined that the FEIR document was adequate pursuant to Section 15151 of the CEQA Guidelines which states that an EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences.

Here, the FEIR certified by the Commission included two mitigation measures to address potentially significant impacts to special status species and habitat loss; Mitigation Measure MM 4.3-2 and identical Mitigation Measure MM 4.3-3. Those measures provided for two alternative means for the Project to provide mitigation for those potentially significant impacts as follows:

“(a) Prior to site disturbance, the project proponent shall comply with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (“SJMSCP”) (including pre-construction special-status species surveys, and implementation of Incidental Take Minimization Measures) and pay appropriate mitigation fees as determined by the SJMSCP,

Or;

(b) In carrying out the operations of the proposed project, the applicant shall not take any actions that would violate the provisions of the State or Federal ESAs or any regulations promulgated pursuant thereto. Compliance with said laws shall be the sole responsibility of the applicant, and the applicant agrees to indemnify, defend and hold the County harmless from and against any claim or action by affected State or Federal agencies as to the project's compliance with said laws.”

As shown, FEIR Mitigation Measure 4.3-2 and 4.3-3 expressly provided for two alternative means of mitigating possible impacts on special status species and potential habitat. Those mitigation measures should have been included in the conditions of approval exactly as written. However, due to an unintentional oversight, Condition of Approval No. 4 relating to special status species and habitat loss, did not specifically match the language in the FEIR. Condition of Approval No. 4 inadvertently removes the “or” included in the FEIR, thereby removing a means of mitigating any possible impacts. This Revision of Approved Actions applications seeks to remedy this oversight.

California Department of Fish & Wildlife (CDFW)

The Revision of Approved Actions (RAA) request was referred out to agencies identified in the “NOTIFICATION & RESPONSES” section (pages 3 and 4) of this document. One of the responses received was from CDFW. CDFW’s comments opposing the RAA essentially hinge on the incorrect premise that the FEIR Sections 4.3-2 and 3 found that the project would result in a significant impacts to special status species and habitat loss if the project did not participate and “comply” with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). In fact, the FEIR found that so long as the project complied with Mitigation Measures 4.3-2 and 4.3-2 then there would be no potentially significant impacts to special status species and habitat. Those mitigation measures allowed for *either* participation in the SJMSCP *or* compliance with the “State or Federal ESAs or any regulation promulgated pursuant thereto.” The RAA would align Condition of Approval No. 4 with the FEIR in allowing either method of mitigation to avoid any potentially significant impacts to special status species and habitat. For more detail

regarding the CDFW comments please see the response letter prepared by Rutan Tucker on behalf of applicant Knife River Construction and accompanying letter from Diane Moore, M.S., Moore Biological Consultants (See Attachment B).

RECOMMENDATION

It is recommended that the Planning Commission:

1. Adopt the Addendum to the previously certified Final Environmental Impact Report PA-0600028 based on the determination that the changes and/or additions to conform Condition of Approval No. 4 to the Final Environmental Impact Report (FEIR) are necessary and the following findings can be made:
 - a. The Revision of Approved Action (RAA) did not create substantial changes to the underlying project requiring major revisions to the FEIR because of new or substantially increased significant environmental effects;
 - b. There have been no substantial changes in circumstances requiring major revisions to the FEIR because of new or substantially increased significant environmental effects; and
 - c. There was no new, previously unknown or unknowable, information of substantial importance showing: (a) the RAA will result in the underlying having significant effects not discussed in the FEIR; (b) the RAA will result in substantially more severe significant effects than shown in the FEIR; (c) previously infeasible mitigation measures and project alternatives are now feasible and would substantially reduce significant environment effects; or (d) considerably different mitigation measures than analyzed in the FEIR would substantially reduce significant environmental effects.
2. Adopt the Finding for a Revision of Approved Actions pursuant to Development Title Section 9-878.4, which states that all the findings required for the discretionary application under consideration are true. (see Attachment E, Previously Approved Findings)
3. Approve the Revisions of Approved Actions for Quarry Excavation No. PA-0500847 approved quarry operation to revise Condition of Approval No. 4.

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SAN JOAQUIN
— COUNTY —
Greatness grows here.

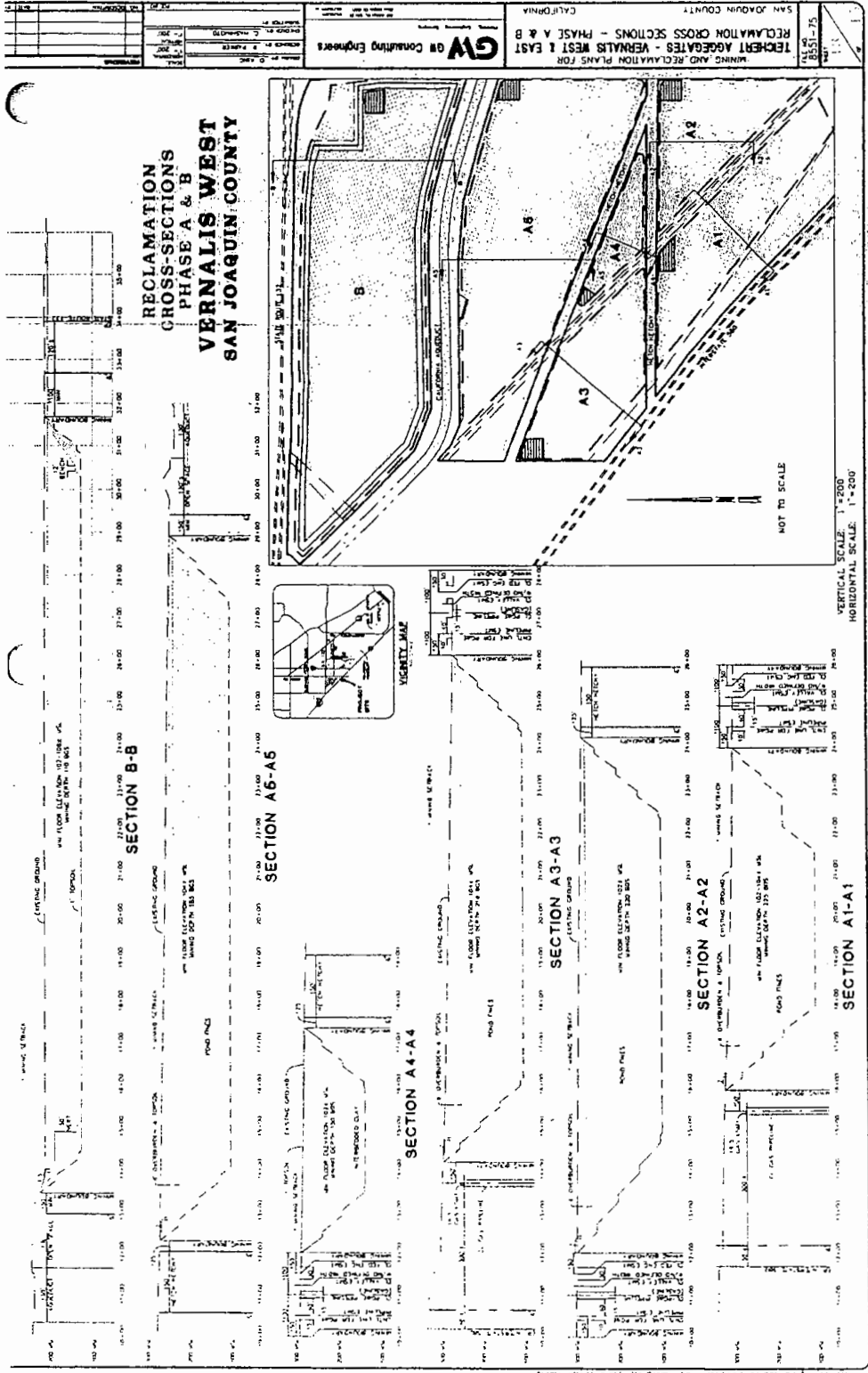
Community Development Department

Planning · Building · Code Enforcement · Fire Prevention · GIS

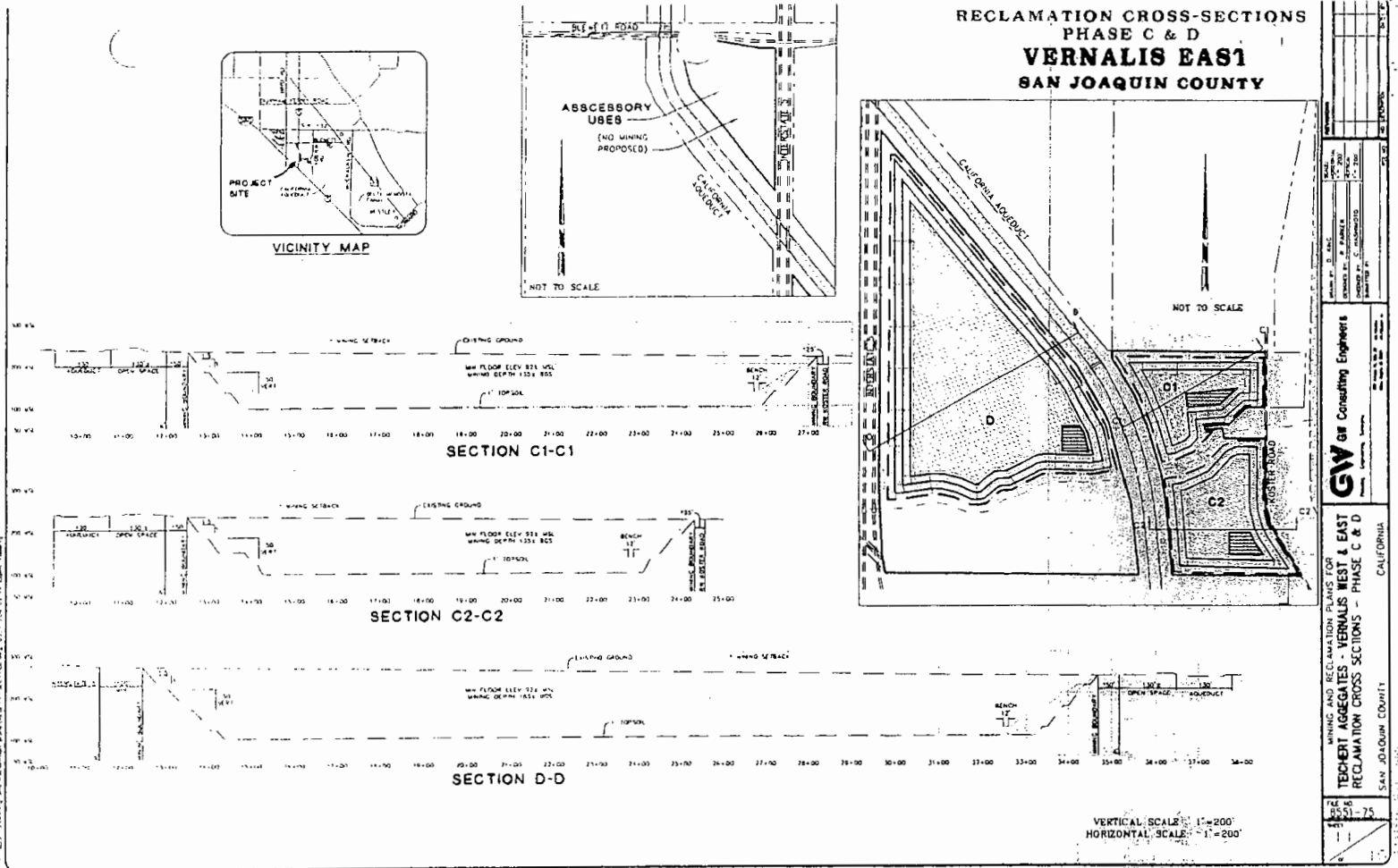
Attachment A

Site Plan and Vicinity Map

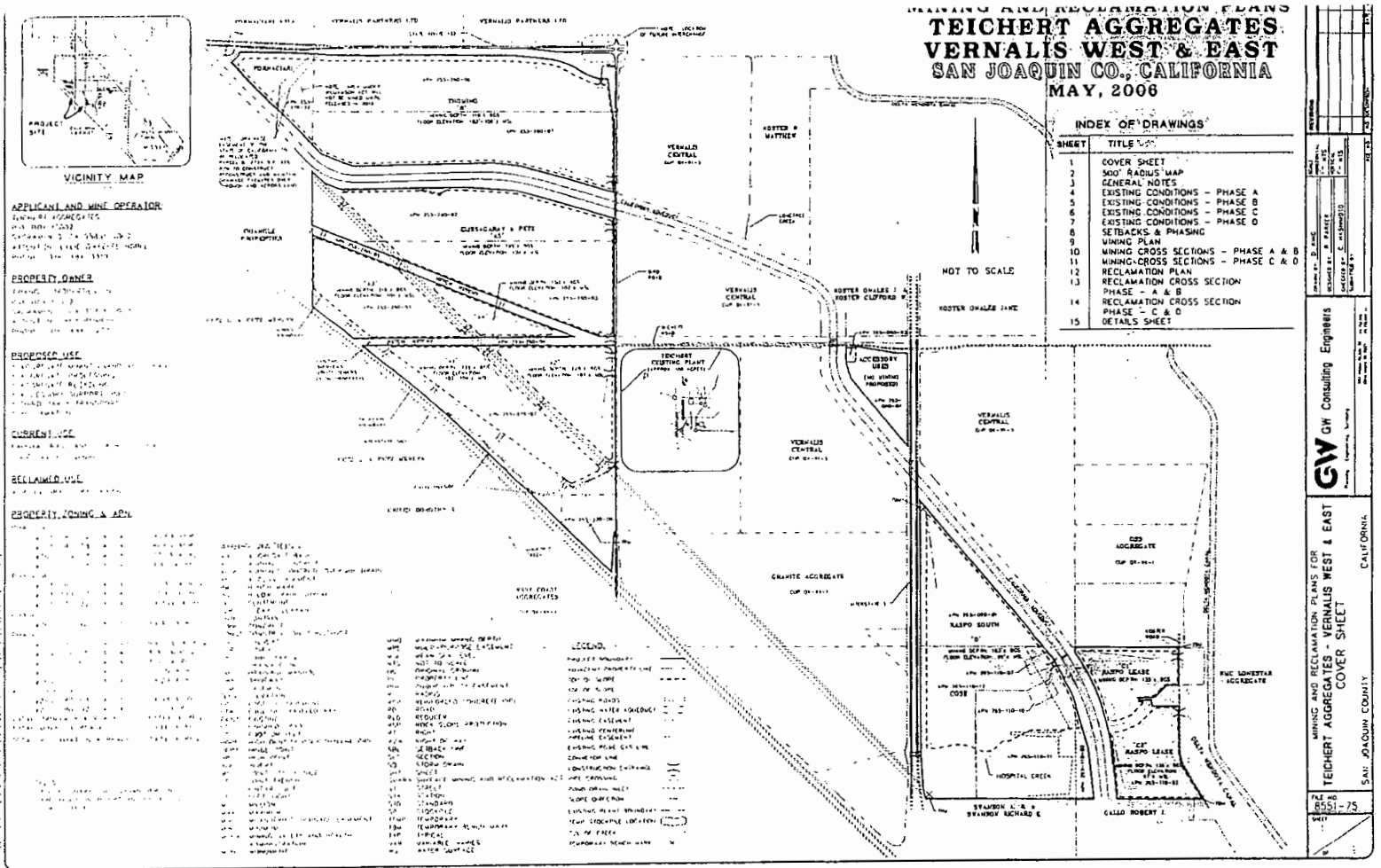
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Revised SITE PLAN
 PA-0500847
 Application #
 Received By ADS On 8/16/04



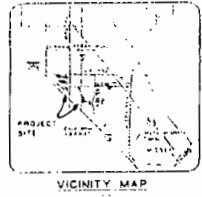
REVISED SITE PLAN
 Application # PA-0500847
 Received By KDS On 5/16/06



**MINING AND RECLAMATION PLANS
 TEICHERT AGGREGATES
 VERNALIS WEST & EAST
 SAN JOAQUIN CO., CALIFORNIA
 MAY, 2006**

INDEX OF DRAWINGS

SHEET	TITLE
1	COVER SHEET
2	500' RADIUS MAP
3	GENERAL NOTES
4	EXISTING CONDITIONS - PHASE A
5	EXISTING CONDITIONS - PHASE B
6	EXISTING CONDITIONS - PHASE C
7	EXISTING CONDITIONS - PHASE D
8	SEIBACKS & PHASING
9	MINING PLAN
10	MINING CROSS SECTIONS - PHASE A & B
11	MINING CROSS SECTIONS - PHASE C & D
12	RECLAMATION PLAN
13	RECLAMATION CROSS SECTION
14	PHASE - A & B RECLAMATION CROSS SECTION PHASE - C & D
15	DETAILS SHEET



APPLICANT AND MINE OPERATOR
 TEICHERT AGGREGATES
 10000 N. 10TH ST.
 VERNALIS, CA 95230

PROPERTY OWNER
 VERNALIS PARTNERS LTD.
 10000 N. 10TH ST.
 VERNALIS, CA 95230

PROPOSED USE
 GRANITE AGGREGATE
 VERNALIS CENTRAL AGGREGATE
 GRANITE AGGREGATE

CURRENT USE
 AGRICULTURE

RECLAIMED USE
 AGRICULTURE

PROPERTY ADDRESS & ADJ.

