April 17, 2012

Mosler Rock-Ojai Quarry
Larry E. Mosler
2280 Moonridge Ave.
Newbury Park, CA 91320

Subject: Mosler Rock-Ojai Quarry:
Decision on Reclamation Plan Compliance Amendment;
1555 Maricopa Hwy (State Route 33);
Assessor’s Parcel Number 009-090-165

Dear Mr. Mosler:

Following the duly noticed public hearing on April 12, 2012, regarding the above-referenced matter, the Ventura County Planning Director has considered the request for approval of a Reclamation Plan Compliance Amendment for the Mosler Rock-Ojai Quarry (CA Mine ID #91-56-0025). By the authority granted to me by the Ventura County Administrative Supplement to the State CEQA Guidelines (2010, Chapters 3 and 8) and the Ventura County Non-Coastal Zoning Ordinance (2011, Sections 8107-9 et. seq.), and in accordance with the California Surface Mining and Reclamation Act (PRC Section 2710 et.seq.) and the State Mining and Geology Board reclamation regulations (14 CCR Section 3500 et. Seq.), I hereby:

1. CERTIFY that the Planning Director has reviewed and considered this staff report and all exhibits thereto, including the September 2, 1993 (Certified June 1, 1995) Environmental Impact Report (Exhibit 20) as augmented by the April 5, 2012 (Revised April 17, 2012) Addendum to the Environmental Impact Report (Exhibit 21 of the Staff Report for the April 12, 2012 hearing), and has considered all comments received during the public comment process and County staff responses thereto;

2. FIND that the revised Addendum to the 1995 Environmental Impact Report has been prepared in accordance with the requirements of the California Environmental Quality Act and the CEQA Guidelines (Exhibit 21 of the Staff Report for the April 12, 2012 hearing);

3. MAKE the required findings pursuant to Section 8107-9.6.9 of the Non-Coastal Zoning Ordinance that the Reclamation Plan Compliance Amendment is consistent with, and approved in accordance with, the Ventura County Non-Coastal Zoning Ordinance, the provisions of the California Surface Mining and Reclamation Act (Pub. Res. Code Section 2710 et seq.), Public Resources Code
Section 2207, State regulations (14 CCR Section 3500 et. seq.), the regulations, guidelines and other measures adopted by the State Mining and Geology Board, Ventura County Public Works Agency standards, and compatible with the existing geological and topographical features of the area based on the information presented in Sections C, D, and E of the Staff Report for the April 12, 2012 hearing.

4. **APPROVE** the Reclamation Plan Compliance Amendment (Exhibits 18A-C of the Staff Report for the April 12, 2012 hearing) for the Mosler Rock-Ojai Quarry; and,

5. **DESIGNATE** the Planning Division as the custodian of the documents pertaining to the subject Reclamation Plan Compliance Amendment and environmental document, and that the location of those documents shall be in the Planning Division files.

The decision of the Planning Director is final unless appealed to the Planning Commission within 10 calendar days after the permit has been approved, conditionally approved or denied (or on the following workday if the 10th day falls on a weekend or holiday). Any aggrieved person may file an appeal of the decision with the Planning Division. The Planning Division shall then set a hearing date before the Planning Commission to review the matter at the earliest convenient date.

If you have any questions concerning the information presented above, please contact Ebony J. McGee at (805) 654-5037 or via e-mail at ebony.mcgee@ventura.org,

Sincerely,

BRIAN R. BACA, Manager
Commercial and Industrial Permits

Encl.: Reclamation Plan Compliance Amendment (Front page only)
Revised EIR-Addendum (with Attachments 5 and 6)

c: Department of Conservation, Office of Mine Reclamation – Jim Pompy
Ventura County Air Pollution Control District – Kerby Zozula
District 1 Supervisor – Steve Bennett
Case File
RECLAMATION PLAN

Reclamation Plan Compliance Amendment

REVISED, APRIL 5, 2012
REVISED, APRIL 4, 2012
REVISED, February 16, 2012

Reclamation Plan for Mosler Rock—Ojai Quarry
California Mine ID # 91-56-0025
Ojai, California
APN(s) 009-0-090-160 and 180

Submitted by:

Gralar, LLC
dba Mosler Rock Products
2280 Moonridge Ave.
Newbury Park, CA 91320

SMARA Lead Agency • Resources Management Agency • Planning Division
800 S. Victoria Ave., Ventura, CA 93009 • 805/654-2488 • www.ventura.org/rms/planning
County of Ventura
Planning Director Hearing
RPCA/CUP3489-2
Exhibit 18A – Rec. Plan Compliance Amendment (with Figures 1&2)
A. BACKGROUND INFORMATION AND PROJECT DESCRIPTION:

1. **Entitlement**: Conditional Use Permit for Mineral Resource Development—Mining and Accessory Uses (LU11-0080) and Reclamation Plan Compliance Amendment (RPCA for the Mosler Rock—Ojai Quarry)

2. **Applicant**: Larry Mosler

3. **Property Owners**: GraLar, LLC.

4. **Location**: The project site is located at 1555 State Route 33, near the intersection of South Matilija Road and State Route 33, near the City of Ojai, in the unincorporated area of Ventura County.

5. **Assessor’s Parcel Number**: 009-0-090-165 and 009-0-090-180

6. **Lot Size**: 34.61 acres

7. **General Plan Land Use Designation**: Open Space (10 Acre Minimum) and Agricultural (40 Acre Minimum)

8. **Zoning Designation**: OS-160 ac (Open Space, 160 Acre Minimum Lot Size)

9. **Project Description**: Modification of the following provisions in Conditional Use Permit Case No. CUP 3489-2: (a) Condition No. 1.b, to allow the use, maintenance and storage of additional mining related equipment (including a portable rock crusher) and vehicles in excess of what was previously permitted; (b) Condition No. 19 to allow entry gate to open at 6:30AM and close at 7:30PM, Monday through Friday so that the operation may operate 24 hours per day during an appropriate government declared emergency; (c) the phasing of the operation will be conducted from current phase 3 downward to current phase 1; and (d) submit a Reclamation Plan Compliance Amendment (“RPCA”) to the approved reclamation plan for the Mosler Rock—Ojai Quarry, in order to abate permit and SMARA violations (ZV08-0030, PV10-0090 and SMARA violation, dated July 9, 2010) for mining outside of the permitted mining boundary and below the final reclamation elevations.

B. STATEMENT OF ENVIRONMENTAL FINDINGS:

**Land Use Regulatory and CEQA Background**

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1. The operator did not abate the SMARA violation, therefore an Order to Comply was issued October 17, 2011.
The project site has been used intermittently as a rock quarry since 1939, which at that time was known as the "Maricopa Placer Claim". The original owner, Schmidt Construction, Inc., leased the site in 1948 and purchased it in fee in 1962.

In response to complaints received from nearby residents, in 1973 the Planning Division notified the property owner that a Condition Use Permit ("CUP") would be required to continue the mining operation. In 1974, the property owner applied for a CUP, which was subject to an Environmental Impact Report ("EIR") that the County prepared pursuant to the California Environmental Quality Act ("CEQA"). On January 15, 1976, the Planning Commission certified the EIR and granted CUP 3489 (including the site reclamation plan) for a period of 20 years.

In 1980, the property owner requested approval of a modification to CUP 3489 (Case No. CUP 3489-1) and a Reclamation Plan Amendment, in order to allow a five-year time extension to CUP 3489 for the continued mining of the four acre rock quarry. The Planning Commission determined that the modification would have a significant effect on the environment, but the original EIR adequately addressed the potential impacts. In 1981, the Planning Commission approved both the CUP Modification (CUP3489-1) and Reclamation Plan Amendment.

In 1986, the property owner requested approval of a modification to CUP 3489-1 (Case No. CUP 3489-2) to expand the mining boundaries by nine acres. In 1991, the Planning Division completed the preparation of an EIR for the proposed modification. On June 1, 1995, the Planning Commission certified the EIR which evaluated the environmental impacts of the proposed mining and reclamation activities—including the extraction of rock and sandstone for the production of rip-rap, crushed rock aggregate, and related stone products. The EIR identified potential project specific and cumulative impacts related to aesthetics (visual), biology/sedimentation, geology/soils and traffic.

More specifically, the aesthetic impacts were evaluated using the criteria established by the U.S. Forest Service for Natural Forest. Criteria included substantial obstruction of: (1) unique environmental or man-made visual features; or, (2) views from important public gathering places. Since the project could not meet the retention objectives (as developed for National Forests) for viewers in the foreground or middle ground view zones, it was determined that the project-specific visual impacts could not be mitigated to a less than significant level for those view zones; however, views within the background view zone could be mitigated and therefore, the project was conditioned to mitigate these impacts through a "Visual Mitigation Program" (CUP 3489-2 Condition of Approval No. l-1 (a-d). The project was required to provide a landscape plan along Maricopa Highway at the entrance of the project site, above the Matilija Creek adjacent to the project site and along the access road to the quarry. The landscape plan was required to be consistent with the natural character of the area and the site was required to return the site to as natural a state as possible, post-mining activities.

The EIR identified potentially significant but mitigable impacts to biological resources—Two distinct vegetation types or plant communities were located on the project site—
mixed chaparral and riparian woodland. The riparian woodland and associated stream are considered to be sensitive and significant resources due to their limited distribution and value to wildlife and fish. General wildlife species which potentially use the riparian woodland are considered to be species of special concern. The EIR noted that the Cooper's Hawk (Accipiter cooperi) and Sharp-shinned hawk (Accipiter striatus) have a high probability of occurrence on the project site. The removal of the then existing vegetation would result in the loss of wildlife habitat, specifically, Cooper's Hawk and the Sharp-shinned Hawk. The loss of habitat to these sensitive species is considered adverse, but not significant on a regional basis due to abundance of chaparral habitat in the regional area. The biological assessment included a recommendation for using native vegetation as landscaping to reduce the impacts of the loss of chaparral.

The quarry operations would result in alterations to surface soils and underlying geology which is a part of the watershed for Matilija Creek. The California Department of Fish and Game (CDFG) has jurisdiction over the North Fork of the Matilija Creek as it is a blue line stream. As the project would alter the surface soils, the EIR noted that there would be potential for greater erosion through the exposure of sediments and soils. Downstream, there would be the potential for changes to surfaces and groundwater hydrology which, if unmitigated, may have adverse impacts on downstream riparian and aquatic habitats; therefore, given the significance of stream riparian and aquatic habitats, the potential for erosion/siltation from the quarry was considered a significant adverse impact. The project was conditioned to mitigate the biological impacts by following a "Biological Mitigation Program (BMP)" (CUP 3489-2, Condition of Approval No. 1-2(a-d)), which included notifying the CDFG prior to altering any blue line drainage traversing the property, in an effort to allow the CDFG to regulate alterations to streamed habitats. The BMP also included mitigation measures for erosion and siltation control; an Emergency Remedial Response Plan, for treatment of soils, groundwater or surface water in the event of an accidental fuel or solvent spill; and each phase was to be revegetated utilizing native species of trees, shrubs and ground cover.

Since the County’s certification of the EIR (1995) for this surface mining operation, Southern California steelhead trout (Oncorhynchus mykiss) has been federally listed as endangered (listed in 1997). Southern California steelhead trout is what the US Fish and Wildlife Service and National Marine Fisheries Service call a Distinct Population Segment (DPS) of the steelhead trout species. Under the Endangered Species Act, an entire species can be listed as threatened or endangered or certain populations (i.e., a Distinct Population Segment) may be listed. For steelhead trout, several DPSs have been listed.

Critical habitat for the Southern California steelhead trout has been identified in Ventura County and includes the Ventura River and major tributaries (Matilija Creek - North Fork and San Antonio Creek) and the Santa Clara River and major tributaries (Sespe Creek and Santa Paula Creek). While the Matilija Creek runs adjacent to the project site (along the western mining boundary), the proposed project will not impact
the creek as the new reclamation areas are located on the eastern portion of the project site away from the creek. In addition, these areas have been previously disturbed by mining activities. The proposed project will include no reclamation activities, beyond those originally analyzed in the EIR. Further, the biological mitigation measures discussed above will continue to be executed on the site. The implementation of the mitigations measures reduced the project-specific and cumulative impacts to vegetation/plant communities, wildlife habitat, sensitive resources and sedimentation to a level less than significant.

The EIR stated that the project site has several potential geotechnical constraints. The original quarry operation created an unstable slope which has the potential for a rockfall that would impact quarry workers, Matilija Creek, and Highway 33. It was also noted, that during quarry activities, quarry employees and Highway 33 users would be exposed to major geological hazards, which was considered a significant impact. To reduce the impact of the potential geotechnical hazards, the project was conditioned to comply with a “Geology and Soils Mitigation Program” [CUP 3489-2, Condition of Approval No. I-3 (a-b)] which required the operator to submit a “Geologic/Slope Stability Program (GSSP)”. The GSSP includes: on-going period inspections by a certified engineering geologist and licensed land surveyor to identify changes of lithology and/or geologic conditions and to ensure the safety of the site; methods to modify and backfill the precariously steep backcut slopes within the (then) current mining benches of the site; a map which identifies all on-site perch boulders (to be removed); a map which identifies all areas where the natural quarry fracture planes exceed 44 degrees; and additional engineering recommendations to ensure slope stability. The implementation of the mitigation measures reduced the (then) existing adverse conditions to joints, faulting/seismicity and slope stability to less than significant levels.

Traffic impacts were analyzed in the original EIR prepared for the site in 1975. The project was originally permitted for 20 truck trips per day for a total of 40 ADT (average daily trips). The current project is conditioned for a maximum of 20 truck trips per day, consistent with the original analysis, therefore, based on the previous environmental documentation and the fact that project continued to operate within the original truck trip allocation, the current EIR (focused) required no traffic mitigation as no impacts to traffic were identified.

Addendum to the 1995 EIR

Section 15164(a) of the CEQA Guidelines (Title 14, California Code of Regulations, Chapter 3) states that the decision-making body 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 of the CEQA Guidelines calling for the preparation of a Subsequent EIR have occurred.

The conditions described in Section 15162 of the CEQA Guidelines which require the preparation of a Subsequent EIR are provided below, along with a discussion as to why a Subsequent EIR is not required:
1. **Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects [§15162(a)(1)];**

The project does not require any major revisions to the previous EIR. The project proposes to increase the number of permitted mining equipment and vehicles only. No new additions of stationary infrastructure or expansions to mining area are proposed. The project will include the use of portable mining equipment (i.e., crusher, screens and conveyors) which will be permitted under an Authority to Construct and Permit to Operate issued by the Ventura County Air Pollution Control District (APCD). All equipment under this APCD permit will comply with all applicable APCD, State, and federal rules. This includes the Best Available Control Technology (BACT) and emission offset requirements of Rule 26, "New Source Review" (Attachment 2); the California Air Resources Board (ARB) Airborne Toxic Control Measure (ATCM) for Diesel Particulate Matter From Portable Diesel Engines, and the federal requirement 40 CFR Part 60, Subpart OOO, Standards of Performance for Non-Metallic Mineral Processing Plants.

The proposed permitted emissions for the proposed equipment are below the offset thresholds as shown in Table B-1 of Rule 26.2.B.1 which states that the individual pollutant offset thresholds for Reactive Organic Compound (ROC) and Nitrogen Oxides (NOx) are permissible at a rate of 5.0 tons per year. The Particulate Matter (PM-10) and Sulfur Oxides (SOx) permitted emissions are permissible at a rate of 15.0 tons per year. The proposed equipment will have ROC emissions of .03 tons per year, NOx emissions at 1.4 tons per year, PM-10 emissions at .07 tons per year and Sox emissions at .06 tons per year. All proposed equipment emissions are far below the off-set thresholds. Therefore, emission offsets are not required (see Attachment 3 – AQMP Memo, dated March 29, 2012). The proposed equipment is also anticipated to be consistent with established BACT and local air quality “rules”.

The change in operational hours will only permit trucks to enter the site at 6:30AM (as opposed to 7:00AM, which is what is currently permitted), all other operations (loading, shipping, etc.) will remain permitted within existing operation hours. Phasing will now occur with a “top-down” approach, which is consistent with standard mining practice and will establish safer, more stable geotechnical conditions, as this method minimizes potential slope failures.

The proposed Reclamation Plan Compliance Amendment will incorporate previously disturbed areas into the Reclamation Plan. While some minimal grading is necessary in Area 1 (Attachment 1) to stabilize existing slope conditions, this grading will not have a significant environmental impact because it is a necessary and integral part of overall site reclamation. All reclaimed slopes (both existing and proposed) will meet the slope stability standards set forth by the original Conditional Use Permit, Reclamation Plan and EIR. Therefore, the proposed modification will
not result in any new significant environmental effects or an increase the severity of previously identified impacts.

2. **Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects [§15162(a)(2)]; or,**

The proposed project would not alter the existing environmental conditions such that major revisions to the previous EIR will be required. The entire project site (current CUP boundary) was previously surveyed to identify biological impacts by S. Gregory Nelson on July 24, 1991 (see Schmit Rock Quarry Biological Assessment, EIR – Appendix B). As mentioned above, the Southern California steelhead trout (*Oncorhynchus mykiss*) has been federally listed as endangered since 1997 and the Critical habitat for the Southern California steelhead trout has been identified in Ventura County and includes the Ventura River and major tributaries, such as the Matilija Creek - North Fork, which runs adjacent to the project site. However, the proposed changes will not cause an impact to the creek and therefore could not affect the Southern California steelhead trout. The original project was conditioned to mitigate potential impacts to the creek by reducing sedimentation on-site. The project was also conditioned to mitigate any existing and potential geotechnical hazards. With both the biological and geotechnical mitigation measures in place, the proposed projection will not involve any new significant environmental impacts or cause a substantial increase in the severity of the previously identified significant effects.

3. **New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Planning Director/Planning Commission/Board of Supervisors certified the previous EIR, shows any of the following:**

   a. **The project will have one or more significant effects not discussed in the previous EIR [§15162(a)(3)(A)];**

The project proposes to increase the number of permitted mining equipment and vehicles only. All equipment subject to local Air Pollution Control District (APCD) must obtain required air quality permits to demonstrate compliance with air quality laws and regulations, including but not limited, to California Air Resource Board (CARB) Air Toxic Control Measure for Stationary Compression Ignition Engines. The EIR evaluated the production of rip-rap, crushed rock aggregate and related stone products, thus impacts related to the production of such projects was previously analyzed and no impacts were identified.

The proposed change in operational hours will only permit trucks to enter the site at 6:30AM all other operations (loading, shipping, etc.) will remain permitted within existing operation hours. Phasing will now occur with a “top-down” approach,
which is consistent with standard mining practice and will establish safer, more stable geotechnical conditions, as this method minimizes potential slope failures.

The proposed reclamation plan will incorporate previously disturbed areas into the Reclamation Plan and will meet the reclamation requirements of SMARA, the State Mining and Geology Board Reclamation Regulations and the Ventura County Non-Costal Zoning Ordinance.

The proposed operational changes will not cause any significant impacts not addressed in the EIR.

b. Significant effects previously examined will be substantially more severe than shown in the previous EIR [§15162(a)(3)(B)];

Implementation of the RPCA would serve to reduce the potential for erosion and sedimentation from the rock quarry through a lowering of slope gradient and re-vegetation of excavated areas.

The EIR evaluated the production of rip-rap, crushed rock aggregate and related stone products, thus impacts related to the production of such products projects was previously analyzed and no potentially significant and unmitigable impacts were identified. The proposed additional mining equipment is not expected to produce any un-related mining products or operate beyond the parameters discussed in the EIR. There will be no increase in production rates, expansion of mining area, or any other intensity of use and proposed operational changes will not cause any significant impacts not addressed in the EIR. As discussed above, the air quality impacts (emissions) for all mobile equipment is analyzed under the local air permitting agency (APCD). Emissions for the proposed equipment have been modeled and it is anticipated that the emissions will be far lower than the state and federal standards.