LEGEND

100	PROJECT BOUNDARY
101	EXISTING BOUNDARY
102	PROPOSED BOUNDARY
103	EXISTING ROAD
104	PROPOSED ROAD
105	EXISTING WATER COURSE
106	PROPOSED WATER COURSE
107	EXISTING SEIBACK
108	PROPOSED SEIBACK
109	EXISTING PILE CAP
110	PROPOSED PILE CAP
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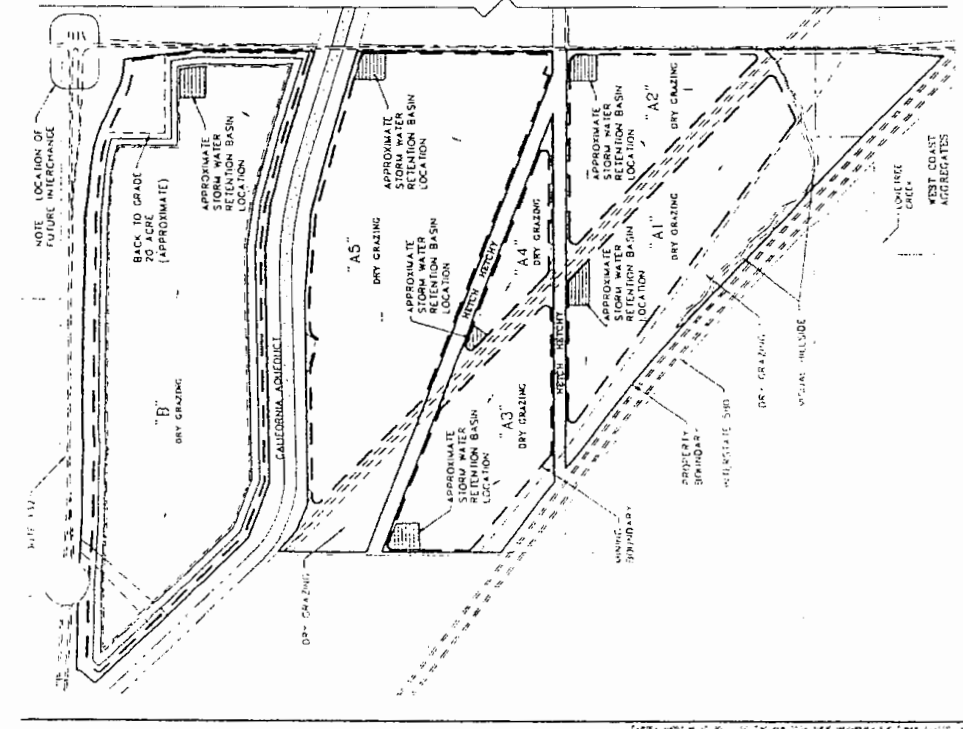
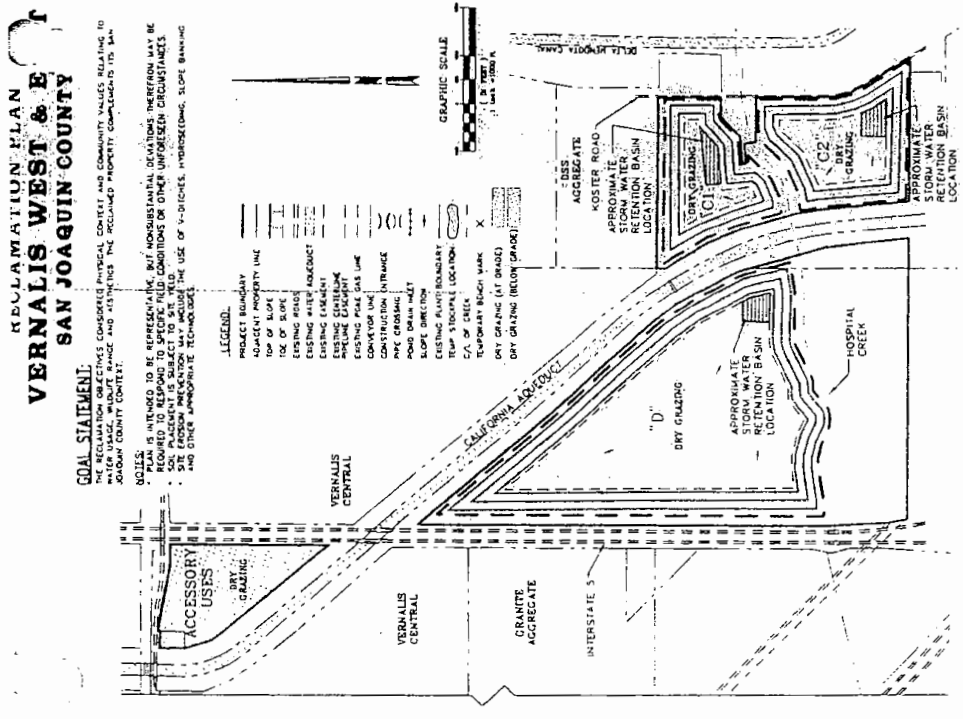
Revised **SITE PLAN**
 Application # **PA-0500847**
 Received By KDS On 8/16/06

MINING AND RECLAMATION PLANS FOR
 TEICHERT AGGREGATES - VERNALIS WEST & EAST
 COVER SHEET

DATE: 05/16/06
 DRAWN BY: KDS
 CHECKED BY: J. W. WILSON
 SCALE: AS SHOWN

GW Consulting Engineers
 1000 N. G ST.
 SUITE 100
 STOCKTON, CA 95210
 TEL: 209/551-7500
 FAX: 209/551-7501
 WWW.GWENGINEERS.COM

SAN JOAQUIN COUNTY CALIFORNIA

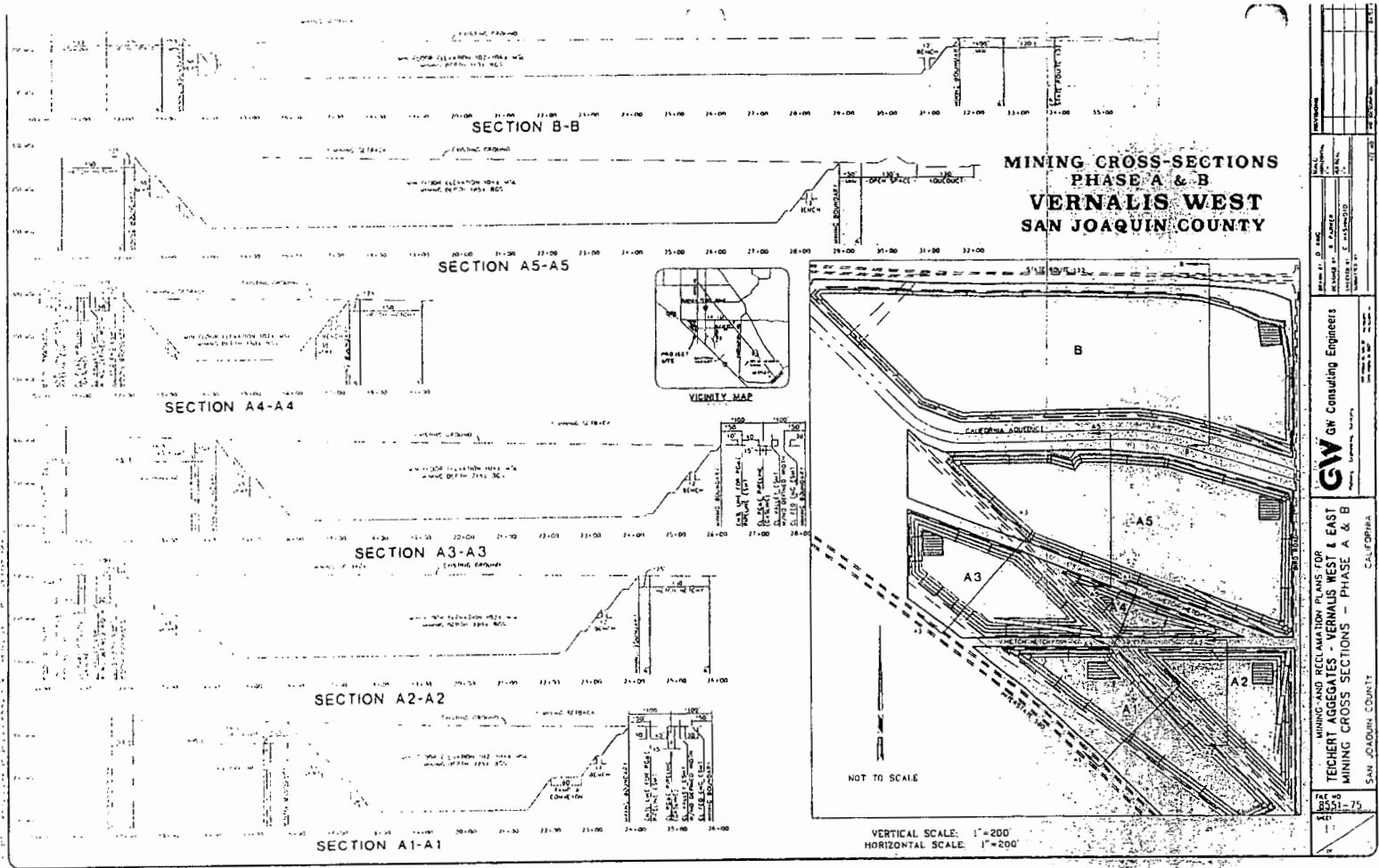


RECLAMATION PLAN
VERNALIS WEST & EAST
SAN JOAQUIN COUNTY

GOAL STATEMENT:
 THIS PLAN IS TO BE APPROVED BY THE BOARD OF SUPERVISORS OF SAN JOAQUIN COUNTY, CALIFORNIA. THE PLAN IS SUBJECT TO THE USE OF THE LATEST AVAILABLE TECHNOLOGY AND OTHER APPROPRIATE TECHNOLOGIES.

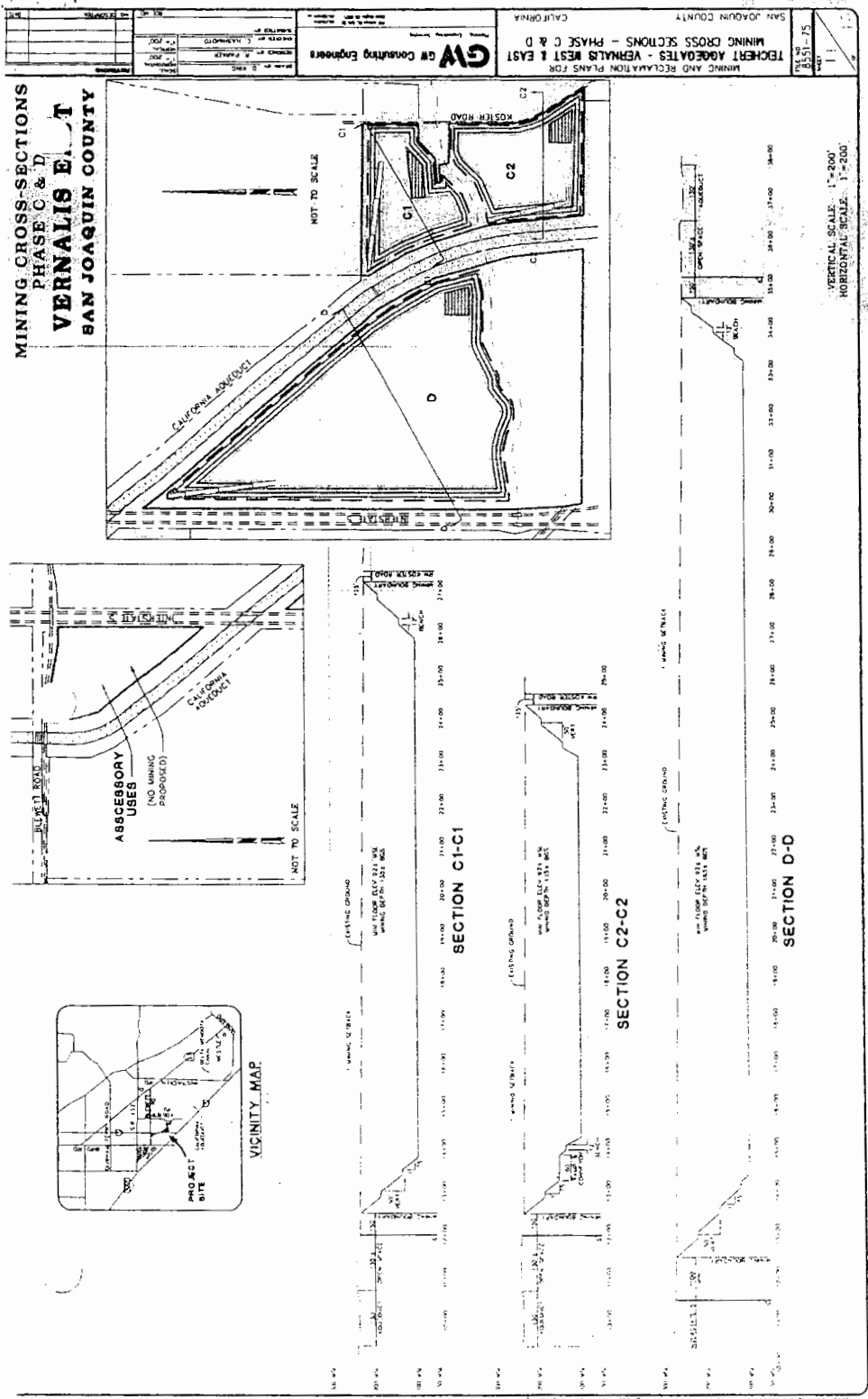
NOTES:
 1. THIS PLAN IS TO BE APPROVED BY THE BOARD OF SUPERVISORS OF SAN JOAQUIN COUNTY, CALIFORNIA. THE PLAN IS SUBJECT TO THE USE OF THE LATEST AVAILABLE TECHNOLOGY AND OTHER APPROPRIATE TECHNOLOGIES.

Revised SITE PLAN
 Application # PA-0500847
 Received By JCS On 8/16/06



PROJECT NO.	PA-0500847
DATE	6/16/00
DRAWN BY	E. J. JENSEN
CHECKED BY	S. J. PARRIS
DATE	6/16/00
SCALE	AS SHOWN
MINING AND RECLAMATION PLANS FOR TECHERT AGGREGATES - VERNALIS WEST & EAST MINING CROSS-SECTIONS - PHASE A & B	
GW Consulting Engineers 1000 N. G Street Stockton, CA 95210 (209) 251-1100	
SAN JOAQUIN COUNTY, CALIFORNIA	

Revised **SITE PLAN**
 Application # **PA-0500847**
 Received By KDS On 6/16/00



Revised SITE PLAN
 Application # **PA-0500847**
 Received By KDS On 8/6/06



Attachment B

Response Letters

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Sanfilippo, Giuseppe [CDD]

From: Battaglia, Michelle@Wildlife <Michelle.Battaglia@wildlife.ca.gov>
Sent: Tuesday, March 29, 2022 2:54 PM
To: Asio, Allen [CDD]; Clayton, Jay [CDD]; Niemeyer, Jeff [CDD]; Butler, Steve [CDD]; Heylin, Christopher [PW]; Guerrero, Delia [PW]; ehlanduse [EHD]; Tyrrell, Scott [BOS]; ceqa@valleyair.org; Laurel Boyd; Wildlife R2 CEQA; pgeplanreview@pge.com; ivan@bvtribe.com; mescobedo@cttp.net; bruceb@sjfb.org; staff@sjfb.org; michael@lozeaudrury.com; Hannah@lozeaudrury.com; Sophie@lozeaudrury.com; Sanfilippo, Giuseppe [CDD]; Wilson, Billie@Wildlife
Cc: Sanfilippo, Giuseppe [CDD]; Farinha, Melissa@Wildlife; matthew_nelson@fws.gov; patricia_cole@fws.gov
Subject: CDFW Comments RE: PA-0500847 - Quarry Excavation, Revision of Approved Action

CAUTION: This email is originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon:

Given the short review deadline of today we wanted to at least provide this email as an overview of our concerns instead of providing detailed comments tomorrow. CDFW is available to meet with the County to provide any needed clarity, details or specific guidance. CDFW has the following concerns regarding the addition of the following language to the proposed revision to Condition of Approval 4 which states:

OR

(b) In carrying out the operations of the proposed project, the applicant shall not take any actions that would violate the provisions of the State or Federal ESAs or any regulations promulgated pursuant thereto. Compliance with said laws shall be the sole responsibility of the applicant, and the applicant agrees to indemnify, defend and hold the County harmless from and against any claim or action by affected State or Federal agencies as to the project's compliance with said laws.

- 1) The FEIR, section 4.3-3 recognized that the project would result in a significant impact and that IF the project did not comply with the SJMSCP a potentially-significant impact regarding the cumulative loss of habitat would occur. With the proposed revision, the EIR would need to be revised to re-analyze and re-evaluate the findings for this impact that should then be revised and circulated for public and responsible/trustee agency comment.
- 2) It is not clear how the County as the CEQA Lead Agency will ensure impacts associated with permanent or temporary loss of special status species' habitats will be mitigated to a level of less than significant under the proposed revision.
- 3) The project is within a critical San Joaquin kit fox movement corridor and it is not clear by what means the County as Lead Agency will ensure that the project's potentially significant impact to the corridor will be avoided, minimized and mitigated to a level of less than significant under the proposed revision.
- 4) The proposed revision lacks enforceable language. Specifically, it does not provide any means for the County to hold the project proponent accountable, and lacks assurances that the significant biological impacts identified in the EIR, namely those to wildlife movement corridors and temporary or permanent loss of special status species habitats, would be mitigated to a level of less than significant.
- 5) There is a lack of description of any specific assurances or means for accountability that the County, as the Lead Agency, would require of the project proponent to ensure avoidance or verification that no take or injury to

special status species, including ones for which an incidental take permit is required under the California Endangered Species Act or the federal Endangered Species Acts. If the County approves the application then the County should require the project to have a qualified biologist on site during all project activities reporting to the County on a weekly or monthly basis to document their observations on any special status species sightings and all instances of handling, injury or mortality of fish or wildlife species and require the project to obtain take permits from USFWS and CDFW.

- 6) The proposed revision does not comply and goes against the policies and objectives of the San Joaquin County General Plan, Chapter VI.G (Vegetation, Fish, and Wildlife Habitat) that are applicable to the project.
- 7) The project proponent has already elected to participate in the San Joaquin County Multi-species Conservation Plan, and should be required to continue to participate. Changing course as an afterthought midway through project construction is setting a poor precedent for all projects currently underway, and for future proposed projects in the County.

Please feel free to contact us with any questions.

Sincerely,

Michelle Battaglia
Senior Environmental Scientist (Supervisor)
Delta Habitat Conservation Unit
CA Dept of Fish and Wildlife
707-339-6052 (cell/text)

April 7, 2022

VIA EMail [jjolley@sigov.org]

Jennifer Jolley
Deputy Director of Planning
COUNTY OF SAN JOAQUIN
1810 East Hazelton Avenue
Stockton, CA 95205

Re: Knife River Construction

**Improvement Plan Application ["Raspo Expansion"] –
Revision of text in prior condition of approval
PA-0500847 (QX) Proposed RA**

Responses to Comments from the California Department of Fish & Wildlife

Dear Ms. Jolley:

On behalf of Knife River Construction, the applicant for the above-described revision of project conditions, we sincerely appreciate this opportunity to provide responses, and some corrections, to the set of emailed comments on our application that your department recently received from a member of the staff at the California Department of Fish & Wildlife ("CDFW").

Please note that our responses refer to and include the detailed responses and technical biological information in the accompanying letter from Diane Moore, M.S., Moore Biological Consultants ("MBC").

Background and Context:

This application simply requests a Revision of Approved Actions (SJC Development Code, Title 9-878) in connection with the current phase of this quarry excavation project, in order to properly conform the text of one of the conditions of approval ("Condition no. 4") so that it is consistent with the relevant mitigation measures as approved by the County in the certified 2007 Final Environmental Impact Report ("FEIR") for the project. Those County-approved mitigation measures included Mitigation Measure 4.3-2 (and identical MM 4.3-3), which expressly provided for two alternative means of mitigating possible impacts on special status species and potential habitat, i.e., either (a) participation in the voluntary San Joaquin County Multi-Species Habitat Conservation and Open Space Plan ["SJMSCP"]; or (b) commitment to comply with applicable provisions of the state or federal Endangered Species Acts, and to indemnify the County against any claim of violation.

2644/037221-0001
1769966.2 a04/19/22

Jennifer Jolley
April 7, 2022
Page 2

Approval of this application would provide for the conditions of approval to accurately mirror those two alternative Mitigation Measures as approved by the County in the certified FEIR.

We respectfully preface our responses to the CDFW comments by pointing out that they fail to acknowledge the legal significance of the County having properly certified the FEIR back in 2007 – and the absence of any timely legal challenge to the adequacy of that FEIR. The certified FEIR is thus deemed to be final and conclusive as to its environmental conclusions and the propriety of the alternative Mitigation Measures as stated in the FEIR. (Public Resources Code § 21166; CEQA Guidelines § 15162, § 15168.)