Because the proposed operational changes (e.g. phasing, hours of operation and reclamation activities) will not impact the aesthetics (visual), biology/sedimentation, geology/soils or traffic condition of the site, no impacts more severe than what was previously analyzed in the EIR are anticipated.

c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative [§15162(a)(3)(C)];

The proposed project would not alter the existing environmental conditions such that mitigation measures or alternatives previously found in the EIR to be infeasible would now be feasible. The proposed project would not cause any new impacts which would require mitigation. The project site was previously surveyed to identify biological impacts, geotechnical impacts, and aesthetics and the original project was conditioned to mitigate such impacts accordingly. The proposed project will
not involve any new significant environmental impacts or cause a substantial increase in the severity of the previously identified significant effects which would warrant additional mitigation measures.

d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative [§15162(a)(3)(D).

The proposed project would not alter the existing environmental conditions such that mitigation measures or alternatives not would previously analyzed in the EIR would be necessary. The proposed project would not cause any new impacts which would require mitigation, as discussed above. The project was previously surveyed to identify biological impacts, geotechnical impacts, and aesthetics and the original project was conditioned to mitigate such impacts accordingly. The proposed project is substantially in conformance with the project description originally analyzed by in the EIR.

Therefore, based on the information provided above, there is no substantial evidence in the record to warrant the preparation of a Subsequent EIR and there is substantial evidence supporting the use of an Addendum in this matter. The decision-making body or decision maker shall consider this Addendum to the adopted EIR prior to making a decision on the project.

C. PUBLIC REVIEW:

Pursuant to the CEQA Guidelines §15164(c), this Addendum to the Environmental Impact Report (EIR) does not need to be circulated for public review and comment, and shall be included in, or attached to, the adopted EIR.

Prepared by:

Ebony J. McGee, Case Planner
Commercial and Industrial Permits Section

Reviewed by:

Brian R. Baca, Manager
Commercial and Industrial Permits Section

The Planning Director finds that this Addendum has been completed in compliance with the California Environmental Quality Act.

Kimberly L. Prillhart, Planning Director
Date
Attachment 1 – Reclamation Plan Map
Attachment 2 – APCD Rule 26 New Source Review Requirements
Attachment 3 – APCD Memo, dated March 29, 2012
Attachment 4 – Final Environmental Impact Report, dated September 2, 1993
Attachment 5 – Letters of comment received by the County Planning Division
Attachment 6 – Response to comments
Attachment 5

ENVIRONMENTAL IMPACT REPORT (EIR) – ADDENDUM
CEQA Guidelines Section 15164

Mosler Rock-Ojai Quarry
Conditional Use Permit Modification, Case No. LU11-0080
Reclamation Plan Compliance Amendment

Letters of comment submitted for
the April 12, 2012 Planning Director hearing

A. 4-11-12 letter from Santa Barbara Channelkeeper

B. 4-11-12 letter from the Casitas Municipal Water District (CMWD)

C. 4-12-12 letter from Lorenz K. Schaller

D. 4-12-12 Letter from the Environmental Coalition

E. 4-11-12 email from H. Smith, Ojai Stop the Trucks! Coalition, to K. Prillhart

F. 4-11-12 letter from M. Black, on behalf of Ojai Stop the Trucks! Coalition, to K. Prillhart
April 11, 2012

Kimberly Prillhart
Planning Director
Resource management Agency
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

RE: April 12, 2012 Hearing on Mosler Rock-Ojai Quarry Reclamation Plan Compliance Amendment ("RPCA")

Dear Ms. Prillhart,

I am writing to express Santa Barbara Channelkeeper's (Channelkeeper) concerns regarding the proposed approval of Mosler Rock-Ojai Quarry's Reclamation Plan Compliance Amendment. Channelkeeper is a 501 c(3) non-profit organization that works to protect and restore the Santa Barbara Channel and its watersheds including the Ventura River watershed where we have conducted extensive water quality monitoring since 2001. In 2006, Channelkeeper became highly involved in monitoring and documenting water quality and habitat impacts in North Fork Matilija Creek resulting from operations conducted at the Ojai Quarry. Since that time we have communicated our concerns with local, State, and Federal agencies as well as with the owner of the Ojai Quarry himself in an effort to eliminate existing impacts.

While managers of the Ojai quarry have taken certain actions to address our many concerns, we believe that significant impacts to North Fork Matilija Creek and Federally Endangered Steehead Trout continue to occur, in particular due to sediment contaminated stormwater runoff.

Conditions Requiring Development of a Subsequent EIR

Exhibit 21 of the County's staff report outlines its findings regarding requirements to revise the project's EIR. The county lists the conditions described in Section 15162 of the CEQA Guidelines, which require the preparation of a Subsequent EIR. We believe that the project clearly meets some of these conditions, and we therefore strongly disagree with the County's finding that no additional CEQA review should be required.

Condition 1 requires a Subsequent EIR if: Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

The applicant wishes to seek approval for the inclusion of a rock crusher for the proposed project machinery list. This piece of machinery will likely produce a large volume of fine sediment by-product with the potential to impact North Fork Matilija Creek if it is not...
contained and disposed of properly. We believe this addition is a substantial change to the project, which should be assessed in a Subsequent EIR.

Condition 2 requires a Subsequent EIR if: Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

As the County has identified, the Southern California steelhead trout (Oncorhynchus mykiss) was federally listed as an Endangered Species in 1997 since the project's EIR was certified. North Fork Matilija Creek, which the project discharges to, is identified as Critical Habitat for this species. This designation means that project impacts may result in a take of an Endangered Species, thereby resulting in a substantial increase in the severity of biological and sediment impacts previously identified, thereby requiring preparation of a Subsequent EIR.

Condition 3 also requires a Subsequent EIR if: New Information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Planning Director/Planning Commission/Board of Supervisors certified the previous EIR, shows any of the following:

b. Significant effects previously examined will be substantially more severe than shown in the previous EIR

Clearly the designation of Southern California steelhead trout as a federally listed Endangered Species is new Information of substantial Importance not known at the time of adoption, resulting in substantially more severe impacts than were previously identified in the EIR. It should be noted that steelhead trout inhabit North Fork Matilija Creek in fact, and not only in designation as has been documented by multiple private and public agency biologists. Attachment A shows recent photographs of a steelhead redd recently discovered directly downstream of the Ojai Quarry underneath Matilija Road bridge.

Additionally, it has been made abundantly clear that the mitigation measures (1 - 5) identified in the EIR to address impacts to Biological and Sediment Impacts are not even minimally effective to reduce impacts to a less than significant level. We strongly disagree with the following statement made by the County (Exhibit 21, Page 4, Paragraph 1), "Further, the biological mitigation measures discussed above (in the 1993 EIR) will continue to be executed on the site. The implementation of the mitigation measures reduced the project-specific and cumulative impacts to vegetation/plant communities, wildlife habitat, sensitive resources and sedimentation to a level less than significant." This later statement has over the last 18 years been demonstrated to be patently false.

This fact is demonstrated through:

* Years of water quality monitoring conducted by Santa Barbara Channelkeeper including monitoring conducted after increased efforts to control sediment pollution were undertaken by the owner (Attachment C).
• Repeated Intervention by the Los Angeles Regional Water Quality Control Board, which has issued multiple Notices of Violation and a Cleanup and Abatement Order to the Quarry for stormwater pollution impacts

• Intervention by National Marine Fisheries Service to compel the Ojai Quarry to develop more effective sediment management practices

• The Ojai Quarry’s own 2010–2011 Annual Report (Attachment B), which indicates that discharge from the Ojai Quarry contained total suspended solids (sediment) at concentrations of 1220 mg/l. This level is over 12 times in exceedence of the Industrial Permit benchmark (100 mg/l) indicating that Best Management Practices are NOT minimizing sediment concentrations to a level that is not significantly impactful.

As demonstrated, it is clear that significant effects that were previously examined have turned out to be substantially more severe than shown in the previous EIR. This condition therefore mandates that a Subsequent EIR be developed before the Amendment is approved.

As a final note, we also do not agree with the following statement (Exhibit 21, page 3, paragraph 4), “While the [North Fork] Matulija Creek runs adjacent to the project site along the western mining boundary, the proposed project will not impact the creek as the new reclamation areas are located on the eastern portion of the project site away from the creek.” Channelkeeper notes that the new reclamation areas are all in fact located up-slope of North Fork Matulija Creek, and the gradient of the land will carry all pollutants associated with the project to the creek itself regardless of the site’s east/west orientation.

For the reasons stated above, Channelkeeper finds that the Planning Commission has no other legal option but to deny approval of the proposed Amendment until a Subsequent EIR is developed, which adequately assesses impacts to endangered species, critical habitat, and water quality in North Fork Matulija Creek.

Thank you for your consideration,

Ben Pitterle
Watershed Programs Director
April 11, 2012

Kimberly Prillhart, Planning Director
Resource Management Agency
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

Subject: Mosler Rock Products – Order to Comply with Surface Mining and Reclamation Act: - CEQA Addendum

Dear Ms. Prillhart:

Casitas Municipal Water District (CMWD) is a special district organized under the California Municipal Water District Act of 1911. CMWD is located approximately 2 miles downstream of the project site and supplies municipal, industrial, and agricultural water for 65,000 people within its boundary. CMWD has also invested millions of dollars in support of the safe migration of southern California steelhead (Oncorhynchus mykiss) upstream of Robles Diversion Dam and for the recovery and restoration of this species to the Ventura River. The Ventura River and its major tributaries, including the North Fork Matilija Creek, has been identified in the Southern California Steelhead Recovery Plan prepared by the National Marine Fisheries Service as a high priority river for recovery of the Federally listed endangered southern California steelhead. The recovery actions identified in the Steelhead Recovery Plan for the Lower North Fork of Matilija Creek include: “Develop and implement plan to remove and maintain quarry and landslide debris from the channel” and “Review and modify mining operations” (p. 9-57).

CMWD has previously written letters outlining issues of concern to the United States Corps of Engineers and the California Regional Water Quality Control Board – Los Angeles related to the Mosler Rock Products. Because of CMWD’s investment for the endangered species and continuing protection of water quality, the Board of Directors wish to comment on the discretionary action proposed for the Mosler Rock Products project and ask that this letter be included in the administrative record for any eventual application for new entitlements.

CMWD’s review of the administrative record and conditions of approval for the project that was presented to the Planning Commission did not discover any mention of water quality impact analysis for project run-off that considered Total Dissolved Solids (TDS), siltsation, turbidity, eutrophication, habitat values, endangered species, and health, safety, and welfare issues related to water quality. These issues are potentially significant adverse impacts associated with the
proposed project and should be reviewed accordingly under CEQA. An analysis of these potential impacts may result in a change to the findings of the original environmental document, primarily because the original environmental document had no mitigation measures or conditions of approval that specifically address these issues.

**Fill Material**

Fill material may not enter Waters of the United States under the Clean Water Act Section 404. Fill material entering the water course (Lower North Fork Matilija Creek), while being a violation of the Federal Clean Water Act, the fill is also potentially impacting (taking) species of special concern under the Endangered Species Act (ESA) and causing degradation of water quality for total dissolved solids, silt, erosion, and eutrophication under the Clean Water Act Section 404.

**Mitigation Measures**

The project impacts related to Total Dissolved Solids (TDS), turbidity, siltation, eutrophication are all related to storm water leaving the mining site in an unmitigated manner. The Ventura County Planning Division and Public Works Department should provide for mitigation measures to quarry operations approval that will adequately address each of these project impacts.

In addition, a biological assessment should be conducted for the quarry project impacts on the areas of the Lower North Fork of Matilija Creek and the Ventura River. Specific attention should be made toward the impacts to the restoration of steelhead habitat and passage for migration to spawning grounds upstream.

Sincerely yours,

Russ Baggerly
President of the Board

CC: Ventura County Supervisor Steve Bennett
Chris Stephens, Resource Management Agency Director
Michael Villegas, APCD Director
Brian Baca, Commercial and Industrial Section Manager
Ebony J. McGee, SMARA Program Coordinator
April 12, 2012

Kimberly Prillhart, Planning Director
Resource Management Agency
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

Re: Case Number: RPCA/CUP 3489-2
Applicant: Mosler Rock Products
Project Address: 1555 Maricopa Highway, Ojai, CA 93023
Detail: Request for Approval to Amend Current Reclamation Plan

Dear Ms. Prillhart:

Thank you for this opportunity to provide some written input regarding the matter cited above.

The undersigned (the writer of this letter) is a resident of Ventura County, occupying a residence continuously for the past 30-plus years in an unincorporated area of the County known as "Meiners Oaks." Said area lies directly adjacent to and west of, the City of Ojai.

The undersigned respectfully submits these remarks as "commentary of a public citizen," submitted at a public hearing pertaining to environmental matters located close to the undersigned's residence.
Proximity of This Letter-Writer's Residence to the Quarry Site

The Mosler Rock Products quarry site at 1555 Maricopa Highway is located in relative close proximity to this writer's residence. Travel time from this writer's residence to Maricopa Highway itself on foot (pedestrian, walking) is approximately 8-9 minutes. By bicycle, the travel time to the Highway is about half of that (i.e. 4-5 minutes).

Travel time from this writer's residence to the rock-quarry site on foot (pedestrian, walking) is about 60-minutes, and by bicycle, about half of that (approximately 30 minutes). To travel from this writer's residence to the quarry-site by automobile would take approximately 10-minutes (possibly less).

"Meiners Oaks" is a small residential district consisting of approximately 1,000 residences with each residence occupied by an average of perhaps 3-4 persons. Therefore, several thousand people (minimum) live quite close to the quarry site. This writer is simply one of those citizens, one with an interest in the natural environment. Many of my fellow citizens also share an interest in the natural beauty of the Los Padres National Forest, whose nearby splendors are visible from their homes every day. Among these citizens are those who feel that the health of the Forest and its ecosystems are indivisible from the health of all of us in the human community.
The purpose of this letter is to comment on the document dated April 11, 2012 and submitted to today's Public Hearing by Santa Barbara Channelkeeper (signature: Ben Pitterle; Watershed Programs Director); 3-pages in length with attachments.

I have read Mr. Pitterle's document and feel its comments and findings are based on careful research and analysis.

I am in support of the County of Ventura giving its utmost careful attention to the matters specified in Mr. Pitterle's document. I also believe that those matters are issues of concern to many of my fellow citizens, especially those with an interest in the protection and stewardship of the natural world.

Thank you for this opportunity to contribute these opinions, and comments.

Sincerely,

Lorenz K. Schaller

Lorenz K. Schaller

330 South Pueblo Avenue
Ojai, CA 93023

Tel (805) 646-0772
April 12, 2012

Ms. Kim Prillhart, Planning Director
Resource Management Agency
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

Subject: Mosler Rock-Ojai Quarry -1555 Maricopa Hwy., Ventura County, CA
Reclamation Plan Compliance Amendment (RPCA) - EIR Addendum
Modification to Conditional Use Permit No. 3489-2

Dear Ms. Prillhart:

An environmental impact report (EIR) for the Ojai Quarry was certified on January 15, 1976 by the Ventura County Planning Commission. A subsequent EIR dated June 1, 1995 for the Ojai Quarry was also approved by Planning Commission. Both documents were prepared and approved before the Southern California steelhead were listed as an endangered species under the Endangered Species Act on August 18, 1997 (Southern California Steelhead Recovery Plan Summary January 2012 enclosed). The public and the regulatory agencies are being denied the environmental review that is generally provided when new significant information becomes available after the preparation of previous EIRs because the Planning Department has prepared only an Addendum for the proposed Reclamation Plan Compliance Amendment and Conditional Use Permit Modification.

The Environmental Coalition of Ventura County believes that before the Ventura County Planning Director should take an action to approve an amended reclamation plan or the addition of new uses for the property that adequate environmental review should take place so that new significant impacts from the project and equipment can be fully disclosed and mitigations measures provided. For example, the addition of rock crushers to the CUP has the ability to add to the amount of total particulate matter that is already at a level of non-attainment for health based air quality standards and should be identified as a significant adverse impact. The additional sediment may also cause biological impacts to the stream.

Another potential significant adverse impact that may result if the addition of rock crusher equipment on the Mosler Rock-Ojai Quarry is approved is the amount of sediment that will enter the north fork of the Matilija Creek will increase where the steelhead have to pass in order to reach their upstream spawning grounds. This may add to an already impacted stretch of the Creek.

Based on the above mentioned comments and the substantial evidence provided in the Santa Barbara Channelkeeper letter dated April 11, 2012 (herein incorporated by reference) we respectfully request that you prepare a subsequent EIR for the proposed projects.

Sincerely yours,

Jania McCormick, President
County of Ventura
Planning Director Hearing
RPCA/CUP3489-2
Exhibit 27
Environmental Coalition
Southern California Steelhead Recovery Plan Summary

Adult Female Steelhead, Mission Creek, Santa Barbara County

National Marine Fisheries Service
Southwest Regional Office
Long Beach, CA

January 2012
The Southern California Steelhead DPS encompasses all naturally-spawed anadromous *O. mykiss* between the Santa Maria River (inclusive) and the U.S.-Mexico border, whose freshwater habitat occurs below artificial or natural impassible upstream barriers, as well as *O. mykiss* residing above impassible barriers that are able to emigrate into waters below barriers and exhibit an anadromous life-history.

The SCS Recovery Planning Area is divided into five Biogeographic Population Groups (BPGs): Monte Arido Highlands, Conception Coast, Santa Monica Mountains, Mojave Rim and Santa Catalina Gulf Coast. Each BPG is characterized by a unique combination of physical and ecological characteristics that present differing natural selective regimes for steelhead populations utilizing the individual watersheds. The separate watersheds comprising each BPG are generally considered to support individual *O. mykiss* populations (*i.e.*, one watershed = one steelhead population). Thus, single BPGs encompass multiple watersheds and multiple *O. mykiss* populations.

The Southern California Steelhead Recovery Planning Area Biogeographic Population Groups.

The basic goal of the Southern California Steelhead Recovery Plan is to recover anadromous steelhead and ensure the long-term persistence of self-sustaining wild populations of steelhead across the DPS and ultimately to remove southern California steelhead from the Federal List of Endangered and Threatened Wildlife. The Recovery Plan proposes to accomplish this goal by addressing factors limiting the species ability to survive and naturally reproduce in the wild within a set of core watershed populations distributed across the SCS Recovery Planning Area.
Southern California Steelhead

For millennia, steelhead have been an integral part of southern California watershed ecosystems. The subsistence role of steelhead in pre-European settlement Native American cultures, however, is not as well understood as other marine species, and continues to be a subject of archaeological and ethnographic research.

Up until the mid-1900s recreational steelhead angling was prevalent during the early to mid-1900s, and both steelhead and their progeny were sought out by recreational anglers - the ocean going steelhead pursued during the winter and the freshwater juveniles during the spring and summer angling seasons.

Following the dramatic rise in southern California's human population after WW II, and the associated land and water development in coastal watersheds, steelhead populations rapidly declined from an estimated 32,000 - 46,000 fish per year to less than 500 returning adults. While the steelhead populations declined sharply, most coastal watersheds retained populations of the non-anadromous form of the species, with many populations trapped behind dams and other impassable barriers.

Factors Leading to Federal Listing

There is no single factor responsible for the decline of southern California steelhead; however, the destruction and modification of habitat has been identified as one of the primary causes of the decline of the Southern California Steelhead DPS.

Approximately half of the population of the State of California currently lives and works within the SCS Recovery Planning Area, placing extraordinary pressure on natural resources. As a result, anadromous *O. mykiss* in southern California face significant threats from water and land management practices that have degraded or curtailed freshwater and estuarine habitats, reducing the capability of the anadromous form of *O. mykiss* to persist within many watersheds.