Many of the CDFW comments appear to be untimely attempts to re-write or un-do those Mitigation Measures (MM 4.3-2 and MM 4.3-3) as previously certified by the County, which properly and lawfully provide for two (2) alternative means of mitigation. It is therefore not timely or appropriate for any commenters to now suggest that participation in the SJMSCP should be the only environmentally-permissible mitigation measure.

The California courts repeatedly emphasize that the California Environmental Quality Act (“CEQA”) “accords a reasonable measure of finality and certainty to the results achieved [by a certified EIR]. At this point, the interests of finality are favored over the policy of favoring public comment, and the rule applies even if the initial review is discovered to have been inaccurate and misleading in the description of a significant effect or the severity of its consequences. (*Laurel Heights Improvement Assn. v. Regents of University of California, supra*, 6 Cal.4th at p. 1130.)” (*Friends of Davis v. City of Davis* (2000) 83 Cal.App.4th 1004, 1017–1018.)

It would be inappropriate for any commenter to now urge the County to, in effect, violate CEQA by disregarding the certified FEIR so as to “cancel” the previously-approved alternative mitigation measures it provides. (Cf., *Katzeff v. Department of Forestry & Fire Protection* (2010) 181 Cal. App. 4th 601, 614 [lead agency may not cancel an adopted mitigation measure “without reviewing the continuing need for the mitigation, stating a reason for its actions, and supporting it with substantial evidence.”].)

Responses to CDFW Comments:

We respectfully submit the following responses to the comments in the email from CDFW staff to the County, dated March 29, 2022.

Comment (1):

“The FEIR, section 4.3-3 recognized that the project would result in a significant impact and that IF the project did not comply with the SJMSCP a potentially-significant impact regarding the cumulative loss of habitat would occur. With the proposed revision, the EIR would need to be revised to re-analyze and re-evaluate the findings for this impact that should then be revised and circulated for public and responsible/trustee agency comment.”

2644/037221-0001
17699966.2 a04/19/22

Jennifer Jolley
April 7, 2022
Page 3

Response:

The comment misstates FEIR section 4.3-3, addressing potential “cumulative loss of habitat.” FEIR section 4.3-3 actually points out that the County General Plan designates the site for aggregate extraction, and further points out that due to the requirements for restoration and reclamation of the site as annual grasslands following the completion of mining activities, “disturbances to on-site habitat would not be permanent.”

The comment does accurately quote part of FEIR section 4.3-3, i.e., “should the project not comply with the SJMSCP a potentially-significant impact regarding the cumulative loss of habitat would occur.” But the comment fails to recognize that section 4.3-3 goes on to conclude that the impact would be reduced “to a less-than-significant” level by implementation of MM 4.3-2” – i.e., by either of the two alternative means of mitigation stated in MM 4.3-2. FEIR section 4.3-3 does not require participation in the SJMSCP as the only form of mitigation.

There is no textual or evidentiary basis for this comment’s suggestion that the certified FEIR would need to be revised, because this application would not change the previously-approved alternative mitigation measures in the certified FEIR – to the contrary, it would merely conform the project conditions to the certified FEIR.

Comment (2):

“It is not clear how the County as the CEQA Lead Agency will ensure impacts associated with permanent or temporary loss of special status species’ habitats will be mitigated to a level of less than significant under the proposed revision.”

Response:

First, this comment erroneously assumes that there is any evidence anywhere in the record indicating that there would be some “permanent or temporary loss of habitat” as a result of the approved project. To the contrary, the accompanying letter from MBC confirms the absence of suitable sensitive species habitat at this site.

Second, the certified FEIR (section 4.3-1) did not identify any such permanent or temporary loss of sensitive habitats. Even as to the two creek corridors crossing the site, section 4.3-1 of the FEIR explained that due to incorporation of 100-foot setbacks from the creek alignments, the project “would result in a *less-than-significant*” impact, and that *no mitigation* is required as to potential impacts on sensitive habitats. Moreover, as for possible “cumulative” loss of habitat, FEIR section 4.3-3 expressly explains that there will not be any “permanent” disturbances or cumulative loss of habitat due to the project, because of the requirements for site restoration to annual grasslands.

Jennifer Jolley
April 7, 2022
Page 4

Third, the certified FEIR concluded that implementation of either of the two alternative mitigation measures of MM 4.3-2 will effectively reduce any potential impacts as to cumulative loss of habitat to “*less-than-significant*” level. There is no reason to change that conclusion.

Comment (3):

“The project is within a critical San Joaquin kit fox movement corridor and it is not clear by what means the County as Lead Agency will ensure that the project’s potentially significant impact to the corridor will be avoided, minimized and mitigated to a level of less than significant under the proposed revision.”

Response:

First, this comment is based on unfounded and erroneous assumptions regarding the speculative use of the site as a kit fox ‘movement corridor.’ However, nothing in the certified FEIR supports those assumptions, and the FEIR made no such findings regarding the site being within an actual kit fox movement corridor. The certified FEIR did not call for any particular mitigation measures to address concerns regarding kit fox movement corridors, other than the two alternative measures in MM 4.3-2, and MM 4.3-3.

Second, the accompanying letter from MBC specifically refutes the assumptions regarding the possible presence of kit fox underlying this comment, and points out that the California Aqueduct poses a major impediment to even considering this site as part of such a ‘corridor.’

Third, the certified FEIR concluded that implementation of either of the two alternative mitigation measures of MM 4.3-2 will effectively reduce any potential impacts as to sensitive species or habitat to “*less-than-significant*” level. There is no reason to change that conclusion.

Comment (4):

“The proposed revision lacks enforceable language. Specifically, it does not provide any means for the County to hold the project proponent accountable, and lacks assurances that the significant biological impacts identified in the EIR, namely those to wildlife movement corridors and temporary or permanent loss of special status species habitats, would be mitigated to a level of less than significant.”

Response:

First, this comment is based on the unfounded and erroneous assumption that the FEIR identified any “significant biological impacts ..., namely those to wildlife movement corridors and

Jennifer Jolley
April 7, 2022
Page 5

temporary or permanent loss of special status species habitats,” that called for any mitigation other than the two alternative measures in MM 4.3-2, and MM 4.3-3 in the certified FEIR.

Second, the proposed revision simply continues the same language as used in those two alternative mitigation measures, and is therefore just as “enforceable” as the language has been since the FEIR was certified in 2007.

Third, it is well established under CEQA that mitigation measures, such as MM 4.3-2, and 4.3-3, [calling for compliance with the provisions of the state and federal statutes and regulations] is an appropriate and enforceable mitigation measure. (CEQA Guidelines, §15126.4(a)(1)(B).) See also, e.g., *King & Gardiner Farms, LLC v County of Kern* (2020) 45 CA5th 814, 860; *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236 [“A condition requiring compliance with environmental regulations is a common and reasonable mitigation measure.”];

Comment (5):

“There is a lack of description of any specific assurances or means for accountability that the County, as the Lead Agency, would require of the project proponent to ensure avoidance or verification that no take or injury to special status species, including ones for which an incidental take permit is required under the California Endangered Species Act or the federal Endangered Species Acts. If the County approves the application then the County should require the project to have a qualified biologist on site during all project activities reporting to the County on a weekly or monthly basis to document their observations on any special status species sightings and all instances of handling, injury or mortality of fish or wildlife species and require the project to obtain take permits from USFWS and CDFW.”

Response:

First, this comment disregards well-established CEQA law. As noted above, mitigation measures, such as MM 4.3-2 and 4.3-3, calling for compliance with the provisions of the state and federal statutes and regulations, are clearly appropriate and enforceable mitigation measures. CEQA Guidelines, 15126.4(a)(1)(B).)

A requirement that a project comply with specific laws or regulations may also serve as adequate mitigation of environmental impacts in an appropriate situation....A long line of cases have upheld compliance with regulatory standards as adequate mitigation. (*King & Gardiner Farms, LLC v County of Kern* (2020) 45 CA5th 814, 860 (compliance with applicable standards for treatment of water for agricultural use); *Center for Biological Diversity v Department of Fish & Wildlife* (2015) 234 CA4th 214, 245, ...etc) (Kostka & Zischke, PRACTICE UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT [CEB. 2d ed., March 2021 Update] Sec. 14.15.)

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Jennifer Jolley
April 7, 2022
Page 6

See also, *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236 [“A condition requiring compliance with environmental regulations is a common and reasonable mitigating measure.”]; *Oakland Heritage Alliance v City of Oakland* (2011) 195 Cal.App.4th 884, 906 [same; court upheld the city’s reliance on standards in the building code and city building ordinances to mitigate seismic impacts of project].

Second, the proposed revision simply continues the same language as used in those two alternative mitigation measures, and is therefore just as “enforceable” as the language has been since the FEIR was certified in 2007.

Comment (6):

“The proposed revision does not comply and goes against the policies and objectives of the San Joaquin County General Plan, Chapter VI.G (Vegetation, Fish, and Wildlife Habitat) that are applicable to the project.”

Response:

This comment does not accurately reflect the County General Plan, and disregards the County’s previous determinations that the project is consistent with the General Plan. The County conducted a comprehensive study of the project including the subject property back in 2007, culminating in the certification of the FEIR. The certified FEIR section 4.3-3 pointed out that the County’s General Plan specifically designates the property for use for aggregate extraction, and that the project site will be reclaimed as annual grasslands following the completion of mining operations, and therefore any disturbances to habitat would not be permanent.

Similarly, the SJMSCP itself acknowledges that “many of the habitat changes resulting from aggregate mining activities are mitigated through reclamation as required by state law, ...” As the Court of Appeal recently explained in *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal. App. 5th 814, 876: “This mitigation measure for the reclamation of mined land is similar to the mitigation measure that provides for the restoration of agricultural land. Such measures ‘[c]ompensat[e] for the impact by replacing or providing substitute resources or environments.’ (Guidelines, § 15370, subd. (e).)” – and therefore provide effective mitigation.

Comment (7):

“The project proponent has already elected to participate in the San Joaquin County Multi-species Conservation Plan, and should be required to continue to participate. Changing course as an afterthought midway through project construction is setting a poor precedent for all projects currently underway, and for future proposed projects in the County.”

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Jennifer Jolley
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Response:

First, this comment errs by stating that “the project proponent” has already elected to participate in the SJMSCP. The proponent for this project is Knife River Construction – which has not elected to participate in SJMSCP.

Second, this comment is not a “biological” or “environmental” comment – it is a legal and “policy” issue for the County to consider independently.


Third, if the County had not already determined that it may be desirable, appropriate, or necessary to consider revisions to existing conditions of approval, as in this case, then there would be no purpose in providing for such revisions in SJC Development Code, Title 9-878.

* * * * *

Accordingly, we respectfully submit that the recent CDFW comments do not raise valid or meritorious objections to this application. On behalf of Knife River Corporation, we respectfully request that the County continue to expeditiously process this application, and favorably consider the minor revision to the text of the condition of approval in order to bring it into conformity with the Mitigation Measures 4.3-2 and 4.3-3 in the Final EIR as certified by the County in 2007.

Please contact me if you would like to discuss any of these matters in further detail. Thank you for your consideration.

RUTAN & TUCKER, LLP


David P. Lanferman

DPL

Cc: J.Mark Myles, San Joaquin County Counsel
Zoey Merrill, Deputy County Counsel
David Kwong, Director, San Joaquin County Comm Dev. Dept.
Thomas H. Terpstra, Law Offices of Thomas H. Terpstra
Greg Silva, Steve Azevedo, Knife River Corporation
Diane Moore, M.S., Moore Biological Consultants

MOORE BIOLOGICAL CONSULTANTS

April 7, 2022

Mr. Steve Azevedo
Knife River Construction
P.O. Box 6099
Stockton, CA 95206-0099

Subject: "KRC RASPO EXPANSION SITE", SAN JOAQUIN COUNTY,
CALIFORNIA: RESPONSES TO CDFW COMMENTS

Dear Steve:

Thank you for asking Moore Biological Consultants to further assist at the "KRC Raspo Expansion" site in San Joaquin County, California. I am very familiar with the biological attributes of the site and region through my biological surveys at the site and decades of experience throughout San Joaquin County. As you are aware, our recent work at the site is described in the September 2020 Biological Assessment ("BA") we prepared for the project. The BA concluded that there is no new evidence of significant impacts to threatened or endangered species that were not previously disclosed in the Final EIR for the Vernalis East and West Project.

At your request, I reviewed California Department of Fish and Wildlife's (CDFW) March 29, 2022 email comments on the pending Revision of Approved Actions (RA) application pertaining to the approved "Vernalis East and West" project (Attachment A). The KRC Raspo Expansion site is a portion of this larger project site. I also reviewed the biology sections of the 2007 Environment Impact Report (EIR) and San Joaquin County's Addendum to the EIR. Below are responses to a few of the CDFW comments.

10330 Twin Cities Road, Suite 30 • Galt, CA 95632
(209) 745-1159 • Fax (209) 745-7513
e-mail: moorebio@softcom.net

Response to CDFW Comment 1

Implementation of the proposed KRC Raspo Expansion project (“the project”) will result in a less than significant contribution to the cumulative *loss* of habitat in this part of the county. Disturbance related to mining will be temporary and portions of the site, such as grasslands not yet mined and reclaimed areas, will provide habitat in portions of the site while mining is ongoing. The creek corridors will be fully avoided. The site will be reclaimed for agricultural uses and will provide comparable or better habitats than those that exist under current conditions.

Response to CDFW Comment 2

The site is routinely disked ruderal grassland, with a small volunteer almond tree and two ephemeral creeks; the site does not provide highly suitable habitat for special-status plant or wildlife species. Implementation of the proposed project will result in a “less than significant” temporary and permanent loss of habitat for special-status species. It is highly unlikely special-status plants occur in the site due to a lack of suitable habitat and high levels of disturbance. The most recent records of San Joaquin kit fox (*Vulpes macrotis mutica*) in CDFW’s California Natural Diversity Database (CNDDDB) are from 30+ years ago in the hills to the west of the site, west of both the California Aqueduct and Interstate 580. The fallow fields in the site provide very low-quality foraging habitat for Swainson’s hawk (*Buteo swainsoni*). Further, the site is several miles from the San Joaquin River corridor, along the very west edge of the nesting range of this species. With limited potentially suitable nesting habitat in and near the site (i.e., trees), location of the site, and low quality foraging habitat, it is unlikely Swainson’s hawks forage on the site in any meaningful capacity.

Response to CDFW Comment 3

Implementation of the proposed project will result in a less than significant impact on San Joaquin kit fox movement. The only records of this species in the CNDDB east of the California Aqueduct within 20 miles of the site are a few 20-30 year old records in the hills west and southwest of Tracy. The California Aqueduct is a significant obstacle to San Joaquin kit fox movement between the hills where this species occurs and the northern San Joaquin Valley where it does not. Describing the site as part of a “movement corridor” is puzzling. Wildlife movement corridors provide a habitat linkage between occupied habitat areas, which do not occur east of the site. Regardless of theoretical movement corridors, the project will not create obstacles to mammal movement and disturbance will be temporary.

Response to CDFW Comment 5

Implementation of the proposed project will not result in “take” of listed or special-status species. Implementation of standard pre-construction surveys and take avoidance measures (i.e., setbacks, delays in construction) for burrowing owl, nesting birds, and San Joaquin kit fox, will ensure the proposed project will have no effect on federally or state listed plant or wildlife species, or any other special-status species.

Response to CDFW Comment 7

The San Joaquin Multi-Species Conservation Plan (SJMSCP) is a convenient mitigation option for projects that result in the significant permanent loss of habitat, such as residential and commercial development projects. The SJMSCP is optional, however, and participation may not be warranted for some projects such as those that will not result in take of special-status species and are limited to temporary disturbance. Opting out of the SJMSCP prior to or mid-

way through projects is an option that is not unprecedented, and is nowhere prohibited in the Plan. Nor is it precedent setting in this case. While more current conditions imposed on County-approved projects are framed in such a manner as to mandate SJMSCP participation, Condition 4.3-2 of the Vernalis East and West project specifically allowed for non-participation. The proposed RA application is thus consistent with Condition 4.3-2 and the characterization of the SJMSCP as a voluntary plan.

Please call me at (209) 745-1159 with any questions.

Sincerely,

A handwritten signature in black ink, appearing to be 'Diane S. Moore', written in a cursive style.

Diane S. Moore, M.S.
Principal Biologist

Appendix A

California Department of Fish and Wildlife

March 29, 2022 Email Comments

From CDFW-received on March 29, 2022.

Good Afternoon:

Given the short review deadline of today we wanted to at least provide this email as an overview of our concerns instead of providing detailed comments tomorrow. CDFW is available to meet with the County to provide any needed clarity, details or specific guidance. CDFW has the following concerns regarding the addition of the following language to the proposed revision to Condition of Approval 4 which states:

OR

(b) In carrying out the operations of the proposed project, the applicant shall not take any actions that would violate the provisions of the State or Federal ESAs or any regulations promulgated pursuant thereto. Compliance with said laws shall be the sole responsibility of the applicant, and the applicant agrees to indemnify, defend and hold the County harmless from and against any claim or action by affected State or Federal agencies as to the project's compliance with said laws.

- 1) The FEIR, section 4.3-3 recognized that the project would result in a significant impact and that IF the project did not comply with the SJMSCP a potentially-significant impact regarding the cumulative loss of habitat would occur. With the proposed revision, the EIR would need to be revised to re-analyze and re-evaluate the findings for this impact that should then be revised and circulated for public and responsible/trustee agency comment.
- 2) It is not clear how the County as the CEQA Lead Agency will ensure impacts associated with permanent or temporary loss of special status species' habitats will be mitigated to a level of less than significant under the proposed revision.
- 3) The project is within a critical San Joaquin kit fox movement corridor and it is not clear by what means the County as Lead Agency will ensure that the project's potentially significant impact to the corridor will be avoided, minimized and mitigated to a level of less than significant under the proposed revision.
- 4) The proposed revision lacks enforceable language. Specifically, it does not provide any means for the County to hold the project proponent accountable, and lacks assurances that the significant biological impacts identified in the EIR, namely those to wildlife movement corridors and temporary or permanent loss of special status species habitats, would be mitigated to a level of less than significant.
- 5) There is a lack of description of any specific assurances or means for accountability that the County, as the Lead Agency, would require of the project proponent to ensure avoidance or verification that no take or injury to special status species, including ones for which an incidental take permit is required under the California Endangered Species Act or the federal Endangered Species Acts. If the County approves the application then

the County should require the project to have a qualified biologist on site during all project activities reporting to the County on a weekly or monthly basis to document their observations on any special status species sightings and all instances of handling, injury or mortality of fish or wildlife species and require the project to obtain take permits from USFWS and CDFW.

- 6) The proposed revision does not comply and goes against the policies and objectives of the San Joaquin County General Plan, Chapter VI.G (Vegetation, Fish, and Wildlife Habitat) that are applicable to the project.
- 7) The project proponent has already elected to participate in the San Joaquin County Multi-species Conservation Plan, and should be required to continue to participate. Changing course as an afterthought midway through project construction is setting a poor precedent for all projects currently underway, and for future proposed projects in the County.

Please feel free to contact us with any questions.

Sincerely,

Michelle Battaglia
Senior Environmental Scientist (Supervisor)

Delta Habitat Conservation Unit
CA Dept of Fish and Wildlife
707-339-6052 (cell/text)

Jennifer Jolley
Deputy Director of Planning

Community Development Department

Main Office: (209) 468-3121

Direct: (209) 468-8908

Fax: (209) 468-3163

Please also visit us On-line: <https://www.sjgov.org/commdev>

SAN JOAQUIN
COUNTY
Creating a better future



Department of Public Works

Kris Balaji, Director of Public Works

Fritz Buchman, Deputy Director/Development

David Tolliver, Deputy Director/Operations

Najee Zarif, Deputy Director/Engineering

Kristi Rhea, Business Administrator

March 16, 2022

MEMORANDUM

TO: Community Development Department
CONTACT PERSON: Giuseppe Sanfilippo

FROM: Alex Chetley, Engineering Services Manager
Development Services Division

AC

SUBJECT: PA-0500847; A Revision of Approved Action application for an approved quarry operation to revise condition of approval 4 of SJCOG. Included in the Project's Final Environmental Impact Report (FEIR) were two mitigation measures provided to address possible impacts to special status species and habitat loss; Mitigation Measure MM 4.3-2 and identical Mitigation Measure MM 4.3-3. Those measures provided for two alternative means for the Project to provide mitigation for those potentially significant impacts:

- a) Prior to site disturbance, the project proponent shall comply with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan ("SJMSCP") (including pre-construction special-status species surveys, and implementation of Incidental Take Minimization Measures) and pay appropriate mitigation fees as determined by the SJMSCP, or
- b) In carrying out the operations of the proposed project, the applicant shall not take any actions that would violate the provisions of the State or Federal ESAs or any regulations promulgated pursuant thereto. Compliance with said laws shall be the sole responsibility of the applicant, and the applicant agrees to indemnify, defend and hold the County harmless from and against any claim or action by affected State or Federal agencies as to the project's compliance with said laws.

The purpose of the Revision of Approved Actions is to correct Condition of Approval 4 to reflect the two alternatives originally certified in the FEIR by the Planning Commission; located on the southeast side of S. Bird Road, 1 mile south of State Route 132, southeast of Tracy. (Supervisorial District 5)

OWNER: DSS Company

APPLICANT: DSS Company

ADDRESS: 34443 S. Bird Road, Tracy

APN: 265-110-12, 253-270-26, 253-280-02, -03, -06, 265-070-07, -08, 265-080-02, -04, 265-090-01, 265-110-02, -07, -10 &-11

1810 East Hazelton Avenue | Stockton, California 95205 | T 209 468 3000 | F 209 468 2999

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PA-0500847 (QX)

INFORMATION:

The site is not currently located within a Federal Emergency Management Agency Designated Flood Hazard Area.

Bird Road has an existing and planned right-of-way of 60 feet.

Blewett Road has an existing right-of-way width of 50 feet and a planned right-of-way of 60 feet.

RECOMMENDATIONS:

- 1) None. All previous conditions shall still apply.


AC:CH



Environmental Health Department

Jasjit Kang, REHS, Director
Muniappa Naidu, REHS, Assistant Director
PROGRAM COORDINATORS
Robert McClellon, REHS
Jeff Carruesco, REHS, RDI
Willy Ng, REHS
Melissa Nissim, REHS
Steven Shih, REHS
Michelle Henry, REHS

March 24, 2022

To: San Joaquin County Community Development Department
Attention: Giuseppe Sanfilippo
From: Aldara Salinas (209) 616-3019 
Environmental Health Specialist
RE: **PA-0500847 (QX, RAA), Early Consultation, SU0007720**
34443 S. Bird Rd., Tracy

The following requirements have been identified as pertinent to this project. Other requirements may also apply. These requirements cannot be modified. All conditions of approval shall be complied with as stated in the report, dated January 30, 2006 and below.

1. No excavations are permitted into the ground water table without specific approval from the Regional Water Quality Control Board, Central Valley Region (California Water Code, Chapter 4, Article 3, Section 13240).
2. The materials from an excavation shall not be deposited into any watercourse or in any way contribute to the pollution thereof (California Water Code, Section 13376).
3. Approved sanitary facilities must be provided for all employees (San Joaquin County Development Title, Section 9-1100.1).



S J C O G , I n c .

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0600 • FAX (209) 235-0438

San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)

**SJMSCP RESPONSE TO LOCAL JURISDICTION (RTL)
ADVISORY AGENCY NOTICE TO SJCOG, Inc.**

To: Giuseppe Sanfilippo, San Joaquin County, Community Development Department
From: Laurel Boyd, SJCOG, Inc. Phone: (209) 235-0574 Email: boyd@sjcog.org
Date: March 24, 2022

Local Jurisdiction Project Title: PA-0500847 (QX, RAA)

Assessor Parcel Number(s): 265-110-02, -07, -10 to -12; 253-270-26; 253-280-02, -03, -06, & -07; 265-070-07 & -08; 265-080-02 & -04; 265-090-01

Local Jurisdiction Project Number: PA-0500847 (QX, RAA)

Total Acres to be converted from Open Space Use: Unknown

Habitat Types to be Disturbed: Agricultural and Natural Habitat Land

Species Impact Findings: Findings to be determined by SJMSCP biologist.

Dear Mr. Sanfilippo:

SJCOG, Inc. has reviewed the application referral for PA-0500847 (QX, RAA). This project consists of a Revision of Approved Action application for an approved quarry operation to revise condition of approval 4 of SJCOG.

Included in the Project's Final Environmental Impact Report (FEIR) were two mitigation measures provided to address possible impacts to special status species and habitat loss; Mitigation Measure MM 4.3-2 and Identical Mitigation Measure MM 4.3-3.

Those measure provided for two alternative means for the Project to provide mitigation for those potentially significant impacts:

- (a) Prior to site disturbance, the project proponent shall comply with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan ("SJMSCP") (including pre-construction special-status species surveys, and implementation of Incidental Take Minimization Measures) and pay appropriate mitigation fees as determined by the SJMSCP,

OR

- (b) In carrying out the operations of the proposed project, the applicant shall not take any actions that would violate the provision of the State or Federal ESAs or any regulations promulgated pursuant thereto. Compliance with said laws shall be the sole responsibility of the applicant, and the applicant agrees to indemnify, defend and hold the County harmless from and against any claim or action by affected State or Federal agencies as to the project's compliance with said laws.

The purpose of the Revision of Approved Actions is to correct Condition of Approval 4 to reflect the two alternatives originally certified in the FEIR by the Planning Commission. The project site is located on the southeast side of S. Bird Road, 1 mile south of State Route 132, southeast of Tracy (APN/Address: 265-110-12; 253-270-26; 253-280-02, -03, -06, & -07; 265-070-07 & -08; 265-080-02 & -04; 265-090-01; 265-110-02, -07, -10, & -11/ 34443 S. Bird Road, Tracy)

San Joaquin County is a signatory to San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). Participation in the SJMSCP satisfies requirements of both the state and federal endangered species acts and ensures that the impacts are mitigated below a level of significance in compliance with the California Environmental Quality Act (CEQA). The LOCAL JURISDICTION retains responsibility for ensuring that the appropriate Incidental Take Minimization Measure are properly implemented and monitored and that appropriate fees are paid in compliance with the SJMSCP. Although participation in the SJMSCP is voluntary, Local Jurisdiction/Lead Agencies should be aware that if project applicants choose against participating in the SJMSCP, they will be required to provide alternative mitigation in an amount and kind equal to that provided in the SJMSCP.

This project is subject to the SJMSCP and is located within the unmapped land use area. Per requirements of the SJMSCP, unmapped projects are subject to case-by-case review. This can be a 90-day process and it is recommended that the project applicant contact SJMSCP staff as early as possible. It is also recommended that the project applicant obtain an information package. <http://www.sjco.org>

The applicant must provide a completed SJMSCP Review Form (SRF) designating the project option of 'Opt In' or 'Opt Out' to SJCOG, Inc. prior to ground disturbance activities.

If this project chooses the 'Opt In', and is approved by the Habitat Technical Advisory Committee and the SJCOG Inc. Board, the following process must occur to participate in the SJMSCP:

- Schedule a SJMSCP Biologist to perform a pre-construction survey ***prior to any ground disturbance***
- SJMSCP Incidental take Minimization Measures and mitigation requirement:
 1. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, SJCOG, Inc. staff will sign the ITMMs. This is the effective date of the ITMMs.
 2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
 3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
 - a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
 - b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
 - c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - d. Purchase approved mitigation bank credits.
 4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:
 - a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
 - b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - c. Purchase approved mitigation bank credits.

Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called.
- Receive your Certificate of Payment and release the required permit

It should be noted that if this project has any potential impacts to waters of the United States [pursuant to Section 404 Clean Water Act], it would require the project to seek voluntary coverage through the unmapped process under the SJMSCP which could take up to 90 days. It may be prudent to obtain a preliminary wetlands map from a qualified consultant. If waters of the United States are confirmed on the project site, the Corps and the Regional Water Quality Control Board (RWQCB) would have regulatory authority over those mapped areas [pursuant to Section 404 and 401 of the Clean Water Act respectively] and permits would be required from each of these resource agencies prior to grading the project site.

If you have any questions, please call (209) 235-0600.



S J C O G , I n c .

San Joaquin County Multi-Species Habitat Conservation & Open Space Plan

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0600 • FAX (209) 235-0438

SJMSCP HOLD

TO: Local Jurisdiction: Community Development Department, Planning Department, Building Department, Engineering Department, Survey Department, Transportation Department,
Other:

FROM: Laurel Boyd, S J C O G , I n c .

**DO NOT AUTHORIZE SITE DISTURBANCE
DO NOT ISSUE A BUILDING PERMIT
DO NOT ISSUE _____ FOR THIS PROJECT**

The landowner/developer for this site has requested coverage pursuant to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). In accordance with that agreement, the Applicant has agreed to:

- 1) **SJMSCP Incidental Take Minimization Measures and mitigation requirement:**
 1. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, S J C O G , I n c . staff will sign the ITMMs. This is the effective date of the ITMMs.
 2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
 3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
 - a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
 - b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
 - c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - d. Purchase approved mitigation bank credits.
 4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:
 - a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
 - b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - c. Purchase approved mitigation bank credits.
- Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called.

Project Title: PA-0500847 (QX, RAA)

Landowner/Applicant: DSS Company

Assessor Parcel #s: 265-110-12; 253-270-26; 253-280-02, -03, -06, & -07; 265-070-07 & -08; 265-080-02 & -04; 265-090-01; 265-110-02, -07, -10, & -11

Local Jurisdiction Contact: Giuseppe Sanfilippo

The LOCAL JURISDICTION retains responsibility for ensuring that the appropriate Incidental Take Minimization Measures are properly implemented and monitored and that appropriate fees are paid in compliance with the SJMSCP.

Sanfilippo, Giuseppe [CDD]

From: Anna Cheng <acheng@auburnrancheria.com>
Sent: Tuesday, March 29, 2022 1:17 PM
To: Sanfilippo, Giuseppe [CDD]
Subject: PA-0500847 (QX, RAA)

CAUTION: This email is originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Sanfilippo,

On behalf of the United Auburn Indian Community's Tribal Historic Preservation Department, thank you for the notification about the project referenced above. We have reviewed the project location and determined that it falls outside of the UAIC's geographic area of traditional and cultural affiliations. Therefore, we will not be commenting on the project.

Best,
Anna Cheng

*The United Auburn Indian Community is now accepting electronic consultation request, project notifications, and requests for information! Please fill out and submit through our website. Do not mail hard copy letters or documents. <https://auburnrancheria.com/programs-services/tribal-preservation> **Bookmark this link!***



Anna Cheng
Cultural Regulatory Assistant
Tribal Historic Preservation Department | UAIC
10720 Indian Hill Road
Auburn, CA 95603
Cell: (530) 492-4822
acheng@auburnrancheria.com | www.auburnrancheria.com

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**Thank you for consulting with the UAIC
Please complete one form for each notification.**

How to submit a consultation notification or project update:

1. One form must be completed for each project.
2. Forms cannot be saved and completed at a later time.
3. Include all relevant project information.
4. Upload file attachments. Multiple files can be attached.
5. Submit form.
6. You will receive a submission receipt via email when submission is complete. UAIC prefers our online submission form over certified or hard copy letters.

Contact the Tribal Office at (530) 883-2390 for questions or concerns. Ask for Tribal Historic Preservation or use the contact form located on our website.

Contact Information

Consulting on Behalf of* San Joaquin County Community Development Department
Lead Agency, Consulting Firm, Tribe

Mailing Address

Street Address
1810 E. Hazelton Ave.
Address Line 2

City Stockton State / Province / Region California

Postal / Zip Code
95205

Point of Contact for Consultation* Giuseppe Sanfilippo
Primary Contact Name

Point of Contact Email* gsanfilippo@sjgov.org

Second Point of Contact Yes
Is there more than one point of contact for this project?

Regulatory

Consulting Under* This project fall under the following regulatory requirements:

Federal State of California Federal and State

Other
County

Project Notification Information

Project Name* Revision of Approved Action for an approved Quarry Excavation PA-0500847
Please include Name and Reference Number (if applicable)

This is a *

- New Project
- Public Hearing
- Notice of Availability (NOA)
- Other
- Notice of Preparation (NOP)
- Existing Project
- Request for Information

Project Description A Revision of Approved Action application for an approved quarry operation to revise condition of approval 4 of SJCOG.

Included in the Project's Final Environmental Impact Report (FEIR) were two mitigation measures provided to address possible impacts to special status species and habitat loss; Mitigation Measure MM 4.3-2 and identical Mitigation Measure MM 4.3-3.

Those measures provided for two alternative means for the Project to provide mitigation for those potentially significant impacts:

(a) Prior to site disturbance, the project proponent shall comply with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan ("SJMSCP") (including pre-construction special-status species surveys, and implementation of Incidental Take Minimization Measures) and pay appropriate mitigation fees as determined by the SJMSCP,

OR

(b) In carrying out the operations of the proposed project, the applicant shall not take any actions that would violate the provisions of the State or Federal ESAs or any regulations promulgated pursuant thereto. Compliance with said laws shall be the sole responsibility of the applicant, and the applicant agrees to indemnify, defend and hold the County harmless from and against any claim or action by affected State or Federal agencies as to the project's compliance with said laws.

The purpose of the Revision of Approved Actions is to correct Condition of Approval 4 to reflect the two alternatives originally certified in the FEIR by the Planning Commission.

Please include a brief project description

Location

The project site is on the southeast side of S. Bird Rd., 1 mile south of State Route 132, southeast of Tracy. (APN/Address: 265-110-12; 253-270-26; 253-280-02, -03, -06, & -07; 265-070-07 & -08; 265-080-02 & -04; 265-090-01; 265-110-02, -07, -10, & -11 / 34443 S. Bird Rd., Tracy) (Supervisorial District: 5)

Please include county, city, and address (if available)

Project Documents

Documents uploaded to this form are secure and only accessible by the Tribal Historic Preservation team

Notification

Attach notification letters or announcement

PA-0500847 (QX, RAA) Referral - Agency.pdf 208.12KB

50mb maximum upload size (per file)

Reports

Attach project reports, project descriptions, or supporting documents

50mb maximum upload size (per file)

Location Map

Attach maps and location files. Shape files are preferred

PA-0500847 (QX, RAA) Site Plan Packet.pdf 294.44KB

File extensions allowed: pdf, jpg, png, kmz, lpk, dbf, prj, shp, abn, sbx, xml, shx, cpg.

NOTE: 50mb maximum upload size (per file).

Send Submission Receipt To

Primary Contact Secondary Contact Different Email

New Email *

aasio@sjgov.org

***This form submission page is offered for the convenience of consulting agencies, developers, and their respective consultants. UAIC reviews all submissions received, but makes no guarantee that submission via this online form satisfies any particular consultation or notice requirement that exists under state or federal law.

March 31, 2022

Giuseppe Sanfilippo
San Joaquin County
1810 E Hazelton Ave
Stockton, CA 95205

Re: PA-0500847
34443 S Bird, Tracy, CA

Dear Giuseppe Sanfilippo,

Thank you for providing PG&E the opportunity to review your proposed plans for PA-0500847 dated March 15, 2022. Our review indicates your proposed improvements do not appear to directly interfere with existing PG&E facilities or impact our easement rights.

Please note this is our preliminary review and PG&E reserves the right for additional future review as needed. This letter shall not in any way alter, modify, or terminate any provision of any existing easement rights. If there are subsequent modifications made to your design, we ask that you resubmit the plans to the email address listed below.

If you require PG&E gas or electrical service in the future, please continue to work with PG&E's Service Planning department: <https://www.pge.com/cco/>.

As a reminder, before any digging or excavation occurs, please contact Underground Service Alert (USA) by dialing 811 a minimum of 2 working days prior to commencing any work. This free and independent service will ensure that all existing underground utilities are identified and marked on-site.

If you have any questions regarding our response, please contact the PG&E Plan Review Team at (877) 259-8314 or pgeplanreview@pge.com.

Sincerely,

PG&E Plan Review Team
Land Management

U.S. Department of Homeland Security
FEMA Region IX
1111 Broadway, Suite 1200
Oakland, CA. 94607-4052



April 7, 2022

Giuseppe Sanfilippo, Project Planner
San Joaquin County, Community Development Department
1810 East Hazelton Avenue
Stockton, California 95205

Dear Mr. Sanfilippo:

This is in response to your request for comments regarding Application Referral, Early Consultation, Short Review Period, Application Number PA 0500847 (QX, RAA), 1 year Time Extension request (APN/Address: 265-110-12; 253-270-26; 253-280-02, -03, -06, & -07; 265-070-07 & -08; 265-080-02 & -04; 265-090-01; 265-110-02, -07, -10, & -11/34443 S. Bird Road, Tracy) (Supervisorial District 5).

Please review the current effective Flood Insurance Rate Maps (FIRMs) for the County of San Joaquin (Community Number 060299), Maps revised October 20, 2016, and City of Tracy (Community Number 060303), Maps revised October 16, 2009. To locate FIRMs online, visit the Map Service Center (MSC) at <https://msc.fema.gov>. Please note that the City of Tracy, San Joaquin County, California is a participant in the National Flood Insurance Program (NFIP). The minimum, basic NFIP floodplain management building requirements are described in Vol. 44 Code of Federal Regulations (44 CFR), Sections 59 through 65.

A summary of these NFIP floodplain management building requirements are as follows:

- All buildings constructed within a riverine floodplain, (i.e., Flood Zones A, AO, AH, AE, and AI through A30 as delineated on the FIRM), must be elevated so that the lowest floor is at or above the Base Flood Elevation level in accordance with the effective Flood Insurance Rate Map.
- If the area of construction is located within a Regulatory Floodway as delineated on the FIRM, any *development* must not increase base flood elevation levels. **The term *development* means any man-made change to improved or unimproved real estate, including but not limited to buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials.** A hydrologic and hydraulic analysis must be performed *prior* to the start of development and must demonstrate that the development would not cause any rise in base flood levels. No rise is permitted within regulatory floodways.

www.fema.gov

Giuseppe Sanfilippo, Project Planner
Page 2
April 7, 2022

- Upon completion of any development that changes existing Special Flood Hazard Areas, the NFIP directs all participating communities to submit the appropriate hydrologic and hydraulic data to FEMA for a FIRM revision. In accordance with 44 CFR, Section 65.3, as soon as practicable, but not later than six months after such data becomes available, a community shall notify FEMA of the changes by submitting technical data for a flood map revision. To obtain copies of FEMA's Flood Map Revision Application Packages, please refer to the FEMA website at <http://www.fema.gov/business/nfip/forms.shtm>.