Water withdrawals and diversions for agriculture, flood control, domestic water supply and hydropower purposes have greatly reduced or degraded historically accessible habitat. Dams and other water control structures have blocked access to historically important spawning and rearing areas; modified flow regimes necessary for migration, spawning and rearing; increased downstream water temperatures; degraded riparian habitats; and reduced gravel recruitment essential to support spawning and invertebrate food sources for rearing juveniles.
Steelhead Recovery Goals, Objectives, and Criteria

The Recovery Plan is a guidance document for achieving recovery goals that include viability criteria for populations of *O. mykiss* and the DPS as a whole. The basic goal of the Southern California Steelhead Recovery Plan is to prevent the extinction of anadromous steelhead by ensuring the long-term persistence of viable, self-sustaining, wild populations of steelhead across the DPS. It is also the goal of the Recovery Plan to re-establish a sustainable southern California steelhead sport fishery.

The Recovery Plan outlines the following objectives that address factors limiting the species’ ability to survive and naturally reproduce in the wild:

- **Prevent steelhead extinction by protecting existing populations and their habitats.**
- **Maintain current distribution of steelhead and restore distribution to some previously occupied areas.**
- **Increase abundance of steelhead to viable population levels, including the expression of all life-history forms and strategies.**
- **Conserve existing genetic diversity and provide opportunities for interchange of genetic material between and within viable populations.**
- **Maintain and restore suitable habitat conditions and characteristics to support all life-history stages of viable populations.**

Biological viability criteria are identified for individual populations and the DPS as a whole. A viable population is defined as a population having a negligible (< 5%) risk of extinction due to threats from demographic variation, non-catastrophic environmental variation, and genetic diversity changes over a 100-year time frame. A viable DPS is comprised of a sufficient number of viable populations widely distributed throughout the DPS but sufficiently well-connected through ocean and freshwater dispersal to maintain long-term (1,000-year) persistence and evolutionary potential of the DPS.

The population-level viability criteria apply to core populations in all of the BPGs. These criteria include population characteristics such as mean annual run-size, persistence during varying ocean conditions, spawner density, and the anadromous fraction of the individual populations. Because of the uncertainty regarding important aspects of the biology and ecology of southern California steelhead further research is needed to refine the population-level criteria in all BPGs, as well as the role of each of the BPGs.

The DPS-level viability criteria identify a minimum number of populations which must be restored to viability and the minimum spatial distribution between populations in each BPG: Monte Arido - 4 populations, Conception Coast - 3 populations, Santa Monica Mountains - 2 populations, Mojave River - 3 populations, and Santa Catalina Gulf Coast - 8 populations).

This redundancy ensures that there are a sufficient number of populations within the BPGs and across the DPS to provide resiliency in the face of environmental fluctuations, and also that a variety of habitat types and environmental conditions are represented to promote the continued evolution of the species. Some of these populations may be comprised of multiple watersheds if further research indicates that they act as trans-basinal populations.
The Monte Arido Highlands BPG encompasses four medium to large coastal watersheds and eight sub-watersheds that drain the western half of the Transverse Range in southern San Luis Obispo, Santa Barbara, Ventura, and eastern Los Angeles counties. These watersheds are highly disparate in terms of slope, aspect, and size, but share one common feature: the interior portions are mountainous and include high peak elevations, ranging between 5,700 and 8,600 feet above sea level. Each of these watersheds flows across a coastal terrace in its lower elevation, but the Santa Maria, Santa Ynez, and Santa Clara rivers traverse broad coastal plains before entering the Pacific Ocean. Overall, stream lengths tend to be long, due to multiple tributaries and topographic relief in the interior watersheds. The Santa Maria River watershed (Cuyama River sub-watershed) extends the furthest inland—almost 90 miles between the mouth and the limits of the upper watershed.
The Conception Coast BPG encompasses eight small coastal watersheds that drain a 50-mile long stretch of the south-facing slopes of the Santa Ynez Mountains in southern Santa Barbara County and extreme southwestern Ventura County. The Santa Ynez Mountains are an east-west trending spur of the Transverse Range that creates some of the steepest watersheds in any of the five BPGs in the SCS Recovery Planning Area. Peak elevations reach 4,300 feet within a few miles of the Pacific Ocean. These watersheds are relatively homogeneous in slope, aspect, and size, with steep upper watersheds and lower watersheds that cut across a relatively narrow coastal terrace. Stream lengths are relatively short in this BPG; the Ojulela Creek watershed penetrates the furthest inland (shout seven miles). Rainfall amounts in the upper watersheds can be five to six times higher than on the coastal terrace during the same storm event, and the steep topography creates extremely "flashy" flows within these watersheds.
Santa Monica Mountains
Biogeographic Population Group

The Santa Monica Mountains BPG consists of five coastal watersheds located in southern Ventura and western Los Angeles counties which drain the east-west coastal Santa Monica Mountains. Similar to the Conception Coast BPG, it is comprised of a series of short, nearly parallel streams that drain steep south-facing slopes, but with an average elevation of less than 2,500 feet. These watersheds are relatively homogeneous in slope, aspect, and size, with steep upper watersheds and lower watersheds that cut across a relatively narrow coastal terrace. Malibu Creek is the largest of the five watersheds, encompassing approximately 110 square miles, and penetrates through a break in the Santa Monica Mountains to drain a portion of its north-facing slopes and the south-facing slopes of the Simi Hills. There are also a number of smaller watersheds within this BPG (e.g., Trancas, Zuma, Solimar, and Las Flores Canyon) which may also be used by steelhead when water conditions are periodically favorable. Colleagues Creek and the Los Angeles River, to the east and west of the BPG, drain the northern slopes of the Santa Monica Mountains.

Malibu-Los Angeles
Adair Steelhead, Malibu Creek
Ridge Dam, Malibu Creek
The Mojave Rim BPG encompasses three large coastal watersheds that drain the northern slopes of the Santa Monica Mountains and the southern slopes of the San Gabriel and San Bernardino mountains in southern Los Angeles County, southwestern San Bernardino, and western Riverside and Orange counties: the Los Angeles River, San Gabriel River, and the Santa Ana River. The upper portions of each of these watersheds include steep, mountainous terrain (within the Angeles and San Bernardino National Forests) and the lower watersheds cut across the Los Angeles Basin—an extensive coastal plain, with comparatively few, small tributaries.
Santa Catalina Gulf Coast Biogeographic Population Group

The Santa Catalina Gulf Coast BPG encompasses ten coastal watersheds of moderate size that drain the western slopes of the Santa Ana Mountains and Peninsular Range in southwestern Orange and Riverside counties southward through San Diego County to the United States-Mexico border. The upper portions of almost all of these watersheds include steep, mountainous regions and the lower watersheds cut across coastal terraces. Two watersheds, the Sweetwater River and Otay River, drain into San Diego Bay; the other eight watersheds drain directly into the Pacific Ocean. The component watersheds vary greatly in size and numerous tributaries contribute to the large total stream length for this BPG (4,435 miles). Because of low rainfall, many of the drainages in this BPG are naturally seasonal or have extensive dry reaches during years of below-average precipitation, particularly in their lower reaches.

Arroyo Trabuco Creek
O. mykiss, Pine Valley Creek
Sun Mateo Creek
Summary

An array of natural and anthropogenic factors has reduced both the population size and historical distribution of steelhead within the SCS Recovery Planning Area, placing severe pressure on the species' ability to survive. However, steelhead are resilient fish and despite encroaching agricultural and urban development, they continue to persist in small numbers throughout the SCS Recovery Planning Area. The Southern California Steelhead Recovery Plan outlines a strategy for species' recovery by identifying core watersheds, threats to these watersheds and recovery actions to address those threats. The Recovery Plan also identifies a research program to address the biology and ecology of California steelhead necessary to refine the viability recovery criteria, and a monitoring program to assess the effectiveness of recovery actions and the status of individual populations and the DPS as a whole.

Many of the recovery actions identified in this Recovery Plan address watershed-wide processes (e.g., wild-fire cycle, erosion and sedimentation, runoff, and non-point waste discharges) which will benefit a wide variety of other native species (including other state and federally listed species, or species of special concern) by restoring natural ecosystem functions.

Restoration of steelhead habitats in coastal watersheds will also provide substantial benefits for human communities. These include, but are not limited to, improving and protecting the water quality of important surface and groundwater supplies, reducing damages from periodic flooding resulting from floodplain development, and controlling invasive exotic animal and plant species which can threaten water supplies and increase flood risks. Restoring and maintaining ecologically functional watersheds also enhances important human uses of habitats occupied by steelhead; these include such activities as outdoor recreation, environmental education (at primary and secondary levels), field-based research on the physical and biological processes of coastal watersheds, aesthetic enjoyment, and the preservation of important tribal and cultural heritage values. Investment in the recovery of southern California steelhead will provide economic benefits, including stimulating the economy directly through the employment of a restoration workforce, and the expenditure of wages and restoration dollars for the purchase of goods and services. In addition, viable salmonid populations provide ongoing direct and indirect economic benefits as a natural resource base for angling, outdoor recreation, and tourist related activities. Recovering and delisting the Southern California Steelhead DPS will also reduce the regulatory obligations imposed by the BSA, and allow land and water managers greater flexibility to optimize their activities, and reduce costs related to BSA protections.

Recovery of viable, self-sustaining populations of southern California steelhead will require a shift in societal attitudes, understanding, priorities, and practices, and ultimately the re-integration of the species into a highly altered landscape that is home to more than 22 million people. These changes are necessary to both ensure sustainable communities in southern California and to restore the habitat upon which viable steelhead populations depend.

Recovery of southern California steelhead depends most fundamentally on a shared vision of the future. A shared vision for the future can align interests and encourage cooperation that, in turn, has the potential to improve rather than undermine the adaptive capacity of natural public resources such as functioning watersheds and river systems. The on-going cooperation and dedication of many stakeholders from both public and private sectors will therefore be essential to achieve the recovery of southern California steelhead.