Please Note:

Many NFIP participating communities have adopted floodplain management building requirements which are more restrictive than the minimum federal standards described in 44 CFR. Please contact the local community's floodplain manager for more information on local floodplain management building requirements. The Tracy floodplain manager can be reached by calling Kevin Jorgensen, Chief Building Official, at (209) 831-6415. The San Joaquin County floodplain manager can be reached by calling Shayan Rehman, Senior Engineer, Flood Control Water District, at (209) 468-9360.

If you have any questions or concerns, please do not hesitate to contact Patricia Rippe at patricia.rippe@fema.dhs.gov or Antoinette Stein at antoinette.stein@fema.dhs.gov of the Mitigation staff.

Sincerely,

**MICHAEL M
NAKAGAKI**

Michael Nakagaki, Branch Chief
Floodplain Management and Insurance Branch

Digitally signed by MICHAEL M
NAKAGAKI
Date: 2022.04.08 10:07:40 -07'00'

cc:

Kevin Jorgensen, Chief Building Official, City of Tracy
Shayan Rehman, Senior Engineer, Flood Control Water District, San Joaquin County
Alex Acosta, State of California, Department of Water Resources, North Central Region
Office
Kelly Soule, State of California, Department of Water Resources, Sacramento Headquarters
Office
Patricia Rippe, Senior NFIP Planner, DHS/FFEMA Region IX
Antoinette Stein, NFIP Planner, DHS/FFEMA Region IX
Kenneth Sessa, Acting Environmental Officer, DHS/FFEMA Region IX

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Attachment C

Revisions of Approved Actions Application Packet

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APPLICATION – REVISIONS OF APPROVED ACTIONS
 SAN JOAQUIN COUNTY COMMUNITY DEVELOPMENT DEPARTMENT

FILE NUMBER: - PA - C500847 (RAA)

TO BE COMPLETED BY THE APPLICANT PRIOR TO FILING THE APPLICATION		
Owner Information	Applicant Information	
Name: DSS Company dba Knife River Construction	Name: Same as Owner	
Address: P.O. Box 6099 Stockton, CA 95206	Address:	
Phone: 209-948-0302	Phone:	
PROJECT DESCRIPTION		
Proposal		
Revision to: Quarry Excavation Application Map	Condition(s) of Approval PA-050084 7	
File No:		
1. Description of the proposed Revisions: See Attached		
2. State the facts showing the changes in circumstances which make the subject condition(s) no longer appropriate or necessary. See Attached		
AUTHORIZATION SIGNATURES		
ONLY THE OWNER OF THE PROPERTY OR AN AUTHORIZED AGENT MAY FILE AN APPLICATION.		
I, the Owner/Agent agree, to defend, indemnify, and hold harmless the County and its agents, officers and employees from any claim, action or proceeding against the County arising from the Owner/Agent's project.		
I, further, certify under penalty of perjury that I am (check one):		
<input checked="" type="checkbox"/> Legal property owner (owner includes partner, trustee, grantor, or corporate officer) of the property(s) involved in this application, or		
<input type="checkbox"/> Legal agent (attach proof of the owner's consent to the application of the property's involved in this application and have been authorized to file on their behalf., and that the foregoing application statements are true and correct.		
Print Name: Steve Essoyan	Signature:	Date: 12.13.21
Print Name: _____	Signature: _____	Date: _____
Print Name: _____	Signature: _____	Date: _____
Print Name: _____	Signature: _____	Date: _____
Print Name: _____	Signature: _____	Date: _____

Description of the proposed Revisions. Modify Condition 4 (Council of Governments) of Quarry Excavation PA0500847) so that it is consistent with Mitigation Measure 4.3-2 of the Final EIR (SCH # ___) to read in full as follows:

“Prior to site disturbance, the project proponent shall either (a) comply with the SJMSCP (including pre-construction special-status species surveys, and implementation of Incidental Take Minimization Measures) and pay appropriate mitigation fees as determined by the SJMSCP; OR, IN THE ALTERNATIVE, (b) in carrying out the operations of the Project, the applicant shall take no actions that violate the provisions of the State or Federal Endangered Species Acts or any regulations promulgated pursuant thereto. The applicant shall undertake pre-construction special-status species surveys, and implementation of Incidental Take Minimization Measures outlined in the SJMSCP. Compliance with the State or Federal Endangered Species Acts shall be the sole responsibility of the applicant, and the applicant agrees to indemnify, defend, and hold the County harmless from and against any claim or action by affected State or Federal Agencies as to the Project’s compliance with said laws. Upon receipt of a fully executed indemnification agreement, and notification to authorized representatives of the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service that the applicant has elected not to participate in the SJMSCP, the County shall issue grading and quarry excavation permits for the project.”

Facts showing changes in circumstances. In 2007, KRC’s predecessor in interest, Teichert Aggregates obtained land use entitlements to conduct aggregate mining on approximately 700 acres, which included the subject property. A Final Environmental Impact Report (the “Final EIR”) for the project, known at that time as “Vernalis East and West”, was certified in June 2007. The Final EIR included a comprehensive analysis of all of the potentially significant environmental impacts associated with carrying out the Project. Notably, the Final EIR included a detailed chapter on the Project’s potential to impact wetlands and special status species, and included specific mitigation measures to address such impacts.

Teichert’s attorney Michael McGrew submitted a comment letter on the Draft EIR indicating that a previously approved mitigation measure had been improperly modified. The letter read as follows:

Dear Mr. Swanson:

We have reviewed Biological Resources Mitigation Measures 4-3-2 and find it to be incomplete. It reads:

Prior to site disturbance, the project proponent shall comply with the SJMSCP (including pre-construction special-stotus species surveys, and implementotio of Incidental Take Minimization Measure) and pay appropriate mitigation fees as determined by the SJMSCP.

The following alternative should be added:

or, “in corrying out the operations of the project, the applicant shall take no actions that violate the provisions of the Slate or Federal Endangered Species Acts or any regulations promulgated pursuant thereto, Compliance with said laws shall be the sale responsibility of the applicant, and the applicant ogress to indemnify,

defend, and hold the County harmless from and against any claim or action by affected State or Federal agencies as to the project's compliance with said laws."

The alternative mitigation measure is the same the same mitigation measure for the existing approved Vernalis Central application (Quarry Excavation Application No. QX-91-5 of Teichert Aggregates). This application should include the same mitigation measures as the adjoining operation. It is necessary for Teichert Aggregates to have flexibility in mitigating any impacts with the understanding that it will comply with the State and Federal Endangered Species Act.

In response to McGrew's comment letter, the EIR consultant, in cooperation with County staff, recommended that MM 4.3-2 read exactly as it had in Teichert's original Final EIR for QX 91-5. The Board of Supervisors certified the Final EIR with the original language intact. Later, however, when Teichert sought approval of a Quarry Excavation Application (No. PA-0500847), the Conditions of Approval (Condition 4(a)-(e) deleted the critical "or" language of MM 4.3-2, and directly required the applicant to pay the SJMSCP fees. This, of course, defeats the entire purpose behind MM 4.3-2, and makes a mockery of the notion that the SJMSCP is in fact a voluntary program.

Subsequently, Quarry Excavation PA0500847 was approved by the San Joaquin County Planning Commission on September 6, 2007. KRC purchased a portion of the property covered by PA0500847 (known as the "Raspo Property") in 2015. At that time, KRC was advised by then-Director Kerry Sullivan to submit an Improvement Plan and to comply with all Mitigation Measures and Conditions of Approval prior to mining the Raspo Property. However, the proposed Condition of Approval for potential impacts to threatened and/or endangered species is not consistent with Mitigation Measure 4.3-2 of the Final EIR.

Thus, KRC requests that Condition 4 be modified as follows:

"Prior to site disturbance, the project proponent shall either (a) comply with the SJMSCP (including pre-construction special-status species surveys, and implementation of Incidental Take Minimization Measures) and pay appropriate mitigation fees as determined by the SJMSCP; OR, IN THE ALTERNATIVE, (b) in carrying out the operations of the Project, the applicant shall take no actions that violate the provisions of the State or Federal Endangered Species Acts or any regulations promulgated pursuant thereto. The applicant shall undertake pre-construction special-status species surveys, and implementation of Incidental Take Minimization Measures outlined in the SJMSCP. Compliance with the State or Federal Endangered Species Acts shall be the sole responsibility of the applicant, and the applicant agrees to indemnify, defend, and hold the County harmless from and against any claim or action by affected State or Federal Agencies as to the Project's compliance with said laws. Upon receipt of a fully executed indemnification agreement, and notification to authorized representatives of the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service that the applicant has elected not to participate in the SJMSCP, the County shall issue grading and quarry excavation permits for the project."

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Attachment D Environmental Review

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**ADDENDUM TO FINAL ENVIRONMENTAL IMPACT REPORT PA-0600028 FOR
REVISION OF APPROVED ACTIONS NO. PA-0500847**

Knife River Construction – Parcel at 4955 West Gaffery Road, Tracy

Background:

The overall Project involves phased quarry operations over an area of approximately 790 acres in unincorporated San Joaquin County near Vernalis. The initial application for the Project was subject to detailed review by the County during 2007, including environmental review under the California Environmental Quality Act (“CEQA”), which included the preparation and public review of an extensive draft and final Environmental Impact Report (“EIR”). The Final EIR (“FEIR”) included a range of mitigation measures to address identified impacts or potential impacts of the Project, as provided by CEQA.

Among the measures included in the FEIR were two measures provided to address possible impacts on special status species and potential sensitive habitat areas, Mitigation Measure MM 4.3-2, and identical Mitigation Measure MM 4.3-3. Those measures provided for two alternative means for the Project to provide mitigation for those potential impacts:

(a) Prior to site disturbance, the project proponent shall comply with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (“SJMSCP”) (including pre-construction special-status species surveys, and implementation of Incidental Take Minimization Measures) and pay appropriate mitigation fees as determined by the SJMSCP,

OR

(b) In carrying out the operations of the proposed project, the applicant shall not take any actions that would violate the provisions of the State or Federal ESAs or any regulations promulgated pursuant thereto. Compliance with said laws shall be the sole responsibility of the applicant, and the applicant agrees to indemnify, defend and hold the County harmless from and against any claim or action by affected State or Federal agencies as to the project’s compliance with said laws.¹

The FEIR including these alternative mitigation measures MM 4.3-2 and 4.3-3, was reviewed and certified by the County Planning Commission on September 6, 2007. The Project application was concurrently reviewed by the Planning Commission which approved PA-0500847, with a condition of approval incorporating the mitigation measures of the FEIR, including mitigation measures MM 4.3-2 and 4.3-3 as stated above, providing for alternative mitigation measures to address potential biological impacts. The conditions of approval for PA-0500847 also included a

¹ “A condition requiring compliance with environmental regulations [such as MM 4.3-2] is a common and reasonable mitigating measure.” (*Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236; CEQA Guidelines, §15126.4(a)(1)(B).)

“Condition No. 4” (Condition 4.a – 4.e, attached) which also incorporated the text of MM 4.3-2 (a) and (b) (and 4.3-3) above, but which omitted the word “or,” by which the FEIR had clearly indicated that MM 4.3-2, and 4.3-3 (a) and (b) were intended as *alternative* means of mitigation for the potential biological impacts.

The Planning Commission’s approval of PA-0500847 was appealed to the Board of Supervisors (on distinct issues unrelated to the biological resource mitigation measures), but that appeal was withdrawn by the appellant on December 11, 2007. No further administrative or judicial appeals were pursued, and therefore the County’s approvals for the Project and FEIR became final effective no later than December 11, 2007.

The initial Project applicant (Teichert) subsequently prepared to undertake Phase 1 of the Project and opted to participate in the SJMSCP and pay fees to the SJMSCP as to Phase 1. The current Applicant, Knife River Construction, subsequently acquired the 101.88 acre parcel that is the site of Phase 2 of the Project.

The current Applicant, Knife River, is now preparing to undertake work on Phase 2 of the Project, to develop the quarry resources of the site. Knife River submitted this Revision of Approved Action (“RAA”) application to the County in early January 2022, to modify or clarify the Conditions of Approval for PA-0500847, to conform to the actual text of the Mitigation Measures 4.3-2 and 4.3-3 as stated in the 2007 certified FEIR for the Project. The modification to “Condition 4” would clarify that “Condition No. 4” also provides for the *alternative* (“or”) means of mitigation as specified in MM 4.3-2 (b) and MM 4.3-3(b), and would insert the word “or” between 4.a. and 4.b. so that sub-conditions 4.c.-4.e. would only apply if the permit applicant elects to satisfy the condition by opting for alternative 4.a.²

Other than this requested text correction to Condition No. 4 of PA-0500847, the requested Revision of Approved Action does not request or result in any changes in the Project itself or the other Conditions of Approval governing the Project.

Environmental Review and Addendum to the Previously-Certified Project FEIR:

This Application requests a Revision of Approved Action regarding previously-approved Quarry Excavation Permit PA-0500847, to modify one condition of approval (“Condition No. 4”) to conform to FEIR Mitigation Measures Mitigation Measures 4.3-2 and 4.3-3 adopted by the County in the certified Project Final Environmental Impact Report (“FEIR”). The RAA does not include any other changes to the Project entitlement or to the underlying Project.

The RAA to modify Condition of Approval No. 4 is considered to be a discretionary action by the County. Although this only involves a proposed modification to the text of one condition of approval, the requested action appears to meet the definition of a “project” under CEQA pursuant to Pub. Res. Code, § 21065. Here, the Project, including Phase 2, and the appropriate CEQA mitigation measures were analyzed and approved in the certified Project FEIR and this application is within the scope and consistent with that certified FEIR..

² The proposed modified Condition No. 4 is attached hereto, combining former “4.a” with “4.c – 4.e” and inserting “or” between those provisions and alternative “4.b”

County Staff has reviewed the RAA application, the current and proposed modifications to the text of the conditions of approval, and the previously-certified FEIR, as well as the subsequently-conducted biological surveys in the area of the Project and conditions at the Project site and its environs to determine whether additional CEQA review may be allowed, appropriate, or necessary in connection with the proposed RAA, and if so, the appropriate type of CEQA review. Moreover, the proposed modification to Condition No. 4 as requested by the RAA is identical to the mitigation measures (MM 4.3-2 and 4.3-3) that were analyzed and considered during the public hearing process before the Planning Commission during 2007, and which were eventually certified as appropriate forms of CEQA mitigation as part of the Project FEIR. There is no substantial evidence or any credible reason to believe that modifying existing Condition No. 4 to provide for the alternative form of mitigation already analyzed and approved as part of MM 4.3-2 and 4.3-3, and Condition No. 4 as proposed by the RAA may have any significant new environmental impacts that were not previously addressed in the certified FEIR.

Based on those reviews and evidence, the Commission may also determine that this application is exempt from further CEQA review as provided by Pub. Res. Code § 21080(c)(1) and CEQA Guideline § 15061(b)(3), and that none of the exceptional factors specified in Pub. Res. Code § 21166 that might warrant additional CEQA analysis are present in this situation.

The CEQA statutes (Public Resources Code Section 21166) and CEQA Guidelines (§ 15162) generally limit, or preclude, new detailed environmental analysis for a project that has previously been the subject of a certified FEIR, except in narrowly prescribed situations, as follows:

- (a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.
- (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

Unless one of these three exceptions applies, the agency may not prepare a new or supplemental environmental impact report. CEQA “prohibits agencies from requiring additional environmental review after an initial EIR is certified, unless certain specified conditions are met....” (*San Diego Navy etc Coalition v. City of San Diego* (2010) 185 Cal.App.4th 924, 934.)

Where, as in this case, a certified EIR has been prepared and one relatively minor change or correction to a project condition is proposed, and the proposed modification of the project condition would not result in significant new or substantially more severe environmental impacts, a lead agency may prepare an addendum to that previously-approved FEIR to explain a determination that no further CEQA review is appropriate. CEQA Guidelines Section 15164; *Friends of the College of San Mateo Gardens v. San Mateo County Community College District* (2016) 1 Cal.5th 937, at pp. 946–947. This report is therefore provided as an Addendum to the certified Project FEIR.

CEQA Guideline Section 15164 provides that an addendum is appropriate where only minor revisions are proposed:

Section 15164 (a) The lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.

Based on review of the application, the current and proposed modifications to the text of the conditions of approval, and the previously-certified FEIR, as well as the subsequently-conducted biological surveys in the area of the Project and conditions at the Project site and its environs, it would be appropriate for the Commission to determine that none of the exceptional factors described in Pub. Res. Code § 21166 are present in this situation, and that neither a subsequent or supplemental environmental review would be warranted or permitted under Public Resource Code 21166 and CEQA Guidelines § 15162.

Based on the same facts, County Staff further recommends that the Commission may determine that the RAA is exempt from further CEQA review as provided by the “common sense” exemption from CEQA (Pub. Res. Code § 21080(c)(1); CEQA Guideline § 15061(b)(3) [“Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”]. We are not aware of any evidence indicating that any exception to this exemption might be applicable.

Staff therefore recommends that the Planning Commission consider and approve this Addendum to the certified FEIR, prior to and in connection with the Commission’s approval of the RAA, that the RAA is exempt, and confirm that no further environmental review of the RAA is required.

It is not necessary for the Commission to make any new “findings” in connection with the approval of this Addendum. (*Save Our Heritage Organisation v. City of San Diego* (2018) 28 Cal. App. 5th 656, 669.)



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Attachment E

Previously Approved Findings

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PREVIOUSLY APPROVED FINDINGS FOR QUARRY OPERATION

PA-0500847

TRIANGLE PROPERTIES INC. / DSS COMPANY DBA KNIFE RIVER CONSTRUCTION

1. The proposal is for the removal of regionally significant or scarce deposits of mineral resources and not for removal of prime farm land.
 - **This finding can be made because the proposed project site has been identified as having significant deposits of sand and gravel by the Department of Conservation (Division of Mines and Geology) and classified within a Mineral Resource Zone 2 (MRZ-2). Specifically, the site is being mined for sand and gravel materials and will not result in the removal of prime farmland because the topsoil will be temporarily stockpiled and used to reclaim the site back to agriculture.**
2. The proposed reclamation of the property upon completion will leave the property in a condition, which will allow its reuse.
 - **This finding can be made because the reclaimed soil in all excavated areas will be mixed and placed according to the standards developed by the Environmental Impact Report (EIR) to maintain the site's grazing potential.**
3. Issuance of the permit shall not be significantly detrimental to the public health, safety, or welfare, or be injurious to the property or improvements to the vicinity
 - **This finding can be made because there will be no excavation below the ground water table, and potable water services are to be provided for employees. The significant and unavoidable impacts associated with air quality are overridden by the benefit to the County of mining a significant extractive resource deposit.**

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Attachment F **Revised Conditions of Approval**

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REVISED CONDITIONS OF APPROVAL

PA-0500847

TRIANGLE PROPERTIES INC. / DSS COMPANY DBA KNIFE RIVER CONSTRUCTION

Revisions of Approved Actions for Quarry Excavation Application No. PA-0500847 was approved by the San Joaquin County Planning Commission on . The effective date of approval for the Revisions of Approved Actions is . This approval will expire on September 6, 2047, which is 40 years from the effective date of approval of the Quarry Excavation Application, unless (1) all Conditions of Approval have been complied with, (2) all necessary building permits have been issued and remain in force, and (3) all necessary permits from other agencies have been issued and remain in force.