Southern California Steelhead Recovery Plan may be obtained from:

National Marine Fisheries Service
Office of Protected Resources
501 W. Ocean Blvd., Suite 4200
Long Beach, CA 90802
562-980-4000

Or can be downloaded from the NMFS Recovery Planning website:

http://swr.nmfs.noaa.gov/pr/recovery/plans.htm
Richelle Beltran - Fwd: In Opposition to Mosler Rock Quarry Proposals - April 12, 2012 - Planning Division

From: Ebony McGee
To: Beltran, Richelle
Date: 04/12/2012 8:37 AM
Subject: Fwd: In Opposition to Mosler Rock Quarry Proposals - April 12, 2012 - Planning Division
Attachments: McGee, Ebony.vcf

EBONY J. MCGEE | SMARA PROGRAM COORDINATOR
Surface Mining and Reclamation
ebony.mcgee@ventura.org

Ventura County Resource Management Agency | Planning Division
P. 805.654.5037 F. 805.654.2509
800 S. Victoria Ave., L #1740 | Ventura, CA 91309-1740
http://www.ventura.org/ceda/plannig/Projects/smara.html

>>> "Howard Smith" <smythe1313@gmail.com> 04/11/2012 8:00 PM >>>

Ms. Kim Prillhart
Planning Director, Ventura County
800 Victoria
Ventura CA
Mosler CUP3489-2

Dear Ms Prillhart

We are writing to express concerns that the above project has not been adequately analyzed and does not demonstrate compliance with the Surface Mining and Reclamation Act. The Plan as submitted and the EIR-A are fatally flawed for reasons articulated below.

At the last two hearings, the Planning Commission delayed making a final determination on the status of the Mosler Rock Ojai Quarry C.U.P. revocation after receiving assurances from both the owner and his attorney that the operator would abide by all laws and regulations. The Commission in fact made that stipulation a requirement. The Planning Division was to do no work on the C.U.P. unless the quarry was in compliance.

Clearly the events of this week where the quarry violated State contracting laws (the 3098 list) by selling rock to a government sub-contractor have demonstrated that the operator appears incapable of operating within the law - which is exactly what I predicted at December's hearing when I testified before the Planning Commission that "A tiger never changes its stripes."

County of Ventura
Planning Director Hearing
RPCA/CUP3489-2
Exhibit 25

file:///C:/Users/beltrar/AppData/Roaming/Microsoft/Outlook/Inbox/100.. 04/12/2012
Given that the quarry is not in compliance, all work on the C.U.P., the Rec Plan, and the EIR-A should stop. The C.U.P. should be suspended and revoked immediately

The Rec plan is fatally flawed. Furthermore, the quarry proposal has not been adequately analyzed and does not demonstrate compliance with the Surface Mining and Reclamation Act. Specifically:

- The staff report presents that the Planning Division forwarded an ‘adequate’ FACE to the OMR on February 28, 2012. However, the staff report and attachments contain over 900 pages that the public has had 4 days to review prior to the hearing. At a minimum, the hearing should be delayed to allow the public to review and comment on the FACE that was provided to the OMR.

- The presented financial assurances are inadequate: Based on the FACE included in the staff report that the County found to be inadequate, the project assumes that fill can excavated and placed at a 1.5:1 h:v angle for about $1 per cubic yard. We do not believe that it is physically possible for this to be completed at the assumed cost and that approval of this FACE will place the county and its taxpayers at risk of having to clean up the mess left by the operator. We would ask the County public works department confirm that this is a reasonable amount, perhaps by obtaining a real ‘bid’ for the work.

- The final slopes may not be stable and have not been adequately evaluated, for example SMARA requires a site specific analysis when fill slopes greater than 2:1 h:v are proposed. The staff report says that the reclamation plan being considered brings the site into compliance with current SMARA standards, however we do not believe the stability of the fill slopes adequately analyzed and that substantial evidence has not been provided to demonstrate that the fill will not slide into the Matilija Creek and impact the endangered Southern California Steelhead Trout.

- The changes to the project have not been adequately analyzed under CEQA. Due to the technical nature of the reports and project changes that are proposed, the public should be allowed to review the data and comment for a minimum of 15 days prior to making a decision.

We are not sure why the county is rushing through this process when the operator has been in non compliance for years, it is important to take the time to adequately consider the proposed project and its impact on the environment, and we strongly urge that additional time be taken to address these important issues.

Sincerely,

Howard Smith, Vice Chair

Ojai Stop the Trucks Coalition
April 11, 2012

Via e-mail kim.prillhart@ventura.org

Kim Prillhart
Director of Planning
County of Ventura
800 South Victoria Avenue, 3rd Floor
Ventura, CA 93009

Re: Mosler Rock – Ojai Quarry
Reclamation Plan Compliance Agreement
CUP Permit Adjustment, CUP 3489-2
Addendum Environmental Impact Report

Dear Ms. Prillhart,

The Ojai Stop the Trucks Coalition (Coalition) includes the City of Ojai, the Ojai Valley Chamber of Commerce, the Ojai Valley Board of Realtors, Los Padres ForestWatch, and hundreds of citizens of the Ojai Valley who have been negatively-impacted by operations of the Mosler Rock – Ojai Quarry (Quarry) in violation of its permits and legal requirements.

In February, the Planning Commission postponed judgment on revocation of the CUP for the Ojai Quarry after receiving assurance from the owner/operator and his attorney in that he “would be on his best behavior” and abide by all laws and regulations. Any illusions that the Quarry has entered a new era of compliance were dispelled this week when it supplied rock to a Caltrans project, despite removal of the Quarry from the state’s approved vendors list. Accordingly, instead of proceeding with the agenda set by the February Compliance Agreement, the Coalition requests that the April 12, 2012 hearing for the Reclamation Plan Compliance Amendment be suspended and a hearing be set for revocation of CUP 3489-2.

In the alternative, the Coalition submits these comments. The Coalition supports the County’s recent enforcement actions and appreciates that the Reclamation Plan Compliance Amendment will require restoration of areas subjected to illegal disturbance. However, the Coalition is concerned that certain terms of the Compliance Agreement, such as possible approval of on-site rock-crushing, effectively reward the Quarry for its years of noncompliance and undermine the County’s enforcement authority.

Additionally, aspects of the Compliance Agreement could have significant environmental impacts that are not fully mitigated by the previous EIRs or the addendum. The Reclamation Plan Compliance Amendment will increase the areas in which grading is allowed at the Quarry, which may increase operational air and water quality impacts. The Quarry owner also seeks a
CUP amendment to legalize the presence and operation of its rock crusher, which would likely adversely affect air quality, downstream water quality in the North Fork of Matilija Creek, and endangered southern California steelhead populations. Given the increase in the magnitude of these potential environmental impacts, the County’s processing of the Quarry’s application with only an addendum environmental impact report violates the California Environmental Quality Act (CEQA).


CEQA requires an agency to conduct environmental review for any discretionary action that “may have a significant effect on the environment.” (Pub. Res. Code §§ 21080(d); 21065.) The County’s approval of an adjustment to the Quarry’s CUP is both discretionary, and may have a significant impact on the environment. Even if environmental review has been conducted in the past, as here, supplemental or subsequent environmental review of a discretionary action is required when substantial changes are proposed to a project, occur to the circumstances surrounding a project, or when new information becomes available that would require major or minor additions to the EIR. (Pub. Res. Code § 21166, CEQA Guidelines §§ 15163-15163.) New information that necessitates subsequent environmental review includes the availability of feasible alternatives or mitigation measures that would substantially reduce significant effects of the project. (CEQA Guidelines § 15162(a)(3)(C-D).) An addendum EIR is only appropriate when “minor technical changes or additions” are required to address a project’s impacts. Here, the proposed changes to the project are major, and require more than minor changes to the environmental impact report to satisfy CEQA.

A. The Rock Crusher Would Impair Critical Habitat for Endangered Steelhead.

Although the Ojai Quarry’s application for a rock crusher does not appear on the agenda or in the staff report for the April 12, 2012 meeting, the Addendum EIR purports to address the “use, maintenance, and storage of additional mining related equipment and vehicles in excess of what was previously permitted.” (Addendum EIR, p. 1.) Accordingly, the Coalition submits its comments about the proposed rock crusher now.

The on-site crushing of rock, which has never been permitted under the Ojai Quarry’s CUP, would drastically increase the amount of dirt, dust, and smaller rocks at the quarry. Since the Quarry sits above the North Fork of Matilija Creek, wind and water runoff will carry loose dust, dirt, and rocks into the creek, as it has often in the past. (See, Letter of Santa Barbara Channelkeeper, April 10, 2012, Attachment C, Photos of Quarry Runoff in River.) This will result in adverse impacts to downstream water quality, and on biological resources, both significant environmental impacts that warrant thorough environmental analysis.

The endangered southern California steelhead resides in the North Fork of Matilija Creek, and both the river and its north fork have been designated as critical habitat for the species. (Attachment 1, Maps of Southern California Steelhead Critical Habitat, National Marine
Fisheries Service (Service).) Southern California steelhead occupy less than one percent of their former range, in part due to development that has reduced the hospitality of streams. (See, Southern California Steelhead ESU, Southwest Regional Office, National Marine Fisheries Service, available online at http://swr.nmfs.noaa.gov/hcd/soCalDistrb.htm.) Steelhead require clear water for survival and spawning. Increases in sedimentation and turbidity, such as have occurred in the Matilija as a result of Quarry runoff, threaten the steelhead. (Southern California Steelhead Recovery Plan, January 2012 p. 4-5, available at http://www.swr.nmfs.noaa.gov/recovery/SC_Steelhead/Final_Southern_California_Steelhead_RecoveryPlan_Jan_2012.pdf; see also Letter of Santa Barbara Channelkeeper, Attachment B.) Photographs submitted by the Santa Barbara Channelkeeper show streams of mud flowing from the Quarry into the creek, and into its confluence with the main stem of Matilija Creek. For this reason, the National Marine Fisheries Service identifies mining and quarrying as a "very high threat" to steelhead recovery on the North Fork of the Matilija River. (Attachment 2, Recovery Plan, Table 9-2, p. 9-15.) The North Fork of the Matilija and its main stem are "[c]onsidered key habitat for restoring steelhead in Ventura [River] system" (Southern California Steelhead ESU) because of the excellent quality of habitat in upstream portions of the watershed. (Recovery Plan, p. 9-10.) In fact, the Service documented a steelhead redd (nest) below the Matilija Road bridge in February. (See, Letter of Santa Barbara Channelkeeper, Attachment A.) While this is a hopeful sign for the species, these eggs would be smothered if rain washes fine silt from the Quarry into the river.

In addition to requiring analysis under CEQA, impacts to endangered steelhead or to critical habitat for the species would constitute "take" under the Endangered Species Act that cannot be permitted without prior analysis, consultation with the Service, and consent.

Given that it identifies mining as a threat to species viability (Attachment 2), the County's approval of the requested permit modification would also be inconsistent with the Southern California Steelhead Recovery Plan, released in January of this year by NMFS.

Although an EIR was prepared for the quarry in 1993, it did not analyze the potential impacts of operating a rock crusher on downstream water quality or on endangered steelhead populations. On-site crushing of rock has never been authorized by a CUP. In addition to the substantial changes in Quarry operations to allow the crushing of gravel, substantial changes have occurred to the circumstances in which the Quarry is being operated that would render the prior analysis of biological resources inadequate. First, the National Marine Fisheries Service listed southern California steelhead as endangered in 1997, two years after approval of the quarry CUP. (http://swr.nmfs.noaa.gov/hcd/soCalDistrb.htm.) As the steelhead had not yet been listed, the MND would not have analyzed the quarry's likelihood of "taking" an endangered species, and the County may not have consulted with the Service during its analysis. Similarly, the pre-1995 analysis could not have analyzed impacts to the steelhead's critical habitat, as critical habitat was not approved for the species until 2005, a full decade later. (http://swr.nmfs.noaa.gov/hcd/soCalDistrb.htm.) Under the applicable standard, additional environmental review is required.
While the County did prepare an addendum EIR, the document fails to provide any biological analysis whatsoever. The document discloses the endangered status of the steelhead present, as well as the location of critical habitat adjacent to the Quarry, but it inexplicably claims that the project will not impact steelhead because the 1993 EIR mitigated the Quarry's potential erosion and siltation impacts. This is neither accurate, nor sufficient. As documented by Channelkeeper's letter (Attachment C), the existing BMPs (Best Management Practices) employed by the Quarry—silt fences and settling/detention basins—frequently fail and result in discharges of sediment-laden water that increase creek turbidity beyond what can be tolerated by the steelhead. In light of the rock crusher's potential contributions to sediment production, the addendum EIR should have discussed and required additional mitigation to prevent creek sedimentation. Although the Quarry is required to submit a storm water pollution prevention plan (SWPPP), the document itself will not ensure compliance. First, it neglects to mention the presence of endangered species on site, noting, “The site is not eligible for endangered species protection.” (SWPPP at section 6.1.) If critical habitat does not warrant endangered species protection, what does? Furthermore, determination of BMPs is left to the Quarry, and no specific water quality mitigation measures are required. Thus, the mitigation is neither concrete, nor enforceable, as required by CEQA. Perhaps most alarming, given the Quarry's compliance history, the SWPPP's required wet weather and quarterly testing is based upon self-reporting. Without strict enforcement of mitigation measures by a third party, the Quarry will not likely comply.

B. The Rock Crusher Would Contribute to Significant Airborne Particulate Matter Impacts.

Ventura County already exceeds state standards for particulate matter pollution. (Ventura County Air Pollution District, available online at http://www.vcapcd.org/about.htm.) If permitted, the Quarry's rock crusher would contribute to airborne particulate matter in Ventura County. This would be a significant adverse impact that must be analyzed in environmental review. By definition, a rock crusher crushes rock to produce gravel. The dirt and dust produced as a byproduct of this process contains particulate matter that is smaller than 10 microns in diameter (PM10). According to the California Air Resources Board, “PM10 is among the most harmful of all air pollutants. When inhaled these particles evade the respiratory system's natural defenses and lodge deep in the lungs.” (“Air Pollution – Particulate Matter Brochure,” California Air Resources Board, available online at http://www.arb.ca.gov/html/brochure/porn10.htm.) PM10 is associated with lung and cardiovascular disease, decreased immune function, and reduced life expectancy, especially for children and the elderly. (Ibid.) Consequently, environmental review is required, now, so that the public and decision makers can adequately assess the amount of additional particulate matter that the rock crusher would produce, and weigh the potentially significant impacts to human health and the environment.

Further, the 1993 EIR prepared for the mine's 1995 CUP approval fails to analyze the impacts of using a rock crusher to produce gravel at the quarry. The CUP contains a list of approved equipment that the Quarry is allowed to have on-site. (CUP 3489-2, Condition No. 1(b.) Equipment not listed is not permitted on-site. (Ibid.) A rock crusher is not on this list.
The CUP also limits the Quarry’s operations to “mining of large rocks and sandstone for the production of rip-rap, crushed rock aggregate, and related stone products...” (CUP 3489-2, Condition 1(a).) While the permit authorizes the mining of rock for crushed rock products, nothing in the permit authorizes the crushing of that rock on-site. Thus, the County’s assertion that the original EIR analyzed the environmental impacts of “crushed rock” is unsupportable. Additionally, the Quarry was originally permitted to supply large boulder-sized rocks, such as those used in flood control channels and the walls of harbor breakwaters, not gravel. The processing of rock into gravel was not envisioned until recently, after Mr. Mosler assumed control of the Quarry.

Although the addendum EIR mentions the potential use and maintenance of mining equipment that was not previously permitted, the EIR never discloses what this mining equipment will be, or how many additional units would be permitted. The inadequate project description is reflected in the analysis, none of which is provided in the addendum EIR itself. An attached March 29, 2012 Ventura Air Pollution Control District memorandum provides detailed analysis of three portable diesel engine-powered screening and crushing plants, but the EIR fails to confirm if this equipment is that which would be proposed in a CUP adjustment. Finally, this memorandum raises more questions than it answers. The documentation states both that “The Permit to Operate will require that the plants be operated with grid electricity and that the engines be removed from the site within one year of the Permit to Operate initial issuance date” and also that “The applicant has stated that additional time is required for portable operation...to bring electricity to the site.” How long would the generators produce harmful diesel particulate matter? This question should be answered and analyzed in additional environmental review.

C. The Addendum EIR Fails to Analyze Additional Potential Impacts Caused by the Rock Crushing Equipment.

The documentation provided by the Air Pollution Control District notes that the Quarry would rely on creek water to operate screens and crushers. While the documentation clarifies that water rights are secure, it does not disclose or analyze the increased amount of water that would be withdrawn from the creek, or what the impacts of that water intake, usage, and discharge or disposal would be on wildlife, including endangered Southern steelhead. If the water use processes would produce wastewater that would require disposal and deprive downstream instream users of water, that information should also be disclosed in subsequent environmental review.

D. The County’s Approval of Rock Crusher Operation Would Reward the Applicant’s Past Noncompliance with its CUP.

The County’s approval of the Quarry’s rock crusher is inappropriate in light of the applicant’s history of violating its CUP with the very same rock crusher that is now up for approval. As mentioned above, CUP-3489 contains a list of equipment approved for on-site use, and provides, “Only the items listed...shall be allowed within the permit area during the life of the permit.” (CUP 3489-2, Condition 1(b).) The rock crusher, which already sits on-site, does
not appear on the list of approved equipment. Therefore, its location at the Quarry for the last several years has presented a violation of the CUP. The County agrees, and issued an amendment to a Notice of Violation to the Ojai Quarry on May 13, 2010 for "Unpermitted Equipment" in the form of crushing and screening units. (Attachment 3, Letter from County of Ventura, May 13, 2010.) Instead of putting applicants on notice that the County intends to vigorously enforce permit conditions, however, a County approval of this application would effectively reward the Quarry for its illegal storage of the rock crusher on-site.

II. The Addendum EIR Does Not Adequately Address the Impacts of the Reclamation Plan Compliance Amendment.

The County's approval of an amendment to the Quarry's Reclamation Plan is also subject to CEQA, as it is both discretionary, and may cause significant impacts on the environment. (Pub. Res. Code §§ 21080(d); 21065.) Again, as this amendment requires more than "minor technical changes" to the previous analysis, a supplemental or subsequent EIR is required. (Pub. Res. Code § 21166, CEQA Guidelines §§ 15163-15164.)

The Reclamation Plan Compliance Amendment (RPCA) provides for reclamation of illegally-disturbed acres of the Ojai Quarry that lie outside of the existing mining boundaries. The RPCA is intended to ensure adequate reclamation of these additional disturbed areas, which are not to be further mined. (RPCA p. 10.) While the goal is laudable, the environmental review performed is insufficient. The RPCA authorizes grading and earthmoving on four acres of land where it would not have otherwise occurred. This earthwork will result in airborne particulate matter (dust) on steep, highly erodible slopes. Combined with wind and rain, these slopes may increase the turbidity of Matilija Creek, which would harm critical habitat for endangered Southern steelhead. Together, the increased grading area, erosion exposure, and the potential for detrimental impacts to endangered species habitat require additional environmental review.

The addendum EIR discloses the endangered status of the steelhead present, as well as the location of critical habitat adjacent to the Quarry, but it inexplicably claims that the project will not impact the creek as the new reclamation areas are located to the east. This is incorrect, as the newly included reclamation areas are located upslope of the creek, and the entire Quarry ultimately drains into the creek. The RPCA includes project changes that will increase its significant environmental impacts, as well as changes in project circumstances (i.e., the listing of the steelhead and designation of critical habitat) that necessitate major changes to the existing EIR. Thus, subsequent or supplemental environmental review is required.