Unless otherwise specified, all Conditions of Approval and ordinance requirements shall be fulfilled prior to the establishment of the use and the issuance of any building permits. Those Conditions followed by a Section Number have been identified as ordinance requirements pertinent to this application. Ordinance requirements cannot be modified, and other ordinance requirements may apply.

1. COMMUNITY DEVELOPMENT DEPARTMENT (Contact: [209] 468-3121)
 - a. **IMPROVEMENT PLAN:** Submit an "APPLICATION-SITE IMPROVEMENT PLAN". A fee is required for the Site Plan review.
 - b. **APPROVAL:** This is an approval to remove 142 million tons of rock, sand and gravel in four phases over 40 years, as shown on the site plan dated May 16, 2006. The approval includes the Reclamation Plan dated May 16, 2006. All of the materials excavated shall be processed at the existing facility (QX-91-5).
 - c. **STOCKPILING:** No stockpiled soil or material shall be placed closer than 25 feet to a property boundary. (Development Title Section 9-1415.3[b])
 - d. **PRIVATE ROADS:** All private roads involved in an excavation shall be maintained so as to control the creation of dust. The first one hundred (100) feet of any private road on the property which intersects with a publicly maintained road shall be surfaced in a manner approved by the Director. Traffic-control and warning signs shall be installed, if required, at such intersection. The placement and size of these signs shall be approved by the Director of Public Works. (Development Title Section 9-1415.3[c])
 - e. **EROSION CONTROL:** Protective vegetative planting, silt screen dams, or other approved methods shall be required where necessary for the control of erosion. An erosion and sediment control plan approved by Development Services Division shall be part of the reclamation plan. (Development Title Section 9-1415.3[d])
 - f. **PERFORMANCE STANDARDS:** Standards contained in Chapter 9-1025 shall be met unless otherwise modified by conditions of the Quarry Excavation Permit. (Development Title Section 9-1415.3[e])
 - g. **HOURS OF OPERATION:** Plant operations shall be operated 24-hous a day, 7 days a week.
 - h. **REPLACEMENT OF TOPSOIL:** The topsoil shall be set aside, and upon completion of an excavation, the topsoil shall be replaced and the site leveled in conformance with the excavation permit. (Development Title Section 9-1415.3[g])
 - i. **REMOVAL OF TOPSOIL:** The topsoil may be removed from the site. (Development Title Section 9-1415.3[g])
 - j. **WEED CONTROL:** If noxious weeds are on the site, operations shall be in accordance with instructions from the Agricultural Commissioner of San Joaquin County. (Development Title Section 9-

1415.3[h])

- k. **HEALTH CONSIDERATIONS:** This quarry excavation shall:
1. Not cause health or sanitary hazards and shall not create conditions which will cause the breeding or increase of mosquito's, rodents, or other pests.
 2. Provide an approved potable water supply for all employees.
 3. Provide approved toilets for all employees (chemical toilets are acceptable).
 4. Provide handwashing facilities on or near the approved toilets. (Development Title Section 9-1415.3[i])
- l. **SETBACKS:** No excavation shall take place within 25 feet of any property line or right-of-way (nor within the allowed slopes adjacent to said 25 foot setback), unless the elevation prior to excavation is more than that of the abutting property, in which case the elevation within said 25 foot setback shall at no time be less than that of the abutting property, at the property line. (Development Title Section 9-1415.3[j])
- m. **SLOPES:** The following provisions do not apply to temporary interior cut slopes (i.e., working slopes that do not fall within any of the criteria listed below). Temporary interior cut slopes shall comply with the Cal OSHA Code of Regulations and/or the Federal OSHA Code of Regulations as applicable. (Development Title Section 9-1415.3[k])
1. Terracing Required. All slopes over 50 feet in height shall be terraced with a maximum vertical distance between terraces of 50 feet. Each terrace or bench shall be a minimum of twelve (12) feet wide.
 2. Terrace Drainage. Drainage plans with calculations shall be submitted for approval to Development Services Division for all terraces as part of the Reclamation Plan.
 3. Terraces for reclaimed final slopes shall be sloped back towards the fill and be designed such that runoff is directed to collection points where it can enter catch basins and be conveyed via pipes or other acceptable conveyance to the toe of slope. The spacing of collection points shall be no greater than 1,500 feet; with each reclaimed final slope face that has terracing shall have a minimum of 1 down drain. The method of transporting the water along the flow line of the terrace to the down drain, so as to prevent erosion and possible slope failure, shall be approved by the Development Services Division.
 4. The method of drainage of terraces for temporary slopes at setback lines shall be submitted to Development Services division for approval.
 5. Slope Stability Factors of Safety. When required in this Title to provide site-specific geologic and engineering slope stability analysis, the following minimum slope stability factors of safety shall apply:
 6. A minimum factor of safety of 1.5 against static deep-seated failure.
 7. A minimum factor of safety of 1.5 against static surficial failure.
 8. A minimum factor of safety of 1.1 against seismic failure;
 9. Temporary Cut Slopes at Setback Lines. Temporary cut slopes (i.e., for limited periods of time, slopes that are in the process of extraction prior to being backfilled) at setback lines shall not exceed 1 foot horizontal to 1 foot vertical, except that temporary cut slopes at setback lines to a maximum of one half (1/2) of a foot horizontal to 1 foot vertical may be maintained if site-specific geologic and engineering analysis demonstrate through a slope stability analysis that the proposed temporary cut slopes will have a minimum slope stability factor of safety as required in Section 9-

1415.3(k)(4). However, in the event that there are existing structures on the adjacent property (or the immediate potential for structures on the adjacent property), the excavation shall at not time be closer to the property line than a line projected on a slope of 1 to 1 from the property line to the toe of slope.

10. **Final Slopes.** Final cut and/or fill slopes shall not exceed 2 feet horizontal to 1 foot vertical, except as specified below:
 11. Final slopes to a maximum of one and one-half (1 1/2) feet horizontal to 1 foot vertical may be maintained when site-specific geologic and engineering analysis demonstrate through a slope stability analysis that the proposed final slopes will have a minimum slope stability factor of safety as required in Section 9-1415.2(k)(4), while demonstrating suitability for the proposed end use and protecting against erosion (by means of revegetation or other methods approved by Development Services Division).
 12. **Fill Slopes.** Fill slopes shall be constructed consistent with recommendations from a qualified civil/geotechnical engineer based upon site-specific geologic conditions;
- n. **FENCING:** Fencing 4 feet in height consisting of not less than 3 strands of barbed wire, or an approved equivalent, shall be placed around the excavation area where slopes steeper than 2 feet horizontal to 1 foot vertical are maintained. Six (6) foot high security fencing or an approved equivalent shall be required where slopes steeper than 2 feet horizontal to 1 foot vertical are created, if the proximity of such slopes to residential uses or other uses involving a concentration of people so warrants. (Development Title Section 9-1415.3[l])
- o. **SCREENING AND LANDSCAPING:** Screening consistent with Chapter 9-1020 is required. (Development Title Section 9-1415.3[m])
 1. A Landscaping/Screening Plan shall be submitted to the Director for approval prior to the initiation of the approved excavation. The Plan may consist of Berms. The Berms may consist of overburden which may be removed upon reclamation of the mined areas.
- p. **PONDING:** All water utilized in the plant operation shall be disposed of behind a closed dike. (Development Title Section 9-1415.3[n])
- q. **EXCAVATION/RECLAMATION SCHEDULE:** The reclamation plan shall show the phases of excavation. Reclamation on one phase of an excavation shall be initiated prior to the start of the next excavation phase. The final reclamation of any phase of excavation shall be completed within two years of the commencement of the reclamation process. Excavation shall be limited so that at any point of time a maximum of one phase is being reclaimed while one phase is being excavated. (Development Title Section 9-1415.3[o])
- r. **TIME LIMITATION:** The Quarry Excavation Permit shall expire 42 years from the date of approval.
- s. **ANNUAL INSPECTION REPORTS:** Annual inspections of the excavation shall be conducted by the County to ensure compliance with the conditions of the permit and the reclamation plan. The County may use professional services as provided for in Section 9-240.11. The consultant shall be selected by San Joaquin County. Upon completion of the annual inspection, the person in charge of the mining operation shall submit to the State Geologist and the County a report which shall contain all the information as required by Section 2207 of the Public Resources Code. The cost of the inspection shall be paid by the mine operator. Additional inspections may be conducted, but the cost of additional inspections shall be paid for by the mine operator only if non-compliance with the conditions of the Quarry Excavation Permit or the reclamation plan is found. (Development Title Section 9-1415.3[q])
- t. **PERFORMANCE GUARANTEE:** In order to ensure reclamation of the site, compliance with conditions of approval, and compliance with County and state mining regulations, the applicant shall provide performance guarantees as a condition of the issuance of the Quarry Excavation Permit. The amount and form of the guarantee shall be subject to annual review and approval by the County and the state, and the amount shall be adequate to ensure reclamation of disturbed land and/or land to be

disturbed during a given phase. The annual review of the financial guarantee shall be coordinated with the annual inspection and approval of successive reclamation security so that the guarantee includes the amount of disturbed land plus the amount of land estimated to be disturbed during the next 12 months, less the amount of land previously determined by Development Services Division annual inspection to have been reclaimed. The performance guarantee shall be in the form of either: 1) a surety bond, 2) a trust fund with the lead agency, or 3) an irrevocable letter of credit. Any interest accrued in a trust fund shall stay with the trust fund account. The financial guarantee shall be payable to "San Joaquin County or the Department of Conservation" under the applicable provisions of the County and the state mining regulations. The financial guarantee shall be callable by the County or the State under the following circumstances:

1. The applicant causes the excavation to become idle (as defined in Section 9-110 of the Development Title) without an approved interim management plan;
 2. The applicant files for bankruptcy;
 3. The County or State determines on the basis of annual inspections and reports that the applicant has not maintained substantial compliance with the approved Permit;
 4. There arises an occurrence or circumstance which, in the opinion of the County or State, jeopardizes the site reclamation; or
 5. The State makes one or more of the findings specified in Section 2774.4(a) of the State Public Resources Code.
 6. In any instance that the County or State makes the demand for partial or full tender of the financial guarantee of performance, the County and/or state may use all or any portion of the financial guarantee to reclaim the site and to recover its administrative costs associated therewith. (Development Title Section 9-1415.3[r])
- u. **ENFORCEMENT:** Except as otherwise provided in State Mining Regulations, the County shall have authority to enforce provisions of the Surface Mining and Reclamation Act. The County may exercise all enforcement regulations available under the County Development Title and the State Public Resources Code. Such enforcement measures include charging the applicant the costs of administering an enforcement action. The basis for charging fees for an enforcement action shall be a time and materials compensation. (Development Title Section 9-1415.3[t])
- v. **RECLAMATION:** The site shall be reclaimed to an agricultural use.
- w. **MITIGATION MONITORING PLAN:**
1. The project applicant shall amend the Vernalis Central Emergency Response Plan to include Vernalis West and East prior to beginning excavation of the site, for review and approval of the Community Development Department.
 2. A Landscaping/Screening Plan shall be submitted to the Director for approval prior to initiation of the approved excavation. The plan may consist of berms. The berms may consist of overburden which may be removed upon reclamation of the mined areas. If berms are used for screening, they shall be between 6 and 8 feet in height and landscaped with natural grasses to provide erosion control and blend with surrounding flora. (Development Title Section 9-1415.3 (m), 9-1020.10).
 3. Prior to Improvement Plan approval, the project proponents shall submit plans to the Community Development Department for review and approval which indicate (via notation on the improvement plans) that if historic and/or cultural resources, or human remains are encountered during site grading or other site work, all such work shall be halted immediately within the area of discovery and the applicant/developer shall immediately notify the Community Development Department of the discovery. In such case, the project proponents shall be required, at their expense, to retain the services of a qualified archaeologist for the

purpose of recording, protecting, or curating the discovery as appropriate. The archaeologist shall be required to submit to the Community Development Department for review and approval a report of the findings and method of curation or protection of the resources. Further grading or site work within the area of discovery shall not be allowed until the preceding steps have been taken.

4. The applicant shall be required to comply with the Mitigation Monitoring Plan ~~identified as Attachment "C"~~ included in the Conditions of Approval.

2. DEPARTMENT OF PUBLIC WORKS (Contact: [209] 468-3000)

- a. The applicant shall submit an application for a Site Improvement Plan for the excavation and reclamation plans for approval.
- b. The applicant shall pay a fair share percentage for the State Route 132/Bird Road interchange.
- c. All mined product haul route traffic shall be restricted to Bird Road from the existing plant to the future State Route 132 interchange.
- d. All raw products shall be transported to the plant via conveyers or on private haul roads. No raw products shall be transported via public roads.
- e. The State Route 132/Bird Road interchange shall be completed and open to traffic prior to any material leaving the properties under this permit. Work that is preliminary to mining such as landscaping will be permitted to proceed prior to the interchange being complete and open to traffic.
- f. An encroachment permit shall be required for work within the road right-of-way. This includes work on, over, and/or under the right-of-way (Development Title Sections 9-1145.4 and 9-1145.5).
- g. Implement Final EIR mitigation measure 4.1-2(a). Prior to increasing washwater discharges at the Vernalis central facility beyond what is currently allowed in the current Waste Discharge Requirements (WDRs) for that facility, the applicant shall amend the existing WDRs issued by the Central Valley Regional Water Quality Control Board (CVRWQCB) for the Vernalis central facility to accommodate the proposed increase in washwater discharge associated with the proposed project.
- h. Implement Final EIR mitigation measure 4.1-2(b). Prior to discharging thickened washwater to the Phase A mining area, the applicant shall apply for and obtain WDRs from the CVRWQCB for the discharge of thickened washwater to the Phase A mining area.
- i. Implement Final EIR mitigation measure 4.2-2. Unconfined compressive strength tests shall be conducted every 25 vertical feet, or as deemed necessary by a geotechnical consulting firm, on block samples obtained for each major slope face during the excavation of the mining areas to confirm the strength values used in the geotechnical analysis. In addition, as the quarry is excavated, a geotechnical consulting firm shall inspect the slopes every 25 vertical feet, or as deemed by the geotechnical consultant, to evaluate if the observed soils are consistent with the soil conditions anticipated in the slope stability analysis and identify soil conditions at the site that would decrease the anticipated stability factors of safety. Proof of compliance with this measure shall be provided to Public Works as part of the annual review process.
- j. For the periodic slope stability analysis, triaxial testing is required in addition to UCS testing until such time that the applicant's geotechnical consultant submits documentation showing the correlation between the two test methods.
- k. Implement Final EIR mitigation measure 4.2-3(a). The reclaimed slopes shall be compacted to at least 90 percent relative compaction and should not be steeper than 1.5:1, unless otherwise recommended by a geotechnical consulting firm under contract with the County and Public Works.

- l. A 50-foot setback from the eastern edge of the State of California drainage easement in Phase B will be maintained until such time as a revised easement has been recorded.
- m. At pipeline easement crossing points, the applicant will place three feet of compacted overburden over the pipeline.
- n. All private roads involved in an excavation shall be maintained so as to control dust.
- o. The applicant shall maintain Bird Road along its haul route to a condition acceptable to San Joaquin County. A cash deposit or security in the amount and form acceptable to Public Works shall be filed with the Department with a guarantee that if the permittee fails, refuses, or neglects to repair, under permit, any damages to Bird Road along the haul route that may result from permittee's operation, Public Works may do the work necessary to restore Bird Road along the haul route to equal or better than original condition, using the funds from said cash deposit or security. As an alternative, an in-lieu annualized maintenance fee may be acceptable to Public Works. An application for the in-lieu fees may be made to Public Works. As an additional alternative, a Joint Maintenance Agreement shall be fully executed for the applicant's fair share in conjunction with other applicable quarry operators to ensure that Bird Road is maintained to a condition acceptable to San Joaquin County. (Development Title Section 9-854.3)
- p. Loads on all public roads shall be required to legal loads only. (Street and Highway Title Section 10-2350)
- q. The Traffic Impact Mitigation Fee shall be required for this development. The fee is due and payable at the time of approval of the site improvement plan. The fee currently is \$233.15 per trip end in the Tracy area. The fee will be based upon 640 trip ends. The fee shall be automatically adjusted July 1 of each year by the Engineering Construction Cost Index as published by the Engineering News Record. (Resolution R-00-339)
- r. The Regional Traffic Impact Fee shall be required for this development. The fee is due and payable at the time of approval of the site improvement plan. The fee currently is \$830.00 per 1,000 equivalent gross square foot of building. The fee is based on the current schedule. (Resolution R-06-38)

3. ENVIRONMENTAL HEALTH (Contact: [209] 468-3420)

- a. The applicant shall submit to Environmental Health an annual report on the status of water supply wells around the general perimeter of the permitted mining areas. A copy of the annual report shall be submitted to the Community Development Department and affected property owners.
- b. In the event the applicant is unable to obtain or retain the required water wells for water quality testing, the applicant shall procure new wells for monitoring purposes at locations acceptable to Environmental Health. The wells to be tested for groundwater quality shall, at a minimum, be tested for general minerals and nitrates. The applicant shall pay a \$450.00 fee to Environmental Health to cover the cost of reviewing the annual water quality reports.
- c. No excavations are permitted into the groundwater table without specific approval from the Regional Water Quality Control Board, Central Valley Region (California Water Code, Chapter 4, Article 3, Section 13240).
- d. The materials from an excavation shall not be deposited into any watercourse or in any way contribute to the pollution thereof (California Water Code, Section 13376).
- e. Approved sanitary facilities must be provided for all employees (Development Title Section 9-1100.1).

4. SAN JOAQUIN COUNCIL OF GOVERNMENTS (Contact: [209] 468-3913)

- a. Prior to site disturbance, the project proponent shall comply with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) (including preconstruction special-status species surveys and implementation of Incidental Take Minimization Measures) and pay appropriate mitigation fees as determined by the SJMSCP.

- i. Sign and return Incidental Take Minimization Measures to SJMSCP staff (given to project applicant after the pre-construction survey is completed).

de.ii. _____ the appropriate fee based on SJMSCP findings.

ef.iii. Receive the Certificate of Payment to release the required permit.

OR

- b. In carrying out the operations of the proposed project, the applicant shall not take any actions that would violate the provisions of the State or Federal ESAs or any regulations promulgated pursuant thereto. Compliance with said laws shall be the sole responsibility of the applicant, and the applicant agrees to indemnify, defend and hold the County harmless from and against any claim or action by affected State or Federal agencies as to the project's compliance with said laws.

bc.

ed.

5. SAN JOAQUIN VALLEY AIR POLLUTION (Contact: [559] 230-5817)

- a. Any equipment subject to the District's Permit to Operate requirements must obtain an Authority to Construct from the District.
- b. Regulation VIII (Fugitive PM10 Prohibitions): Rules 8011-8081 are designed to reduce PM10 emissions (predominantly dust/dirt) generated by human activity, including construction and demolition activities, road construction, bulk materials storage, paved and unpaved roads, carryout and trackout, and landfill operations.
- c. A Dust Control Plan must be submitted as specified in Section 6.3.1 of Rule 8021. Construction activities shall not commence until the District has approved the Dust Control Plan.
- d. Rule 3135 (Dust Control Plan Fee): The applicant shall submit a fee in addition to the Dust Control Plan.
- e. Rule 2201 (New and Modified Stationary Source Review Rule, Amended December 15, 2005): This rule applies to all new stationary sources and all modifications of existing stationary sources that are subject to the District's permit requirements and after construction emit or may emit one or more affected pollutant. The applicant must contact the District's Small Business Assistance Office at (209) 557-6446.

6. CALIFORNIA REGIONAL WATER QUALITY (Contact: [916] 464-4683)

- a. Waste Discharge Requirements: Because wastewater will be generated and treated, stored, or disposed on the site at the processing facility, WDRs are required. The project proponent shall submit a Report of Waste Discharge (RWD).
- b. The property owner shall obtain permit coverage under the NPDES General Permit No. CAS000002 for Discharges of Storm Water Associated With Construction Activity. Before construction begins, the proponent must submit an NOI to comply with the permit to the State Water

Resources Control Board, and a Stormwater Pollution Prevention Plan (SWPPP) must be prepared.

- c. Prior to increasing washwater discharges at the Vernalis Central facility beyond what is currently allowed in the current Waste Discharge Requirements (WDRs) for that facility, the applicant shall amend the existing WDRs issued by the Central Valley Regional Water Quality Control Board (CVRWQCB) for the Vernalis Central facility to accommodate the proposed increase in washwater discharge associated with the proposed project.
- d. Prior to discharging thickened washwater to the Phase A mining area, the applicant shall apply for and obtain WDRs from the CVRWQCB for the discharge of thickened washwater to the Phase A mining area.

7. CALTRANS – DISTRICT 10 (Contact: [209] 941-1921)

- a. **TRAFFIC OPERATIONS:** Traffic Operations concurs as a project condition, stated in the “Vernalis West and Vernalis East Traffic and Circulation Analysis,” that Teichert would not increase their production over the currently permitted 4.0 million tons per year until the SR 132/Bird Road interchange and associated highway improvements are constructed. Teichert Aggregates will contribute their fair share to these improvements.

* * *

MITIGATION MONITORING PLAN

Introduction

Section 15097 of the California Environmental Quality Act (CEQA) requires all state and local agencies to establish monitoring or reporting programs for projects approved by a public agency whenever approval involves the adoption of either a "mitigated negative declaration" or specified environmental findings related to environmental impact reports.

The following is the Mitigation Monitoring Plan for the Vernalis West and East project. The Plan includes a description of the requirements of the California Environmental Quality Act and a compliance checklist. The project as approved includes mitigation measures. The intent of the Plan is to prescribe and enforce a means for properly and successfully implementing the mitigation measures as identified within the Environmental Impact Report for this project. Unless otherwise noted, the cost of implementing the mitigation measures as prescribed by this Plan shall be funded by the applicant.

Compliance Checklist

The Mitigation Monitoring Plan (MMP) contained herein is intended to satisfy the requirements of CEQA as they relate to the Environmental Impact Report for the Vernalis West and East Project prepared by San Joaquin County. This MMP is intended to be used by County staff and mitigation monitoring personnel to ensure compliance with mitigation measures during project implementation. Mitigation measures identified in this MMP were developed in the Environmental Impact Report prepared for the proposed project.

The Vernalis West and East Project Environmental Impact Report presents a detailed set of mitigation measures that will be implemented throughout the lifetime of the project. Mitigation is defined by CEQA as a measure which does one or more of the following:

- Avoids the impact altogether by not taking a certain action or parts of an action.
- Minimizes impacts by limiting the degree or magnitude of the action and its implementation.
- Rectifies the impact by repairing, rehabilitating, or restoring the impacted environment.
- Reduces or eliminates the impact over time by preservation and maintenance operations during the life of the project.
- Compensates for the impact by replacing or providing substitute resources or environments.

The intent of the MMP is to ensure the effective implementation and enforcement of adopted mitigation measures and permit conditions. The MMP will provide for monitoring of construction activities as necessary and in-the-field identification and resolution of environmental concerns.

Monitoring and documenting the implementation of mitigation measures will be coordinated by San Joaquin County. Table 1 identifies the mitigation measure, the monitoring action for the mitigation measure, the responsible party for the monitoring action, and timing of the monitoring action. The applicant will be responsible for fully understanding and effectively implementing the mitigation measures contained within the MMP. San Joaquin County will be responsible for ensuring compliance.

During the ongoing mining operations associated with the project, the County will assign an inspector who will be responsible for field monitoring of mitigation measure compliance. The inspector will report to the County Community Development Department and will be thoroughly familiar with permit conditions and the MMP. In addition, the inspector will be familiar with aggregate mining contract requirements, mining

schedules, standard aggregate mining practices, and mitigation techniques. In order to track the status of mitigation measure implementation, field-monitoring activities will be documented on compliance monitoring report worksheets. The time commitment of the inspector will vary depending on the intensity and location of mining activity. Aided by the attached table, the inspector will be responsible for the following activities:

- Routine on-site monitoring, as needed, of mining activities.
- Reviewing mining plans, equipment staging/access plans, and reclamation plans to ensure conformance with adopted mitigation measures.
- Ensuring applicant/contractor knowledge of and compliance with the MMP.
- Verifying the accuracy and adequacy of contract wording.
- Having the authority to require correction of activities that violate mitigation measures. The inspector shall have the ability and authority to secure compliance with the MMP.
- Acting in the role of contact for property owners or any other affected persons who wish to register observations of violations of project permit conditions or mitigation. Upon receiving any complaints, the inspector shall immediately contact the mining representative. The inspector shall be responsible for verifying any such observations and for developing any necessary corrective actions in consultation with the construction representative and San Joaquin County.
- Obtaining assistance as necessary from technical experts in order to develop site- specific procedures for implementing the mitigation measures.
- Maintaining a log of all significant interactions, violations of permit conditions or mitigation measures, and necessary corrective measures.

Mitigation Monitoring Plan

The following table indicates the mitigation measure number, the impact the measure is designed to address, the measure text, the monitoring agency, implementation schedule, and an area for sign-off indicating compliance.

TABLE 1: VERNALIS WEST AND EAST PROJECT MITIGATION MONITORING PLAN		
Impact	Mitigation Measures	Monitoring Agency
4.1 Water Resources		
4.1-2 Degradation of water quality.	4.1-2(a) <i>Prior to increasing washwater discharges at the Vernalis Central facility beyond what is currently allowed in the current Waste Discharge Requirements (WDRs) for that facility, the applicant shall amend the existing Waste Discharge Requirements (WDRs) issued by the Central Valley Regional Water Quality Control Board (CVRWQCB) for the Vernalis Central facility to accommodate the proposed increase in washwater discharge associated with the proposed project.</i>	CVRWQCB
	4.1-2(b) <i>Prior to discharging thickened washwater to the Phase A mining area, the applicant shall apply for and obtain WDRs from the CVRWQCB for the discharge of thickened washwater to the Phase A mining area.</i>	CVRWQCB

**TABLE 1: VERNALIS WEST AND EAST PROJECT
MITIGATION MONITORING PLAN**

<i>Impact</i>	<i>Mitigation Measures</i>		<i>Monitoring Agency</i>
4.2 Earth			
4.2-2 Slope Stability.	4.2-2	<i>Unconfined Compressive Strength tests shall be conducted every 25 vertical feet, or as deemed necessary by a geotechnical consulting firm, on block samples obtained for each major slope face during the excavation of the mining areas to confirm the strength values used in the geotechnical analysis. In addition, as the quarry is excavated, a geotechnical consulting firm shall inspect the slopes every 25 vertical feet, or as deemed necessary by the geotechnical consultant, to evaluate if the observed soils are consistent with the soil conditions anticipated in the slope stability analysis and identify soil conditions at the site that would decrease the anticipated stability factors of safety. Proof of compliance with this measure shall be provided to the San Joaquin County Public Works Department as part of the annual review process.</i>	Public Works Department
4.2-3 Exposure of people or structures to injury or damage from seismic activity.	4.2-3(a)	<i>The reclaimed slopes shall be compacted to at least 90 percent relative compaction and should not be steeper than 1.5:1, unless otherwise recommended by a geotechnical consulting firm under contract with the County, and the County Engineer.</i>	County Engineer
	4.2-3(b)	<i>The project applicant shall amend the Vernalis Central Emergency Response Plan to include Vernalis West and East prior to beginning excavation of the site, for the review and approval of the Community Development Director.</i>	Community Development Director
4.3 Biological Resources			

**TABLE 1: VERNALIS WEST AND EAST PROJECT
MITIGATION MONITORING PLAN**

<i>Impact</i>	<i>Mitigation Measures</i>	<i>Monitoring Agency</i>
4.3-2 Impacts to special-status species.	<p>4.3-2 <i>Prior to site disturbance, the project proponent shall comply with the SJMSCP (including pre-construction special-status species surveys, and implementation of Incidental Take Minimization Measures) and pay appropriate mitigation fees as determined by the SJMSCP.</i></p> <p>Or</p> <p><i>In carrying out the operations of the proposed project, the applicant shall not take any actions that would violate the provisions of the State or Federal Endangered Species Acts or any regulations promulgated pursuant thereto. Compliance with said laws shall be the sole responsibility of the applicant, and the applicant agrees to indemnify, defend, and hold the County harmless from and against any claim or action by affected State or Federal agencies as to the project's compliance with said laws.</i></p>	Community Development Department
4.3-3 Cumulative loss of habitat.	4.3-3 Implement Mitigation Measure 4.3-2.	N/A
4.6 Transportation and Circulation		
4.6-1 Implementation of the proposed project could worsen existing LOS deficiencies at study roadway segments under 2007 conditions.	4.6-1 <i>The applicant shall contribute to the funding for the improvements to the proposed SR 132/Bird Road interchange project and the interchange shall be open for traffic prior to any material leaving the properties under this permit.</i>	Public Works Department
4.6-2 Implementation of the proposed project could worsen existing LOS deficiencies at study intersections under 2007 Project conditions.	4.6-2 <i>Implement Mitigation Measure 4.6-1.</i>	Public Works Department
4.6-5 Implementation of the proposed project could impact LOS at ramp junctions and weaving segments under	4.6-5 <i>Implement Mitigation Measures 4.6-1.</i>	Public Works Department

**TABLE 1: VERNALIS WEST AND EAST PROJECT
MITIGATION MONITORING PLAN**

<i>Impact</i>	<i>Mitigation Measures</i>		<i>Monitoring Agency</i>
the (2027) Plus Project conditions.			
Impacts and Mitigation Measures Identified in the Initial Study			
I. AESTHETICS	I-1.	<i>Prior to initiation of the approved excavation, the applicant shall submit a Landscaping/Screening Plan, for the review and approval of the San Joaquin County Community Development Department. The Plan shall include berms that consist of overburden, which may be removed upon reclamation of the mined areas. If the berms are used for screening, the berms shall be between six and eight feet in height, and shall be landscaped with natural grasses to provide erosion control and blend in with surrounding flora. The Plan shall also include the creation of undulating landforms along the southwestern portion of Phase A within the first year of mining to replicate the surrounding hillsides.</i>	Community Development Department
V. CULTURAL RESOURCES.	V-2.	<i>Prior to Improvement Plan approval, the project proponents shall submit plans to the Community Development Department for review and approval which indicate (via notation on the improvement plans) that if historic and/or cultural resources, or human remains are encountered during site grading or other site work, all such work shall be halted immediately within the area of discovery and the Applicant/Developer shall immediately notify the Community Development Department of the discovery. In such case, the project proponents shall be required, at their expense, to retain the services of a qualified archaeologist for the purpose of recording, protecting, or curating the discovery as appropriate. The archaeologist shall be required to submit to the Community Development Department for review and approval a report of the findings and method of curation or protection of the resources. Further grading or site work within the area of discovery shall not be allowed until the proceeding steps have been taken.</i>	Community Development Department
VII. HAZARDS AND HAZARDOUS MATERIALS.	VII-3.	<i>Prior to issuance of a demolition permit by the County for any on-site structures, the project proponent shall provide a site assessment, which determines whether any structures to be demolished contain asbestos and/or lead paint. If any structures contain asbestos, the application shall include an asbestos abatement plan consistent with local, state, and federal standards, subject to the County Building Official approval.</i>	County Building Official

**TABLE 1: VERNALIS WEST AND EAST PROJECT
MITIGATION MONITORING PLAN**

<i>Impact</i>	<i>Mitigation Measures</i>	<i>Monitoring Agency</i>
	<p>VII-4. <i>Prior to the issuance of demolition permits for existing on-site structures, the project proponent shall provide a site assessment, which determines whether any structures to be demolished contain lead-based paint. If such paint is found, all loose and peeling paint shall be removed and disposed of by a licensed and certified lead paint removal contractor, in accordance with local, state, and federal regulations. The demolition contractor shall be informed that all paint on the buildings shall be considered as containing lead. The contractor shall take appropriate precautions to protect his/her workers, the surrounding community, and to dispose of construction waste containing lead paint in accordance with local, state, and federal regulations subject to the County Building Official approval.</i></p> <p>VII-5. <i>Prior to initiation of mining activities, the applicant shall ensure all contractors and employees immediately control the source of any leak and immediately containing any spill utilizing appropriate spill containment and countermeasures. Contaminated media shall be collected and disposed of at an offsite facility approved to accept such media, as approved by the County Environmental Health Department. In addition, all precautions required by the RWQCB issued Waste Discharge Requirements (WDRs) would be taken to insure hazardous materials do not enter any nearby waterway.</i></p>	<p>County Building Official</p> <p>County Environmental Health Department CVRWQCB</p>



Planning Commission Staff Report
Item # 3, May 19, 2022
Public Road Name Change No. PA-2200035
Prepared by: Teddie Hernandez

PROJECT SUMMARY

Applicant Information

Property Owner: Frank Rubino
Project Applicant: Marlon Bateman

Project Site Information

Project Location: Grider Way between Windmill Park Drive and North Lower Sacramento Road, Stockton.

Parcel Number (APN):	070-140-11,-21,-34,-35	100-Year Flood:	No (X Levee)
Community:	Stockton	Williamson Act:	No
		Supervisorial District:	2

Environmental Review Information

CEQA Determination: Notice of Exemption (Attachment C, Environmental Review)

Project Description

This project is a public Road Name Change application, pursuant to Development Title Section 9-1150.18(c). The applicant proposes to change the name of West Grider Way to Whistler Way in unincorporated San Joaquin County. The road name will be changed between Windmill Park Drive and North Lower Sacramento Road. This application serves to make the road name consistent with the section of road located within the City Limits of Stockton.

Recommendation

1. Adopt the Findings for Road Name Change (Attachment D);
2. Approve Road Name Change No. PA-2200035, and rename Grider Way to Whistler Way between Windmill Park Drive and North Lower Sacramento Road with the attached Conditions of Approval (Attachment E).

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NOTIFICATION & RESPONSES

(See Attachment B, Response Letters)

Public Hearing Notices

Legal ad for the public hearing published in the Stockton Record: May 9, 2022.

Number of Public Hearing notices: 133

Date of Public Hearing notice mailing: May 6, 2022.

Referrals and Responses

- **Project Referral with Environmental Determination Date:** March 10, 2022

Agency Referrals	Response Date - Early Consultation	Response Date - Referral
County Departments		
Ag Commissioner		
Assessor		
Community Development		
Building Division		
Fire Prevention Bureau		
Public Works	03/11/2022	
Environmental Health	03/22/2022	
General Services		
Sheriff Office		
Surveyor		
State Agencies		
A.B.C.		
Department of Transportation		
District 10		
Division of Aeronautics		
C.H.P.		
C.R.W.Q.C.B.		
C.V.F.P.B.		
Fish & Wildlife, Division: 2		
O.E.S.		
Federal Agencies		
F.A.A.		
F.E.M.A.		
Army Corps of Engineers		

Agency Referrals	Response Date - Early Consultation	Response Date - Referral
Local Agencies		
A.L.U.C.		
CalWater		
City of Stockton		
Motezuma Fire District		
Mosquito & Vector Control		
S.J.C.O.G.		
San Joaquin Farm Bureau		
San Joaquin Air Pollution Control District		
S.E.W.D. Irrigation District		
Stockton Municipal Airport		
Stockton Unified School District		
Miscellaneous		
A.T.&T.		
B.I.A.		
Builders Exchange		
Carpenters Union		
Haley Flying Service		
Kathy Perez		
P.G.&E.	03/15/2022	
Precissi Flying Service		
Sierra Club		

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ANALYSIS

Background

West Grider Way is a short segment of road, running east to west between North Lower Sacramento Road and the city limits of Stockton, approximately 1,100 feet in length. This application is proposing to change the road name from West Grider Way to Whistler Way so that road name in the unincorporated County is the same as the road name within the City of Stockton. The applicant is in the process of annexing the parcels along Grider Way into the City of Stockton, and this Road Name Change is necessary for consistency at the time of the annexation.

Addressing

Seven (7) parcels with 14 separate addresses currently utilize West Grider Way. All affected property owners were notified of the proposed road name change by mail, and by posted notice along the section of road. These addresses will be changed to reflect the new road name upon approval of this application.

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RECOMMENDATION

It is recommended that the Planning Commission:

1. Adopt the Findings for Road Name Change (Attachment D);
2. Approve Road Name Change No. PA-2200035, and rename Grider Way to Whistler Way between Windmill Park Drive and North Lower Sacramento Road with the attached Conditions of Approval (Attachment E).

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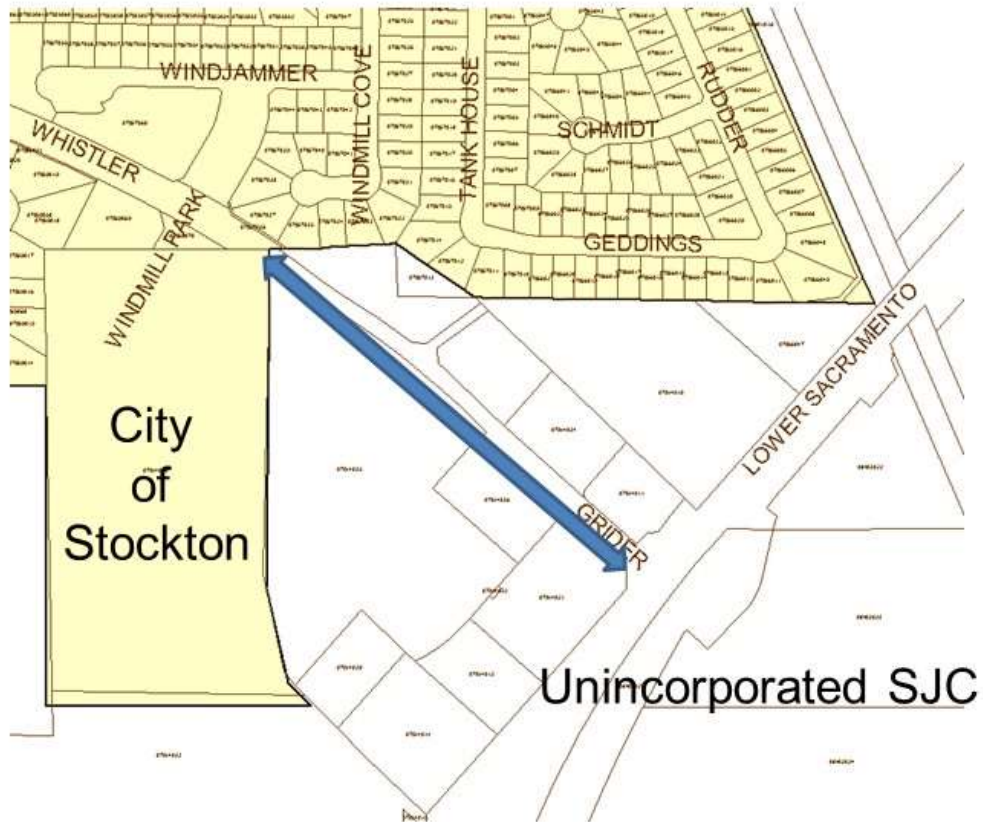
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Attachment A

Site Plan

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PA-2200035 (RN)



Rename West Grider Way to Whistler Way between
Windmill Park Drive and North Lower Sacramento Road

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Attachment B **Response Letters**

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Department of Public Works

Kris Balaji, Director of Public Works

Fritz Buchman, Deputy Director/Development

David Tolliver, Deputy Director/Operations

Najee Zarif, Deputy Director/Engineering

Kristi Rhea, Business Administrator

March 11, 2022

MEMORANDUM

TO: Community Development Department
CONTACT PERSON: Teddie Hernandez

FROM: Christopher Heylin, Development Services Engineer ^{CH}
Development Services Division

SUBJECT: PA-2200035; A Public Road Name Change application to change the name of a section of Grider Way in the unincorporated San Joaquin County from just east of Windmill Park Drive to North Lower Sacramento Road. The proposed name for the referenced section of road is Whistler Way. This application serves to make the road name consistent with the section of road within the City limits of Stockton; located between Windmill Park Drive and North Lower Sacramento Road, Stockton. (Supervisorial District 2)

OWNER: Frank Rubino Trustee

APPLICANT: Marlon Bateman

ADDRESS: 678 W. Grider Way, Stockton

APN: 070-140-11, -21, -34 & -36

RECOMMENDATIONS:

- 1) A copy of the final approval letter shall be sent to Public Services.
- 2) A copy of the final approval letter shall be sent to the County Surveyor.
- 3) All costs related to road signage changes shall be paid for by the applicant.

CH:DS

1810 East Hazelton Avenue | Stockton, California 95205 | T 209 468 3000 | F 209 468 2999

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Environmental Health Department

Jasjit Kang, REHS, Director

Muniappa Naidu, REHS, Assistant Director

PROGRAM COORDINATORS

Robert McClellon, REHS

Jeff Carruesco, REHS, RDI

Willy Ng, REHS


Melissa Nissim, REHS

Steven Shih, REHS

Michelle Henry, REHS

March 22, 2022

To: San Joaquin County Community Development Department
Attention: Teddie Hernandez

From: Naseem Ahmed; (209) 616-3018 
Senior Registered Environmental Health Specialist

RE: **PA-2200035 (RN), Referral, SU0014808**
678 W. Grider Way, Stockton

The Environmental Health Department has no comments or recommendation for this application at this time.



March 15, 2022

Teddie Hernandez
County of San Joaquin
1810 E Hazelton Ave
Stockton, CA 95205

Ref: Gas and Electric Transmission and Distribution

Dear Teddie Hernandez,

Thank you for submitting the PA-2200035 plans for our review. PG&E will review the submitted plans in relationship to any existing Gas and Electric facilities within the project area. If the proposed project is adjacent/or within PG&E owned property and/or easements, we will be working with you to ensure compatible uses and activities near our facilities.

Attached you will find information and requirements as it relates to Gas facilities (Attachment 1) and Electric facilities (Attachment 2). Please review these in detail, as it is critical to ensure your safety and to protect PG&E's facilities and its existing rights.

Below is additional information for your review:

1. This plan review process does not replace the application process for PG&E gas or electric service your project may require. For these requests, please continue to work with PG&E Service Planning: https://www.pge.com/en_US/business/services/building-and-renovation/overview/overview.page.
2. If the project being submitted is part of a larger project, please include the entire scope of your project, and not just a portion of it. PG&E's facilities are to be incorporated within any CEQA document. PG&E needs to verify that the CEQA document will identify any required future PG&E services.
3. An engineering deposit may be required to review plans for a project depending on the size, scope, and location of the project and as it relates to any rearrangement or new installation of PG&E facilities.

Any proposed uses within the PG&E fee strip and/or easement, may include a California Public Utility Commission (CPUC) Section 851 filing. This requires the CPUC to render approval for a conveyance of rights for specific uses on PG&E's fee strip or easement. PG&E will advise if the necessity to incorporate a CPUC Section 851 filing is required.

This letter does not constitute PG&E's consent to use any portion of its easement for any purpose not previously conveyed. PG&E will provide a project specific response as required.

Sincerely,

Plan Review Team
Land Management

Attachment 1 – Gas Facilities

There could be gas transmission pipelines in this area which would be considered critical facilities for PG&E and a high priority subsurface installation under California law. Care must be taken to ensure safety and accessibility. So, please ensure that if PG&E approves work near gas transmission pipelines it is done in adherence with the below stipulations. Additionally, the following link provides additional information regarding legal requirements under California excavation laws: <https://www.usanorth811.org/images/pdfs/CA-LAW-2018.pdf>

1. **Standby Inspection:** A PG&E Gas Transmission Standby Inspector must be present during any demolition or construction activity that comes within 10 feet of the gas pipeline. This includes all grading, trenching, substructure depth verifications (potholes), asphalt or concrete demolition/removal, removal of trees, signs, light poles, etc. This inspection can be coordinated through the Underground Service Alert (USA) service at 811. A minimum notice of 48 hours is required. Ensure the USA markings and notifications are maintained throughout the duration of your work.
2. **Access:** At any time, PG&E may need to access, excavate, and perform work on the gas pipeline. Any construction equipment, materials, or spoils may need to be removed upon notice. Any temporary construction fencing installed within PG&E's easement would also need to be capable of being removed at any time upon notice. Any plans to cut temporary slopes exceeding a 1:4 grade within 10 feet of a gas transmission pipeline need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.
3. **Wheel Loads:** To prevent damage to the buried gas pipeline, there are weight limits that must be enforced whenever any equipment gets within 10 feet of traversing the pipe.

Ensure a list of the axle weights of all equipment being used is available for PG&E's Standby Inspector. To confirm the depth of cover, the pipeline may need to be potholed by hand in a few areas.

Due to the complex variability of tracked equipment, vibratory compaction equipment, and cranes, PG&E must evaluate those items on a case-by-case basis prior to use over the gas pipeline (provide a list of any proposed equipment of this type noting model numbers and specific attachments).

No equipment may be set up over the gas pipeline while operating. Ensure crane outriggers are at least 10 feet from the centerline of the gas pipeline. Transport trucks must not be parked over the gas pipeline while being loaded or unloaded.

4. **Grading:** PG&E requires a minimum of 36 inches of cover over gas pipelines (or existing grade if less) and a maximum of 7 feet of cover at all locations. The graded surface cannot exceed a cross slope of 1:4.
5. **Excavating:** Any digging within 2 feet of a gas pipeline must be dug by hand. Note that while the minimum clearance is only 12 inches, any excavation work within 24 inches of the edge of a pipeline must be done with hand tools. So to avoid having to dig a trench entirely with hand tools, the edge of the trench must be over 24 inches away. (Doing the math for a 24 inch

wide trench being dug along a 36 inch pipeline, the centerline of the trench would need to be at least 54 inches [$24/2 + 24 + 36/2 = 54$] away, or be entirely dug by hand.)

Water jetting to assist vacuum excavating must be limited to 1000 psig and directed at a 40° angle to the pipe. All pile driving must be kept a minimum of 3 feet away.

Any plans to expose and support a PG&E gas transmission pipeline across an open excavation need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.

6. Boring/Trenchless Installations: PG&E Pipeline Services must review and approve all plans to bore across or parallel to (within 10 feet) a gas transmission pipeline. There are stringent criteria to pothole the gas transmission facility at regular intervals for all parallel bore installations.

For bore paths that cross gas transmission pipelines perpendicularly, the pipeline must be potholed a minimum of 2 feet in the horizontal direction of the bore path and a minimum of 12 inches in the vertical direction from the bottom of the pipe with minimum clearances measured from the edge of the pipe in both directions. Standby personnel must watch the locator trace (and every ream pass) the path of the bore as it approaches the pipeline and visually monitor the pothole (with the exposed transmission pipe) as the bore traverses the pipeline to ensure adequate clearance with the pipeline. The pothole width must account for the inaccuracy of the locating equipment.

7. Substructures: All utility crossings of a gas pipeline should be made as close to perpendicular as feasible ($90^\circ \pm 15^\circ$). All utility lines crossing the gas pipeline must have a minimum of 12 inches of separation from the gas pipeline. Parallel utilities, pole bases, water line 'kicker blocks', storm drain inlets, water meters, valves, back pressure devices or other utility substructures are not allowed in the PG&E gas pipeline easement.

If previously retired PG&E facilities are in conflict with proposed substructures, PG&E must verify they are safe prior to removal. This includes verification testing of the contents of the facilities, as well as environmental testing of the coating and internal surfaces. Timelines for PG&E completion of this verification will vary depending on the type and location of facilities in conflict.

8. Structures: No structures are to be built within the PG&E gas pipeline easement. This includes buildings, retaining walls, fences, decks, patios, carports, septic tanks, storage sheds, tanks, loading ramps, or any structure that could limit PG&E's ability to access its facilities.

9. Fencing: Permanent fencing is not allowed within PG&E easements except for perpendicular crossings which must include a 16 foot wide gate for vehicular access. Gates will be secured with PG&E corporation locks.

10. Landscaping: Landscaping must be designed to allow PG&E to access the pipeline for maintenance and not interfere with pipeline coatings or other cathodic protection systems. No trees, shrubs, brush, vines, and other vegetation may be planted within the easement area. Only those plants, ground covers, grasses, flowers, and low-growing plants that grow unsupported to a maximum of four feet (4') in height at maturity may be planted within the easement area.

11. Cathodic Protection: PG&E pipelines are protected from corrosion with an “Impressed Current” cathodic protection system. Any proposed facilities, such as metal conduit, pipes, service lines, ground rods, anodes, wires, etc. that might affect the pipeline cathodic protection system must be reviewed and approved by PG&E Corrosion Engineering.

12. Pipeline Marker Signs: PG&E needs to maintain pipeline marker signs for gas transmission pipelines in order to ensure public awareness of the presence of the pipelines. With prior written approval from PG&E Pipeline Services, an existing PG&E pipeline marker sign that is in direct conflict with proposed developments may be temporarily relocated to accommodate construction work. The pipeline marker must be moved back once construction is complete.

13. PG&E is also the provider of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E’s facilities must be reviewed and approved by PG&E to ensure that no impact occurs which may endanger the safe operation of its facilities.

Attachment 2 – Electric Facilities

It is PG&E's policy to permit certain uses on a case by case basis within its electric transmission fee strip(s) and/or easement(s) provided such uses and manner in which they are exercised, will not interfere with PG&E's rights or endanger its facilities. Some examples/restrictions are as follows:

1. Buildings and Other Structures: No buildings or other structures including the foot print and eave of any buildings, swimming pools, wells or similar structures will be permitted within fee strip(s) and/or easement(s) areas. PG&E's transmission easement shall be designated on subdivision/parcel maps as "RESTRICTED USE AREA – NO BUILDING."
2. Grading: Cuts, trenches or excavations may not be made within 25 feet of our towers. Developers must submit grading plans and site development plans (including geotechnical reports if applicable), signed and dated, for PG&E's review. PG&E engineers must review grade changes in the vicinity of our towers. No fills will be allowed which would impair ground-to-conductor clearances. Towers shall not be left on mounds without adequate road access to base of tower or structure.
3. Fences: Walls, fences, and other structures must be installed at locations that do not affect the safe operation of PG&E's facilities. Heavy equipment access to our facilities must be maintained at all times. Metal fences are to be grounded to PG&E specifications. No wall, fence or other like structure is to be installed within 10 feet of tower footings and unrestricted access must be maintained from a tower structure to the nearest street. Walls, fences and other structures proposed along or within the fee strip(s) and/or easement(s) will require PG&E review; submit plans to PG&E Centralized Review Team for review and comment.
4. Landscaping: Vegetation may be allowed; subject to review of plans. On overhead electric transmission fee strip(s) and/or easement(s), trees and shrubs are limited to those varieties that do not exceed 10 feet in height at maturity. PG&E must have access to its facilities at all times, including access by heavy equipment. No planting is to occur within the footprint of the tower legs. Greenbelts are encouraged.
5. Reservoirs, Sumps, Drainage Basins, and Ponds: Prohibited within PG&E's fee strip(s) and/or easement(s) for electric transmission lines.
6. Automobile Parking: Short term parking of movable passenger vehicles and light trucks (pickups, vans, etc.) is allowed. The lighting within these parking areas will need to be reviewed by PG&E; approval will be on a case by case basis. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications. Blocked-up vehicles are not allowed. Carports, canopies, or awnings are not allowed.
7. Storage of Flammable, Explosive or Corrosive Materials: There shall be no storage of fuel or combustibles and no fueling of vehicles within PG&E's easement. No trash bins or incinerators are allowed.

8. Streets and Roads: Access to facilities must be maintained at all times. Street lights may be allowed in the fee strip(s) and/or easement(s) but in all cases must be reviewed by PG&E for proper clearance. Roads and utilities should cross the transmission easement as nearly at right angles as possible. Road intersections will not be allowed within the transmission easement.

9. Pipelines: Pipelines may be allowed provided crossings are held to a minimum and to be as nearly perpendicular as possible. Pipelines within 25 feet of PG&E structures require review by PG&E. Sprinklers systems may be allowed; subject to review. Leach fields and septic tanks are not allowed. Construction plans must be submitted to PG&E for review and approval prior to the commencement of any construction.

10. Signs: Signs are not allowed except in rare cases subject to individual review by PG&E.

11. Recreation Areas: Playgrounds, parks, tennis courts, basketball courts, barbecue and light trucks (pickups, vans, etc.) may be allowed; subject to review of plans. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications.

12. Construction Activity: Since construction activity will take place near PG&E's overhead electric lines, please be advised it is the contractor's responsibility to be aware of, and observe the minimum clearances for both workers and equipment operating near high voltage electric lines set out in the High-Voltage Electrical Safety Orders of the California Division of Industrial Safety (<https://www.dir.ca.gov/Title8/sb5g2.html>), as well as any other safety regulations. Contractors shall comply with California Public Utilities Commission General Order 95 (http://www.cpuc.ca.gov/gos/GO95/go_95_startup_page.html) and all other safety rules. No construction may occur within 25 feet of PG&E's towers. All excavation activities may only commence after 811 protocols has been followed.

Contractor shall ensure the protection of PG&E's towers and poles from vehicular damage by (installing protective barriers) Plans for protection barriers must be approved by PG&E prior to construction.

13. PG&E is also the owner of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E's facilities must be reviewed and approved by PG&E to ensure that no impact occurs that may endanger the safe and reliable operation of its facilities.



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Attachment C

Environmental Review

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**DRAFT
 NOTICE OF EXEMPTION**

TO: Office of Planning & Research
 P. O. Box 3044, Room 212
 Sacramento, California 95812-3044

FROM: San Joaquin County
 Community Development Department
 1810 East Hazelton Avenue
 Stockton, California 95205

County Clerk, County of San Joaquin

Project Title: Public Road Name Change No. PA-2200035

Project Location - Specific: The project site is between Windmill Park Drive and North Lower Sacramento Road, Stockton. (APN/Address: 070-140-11, -21, -34, & -35 / 678 W. Grider Way, Stockton) (Supervisory District: 2)

Project Location – City: Stockton

Project Location – County: San Joaquin County

Project Description: Public Road Name Change application to change the name of a section of Grider Way in unincorporated San Joaquin County between Windmill Park Drive and North Lower Sacramento Road. The proposed name for the referenced section of road is Whistler Way. This application serves to make the road name consistent with the section of road within the City Limits of Stockton.

The Property is zoned AU-20 (Agriculture-Urban Reserve, 20-acre minimum) and C-C (Community Commercial). The General Plan designation is C/C (Community Commercial) and R/L (Low Density Residential).

Project Proponent(s): Frank Rubino / Marlon Bateman

Name of Public Agency Approving Project: San Joaquin County Planning Commission

Name of Person or Agency Carrying Out Project: Teddie Hernandez, Associate Planner
 San Joaquin County Community Development Department

Exemption Status:
 General Exemptions. (Section 15061[b](3))

Exemption Reason:
 Processed under the provisions of California Code of Regulations Section 15061(b)(3), which are exempt from CEQA.

This project is exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines section 15061(b)(3). Section 15061(b)(3) states that "CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." There is no possibility that this project may have a significant effect on the environment and, therefore, the project is not subject to CEQA.

Lead Agency Contact Person:
 Teddie Hernandez Phone: (209) 468-8359 FAX: (209) 468-3163 Email: thernandez@sjgov.org

Signature: _____ Date: _____

Name: Domenique Martorella Title: Deputy County Clerk

Signed by Lead Agency

Date Received for filing at OPR: _____

*Authority cited: Sections 21083 and 21110, Public Resources Code.
 Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.*

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Attachment D **Findings**

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FINDINGS FOR ROAD NAME CHANGE

PA-2200035 (RN)
FRANK RUBINO / MARLON BATEMAN

1. The proposed road name shall be consistent with the Community Development Department's road naming standards.
 - **This finding can be made because Community Development Department's staff have reviewed the proposed road name, and the name is consistent with the Department's road name standards.**

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Attachment E

Conditions of Approval

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CONDITIONS OF APPROVAL

PA-2200035

FRANK RUBINO / MARLON BATEMAN

Road Name Change application No. PA-2100157 was approved by the San Joaquin County Planning Commission on . The effective date of approval is . This approval will expire on , which is 18 months from the effective date of approval, unless (1) all Conditions of Approval have been complied with, (2) all necessary building permits have been issued and remain in force, and (3) all necessary permits from other agencies have been issued and remain in force.

1. DEPARTMENT OF PUBLIC WORKS (Contact: [209] 468-3000)
 - a. A copy of the final approval letter shall be sent to Public Services.
 - b. A copy of the final approval letter shall be sent to the County Surveyor.
 - c. All costs related to road signage changes shall be paid for by the applicant.