III. The Applicant Continues to Flout the Law, and Permit Revocation is Warranted.

Despite the Ojai Quarry owner/operator's seeming inability to comply with applicable laws, compliance agreements, or promises of any kind (see, e.g., Staff Report pp. 4-12), the County has had seemingly endless patience working with the Ojai Quarry toward compliance. As a result of its history of noncompliance, the Office of Mine Reclamation (OMR) removed the
Quarry from its AB 3098 list of vendors approved to sell to state agencies. On Monday, April 9, 2012, however, photographs were taken that depict a Coronado Trucking hauler leaving the Ojai Quarry and delivering rock to a Caltrans work site. (Attachment 4.) Thus, despite knowledge of its removal from the AB 3098 list, the Quarry continued to supply rock to government contractors, in knowing violation of section 20676 of the Public Contract Code. According to OMR, the County is charged with implementing and enforcing SMARA within its boundaries. And it is the County that the Ojai Quarry owner/operator continues to defy. The Coalition hopes that the Director keeps the Quarry’s compliance history in mind as it continues to process documents associated with the February 2012 Compliance Agreement. While the Coalition supports the County’s efforts to require reclamation of illegally disturbed areas, the Coalition believes that the Quarry’s compliance history warrants revocation, rather than adjustment, of its CUP.

In closing, the Coalition requests that the County Planning Division immediately call a hearing to discuss revocation of the CUP for the Ojai Quarry. The Division should also reject the Ojai Quarry’s permit adjustment application and the approval of the addendum ETR until after the completion of environmental review that thoroughly examines the potentially significant environmental impacts that crushing rock could have on air quality, on downstream water quality in the North Fork of the Matilija River, and on endangered Southern California steelhead.

Thank you for your attention to this matter. We also join in the comments of Santa Barbara Channelkeeper, dated April 11, 2012 and referenced throughout this letter.

Sincerely,

Michelle Black

cc: Supervisor Steve Bennett chris.stephens@ventura.org
    Chris Stephens chris.stephens@ventura.org
    Brian Baca Brian.Baca@ventura.org
    Ebony McGee Ebony.McGee@ventura.org
    Robert Kwong Robert.Kwong@ventura.org

Attachments:
1. Maps of Southern California Steelhead Critical Habitat, National Marine Fisheries Service
2. Southern California Steelhead Recovery Plan, Table 9-2
4. Photographs of Coronado Trucking, April 9, 2012
Pictures of Alleged #3098 List Violations by Ojai Quarry for Caltrans

Ojai StopTheTrucks <ojaistopthetrucks@gmail.com>  
To: Ojai Stop the Trucks <stopthetrucks.ojai@gmail.com>  
Bcc: mnb@cobcearthlaw.com

Mon, Apr 9, 2012 at 5:12 PM

These are photos taken today of rock haulers from Coronado Trucking allegedly bringing rock to a Caltrans job that Granite is doing. The last 4 photos are of the truck leaving the Ojai quarry and the balance of the pictures are the same truck dumping at the Caltrans site today, Monday, April 9, 2012.

The Ojai Quarry is not on the approved supplier lists, the 3098 list. If these allegations are true, then it might constitute a severe violation of State law regarding contracting and suppliers by Caltrans, various contractors and others.
Attachment 6

ENVIRONMENTAL IMPACT REPORT (EIR) – ADDENDUM
CEQA Guidelines Section 15164

Mosler Rock-Ojai Quarry
Conditional Use Permit Modification, Case No. LU11-0080
Reclamation Plan Compliance Amendment

Response to comments submitted for
the April 12, 2012 Planning Director hearing

Provided below are responses to the comments provided on CEQA issues raised in the letters received prior to and at the April 12, 2012 Planning Director hearing. Each response is numbered in correspondence with the marked copy of the letters of comment included in Attachment 5 of the Addendum.

RESPONSES

A. 4-11-12 letter from Santa Barbara Channelkeeper

1. Comment noted.

2. The 1995 EIR certified for this rock quarry specifically lists the production of crushed rock aggregate as part of the mining facility that was evaluated for environmental impacts. The following statements are included in the EIR:

   The materials extracted from the quarry consist of large rocks and sandstone for production of rip-rap, crushed rock aggregate, and related stone products. [Page 27]

   The project objectives of the applicant are: To continue to be the sole source provider of rock materials, including rip-rap and crushed rock aggregate, which meet both State and County standards for Ventura County and surrounding areas. [Page 29]

The EIR evaluates the potential impacts of the quarry operations on the downstream riparian and aquatic habitats along the North Fork of Matilija Creek regarding the potential increase in erosion and sedimentation. [EIR at pages 64, 66-68] Mitigation measures are identified in the EIR that directly address this issue and were found to reduce impacts to a less than significant level. [EIR at pages 67-68]

The commenter states that the “piece of machinery will likely produce a large volume of fine sediment by-product with the potential to impact North Fork
Matilija Creek if not contained and disposed of properly." [Emphasis added]

First, the commenter assumes that the mitigation measures will not properly contain quarry operation sediments onsite nor will the operator properly dispose or use the sediments as part of onsite reclamation. Second, the comment does not include any quantification of the volume of fine material or empirical data that indicates that this material would not be contained on the site. The design of the quarry includes a “Quarry Tailings Disposal Area” (QTDA) intended to serve as a disposal area for such material. [See EIR Exhibits 7 and 8.] Thus, it was anticipated and approved as part of the 1995 quarry design that unsold material (i.e., tailings) would be contained onsite as fill. The QTDA currently has approximately 100,000 cubic yards of available volume that can accept fine fill material. In addition, the volume of fine sediment produced by the operation of a small portable rock crusher would be a minor subset of the volume of fine sediment produced by excavation over the 12-acre mining site. As the operation of the crusher is limited to 300 hours per year (refer to the 3-29-12 VCAPCD Engineering Report attached to the Addendum), it would only be available for use during 15% of the authorized annual hours of mining activities.

Based on the above discussion, the proposed operation of a crusher does not involve a substantial change in the project or require major revisions of the previous EIR or necessitate the preparation of a subsequent EIR pursuant to CEQA Guidelines § 15162.

3. Refer to response #A2 above. In addition, this comment does not identify a substantial new impact on aquatic species in Matilija Creek or provide any empirical evidence showing the inadequacy of any one of the five mitigation measures set forth in the 1995 EIR (pages 67-68) which are designed to mitigate quarry operation offsite sedimentation impacts on the nearby blue line stream. And while the listing of the steelhead trout as a federally listed Endangered Species is a new circumstance since the 1995 EIR was certified, this fact alone does not require major revisions of the previous EIR because new significant environmental effects or a substantial increase in the severity of the previously identified significant effects to migratory fish species have not been identified.

4. Refer to response #A3 above. Although the County agrees that the listing of the steelhead trout as a federally listed Endangered Species is new information of substantial importance, a subsequent EIR is not needed pursuant to CEQA Guidelines § 15162(a)(3) because this new information does not show: (a) that the project will have one or more significant effects not discussed in the 1995 EIR; (b) potential significant effects to the Matilija Creek will be substantially more severe than was shown in the 1995 EIR; (c) that mitigation measures previously found not to be feasible would now in fact become feasible; and (d) that different mitigation measures or project alternatives would substantially reduce project effects on the Matilija Creek.
5. Refer to response #A2 above. The discharge of sediment from the quarry during heavy rains in November and December of 2010 was reported to the County by Mr. Pitterle at that time. This information was included in the 2010 Surface Mining Inspection Report provided by the County to the California Department of Conservation.

Refer to response #F10 below regarding the Steelhead Recovery Plan prepared by the National Marine Fisheries Service.

The 2010-2011 Annual Report for Storm Water Discharges Associated With Industrial Activities for the Mosler Rock-Ojai Quarry includes an analysis of water quality for discharge from the site on December 18, 2010. This report identifies the level of Total Suspended Solids (TSS) as 1220 milligrams/liter (mg/l). This level of TSS is above the 100 mg/l threshold for the requirement of water quality monitoring. The 100 mg/l concentration does not represent a discharge limit or violation threshold.

County staff contacted the Los Angeles Regional Water Quality Control Board (LARWQCB) by email on April 11, 2012 regarding the status of the Ojai Quarry and its stormwater runoff requirements. The LARWQCB indicates that the actions required to address the violations previously identified on the site have been completed as of the last inspection. No new violations of applicable stormwater regulations have been identified at the Ojai Quarry. According to the LARWQCB staff (telephone communication from Enrique Loera to Brian Baca, 4-17-12), the LARWQCB has the authority to establish a specific Total Suspended Solids (TSS) discharge limit for the Mosler Rock-Ojai Quarry under the applicable Industrial General Stormwater Permit. This agency, however, has not established such a limit for this facility. In addition, the North Fork of Matilija Creek has not been designated an impaired water body and no Total Maximum Daily Load (TMDL) has been established for this stream. The operator of the Mosler Rock-Ojai Quarry must comply with water quality Best Management Practices (BMPs) and continue reporting to the LARWQCB.

Based on the above discussion, it can be reasonably determined that the stormwater and sediment control facilities installed to implement the 1995 EIR mitigation measures are currently working to prevent sedimentation and that there is no substantially more severe impact to the Matilija Creek.

Implementation of the Reclamation Plan Compliance Amendment and the installation of a portable rock crusher will not substantially change the design, operation or erosion characteristics of the mining facility. Implementation of the RPCA would actually serve to reduce the potential for erosion and sedimentation from the rock quarry through a lowering of slope gradient and re-vegetation of excavated areas.
Based on the above discussion, the proposed RPCA and operation of a crusher would not constitute a substantial change in the project or require major revisions of the previous EIR. In any case, sedimentation of Matilija Creek was not identified as a "significant" impact of the project with the implementation of the identified mitigation measures. Thus, a significant impact will not be substantially more severe than shown in the previous EIR.

6. The commenter is correct in that the new reclamation area is located uphill of the creek. Erosion of this area would be lessened with implementation of the RPCA. Sediment derived from erosion of this area would be captured by the existing stormwater control facilities on the site. Accumulated fine material would be retained in the QTDA in accordance with the Approved Reclamation Plan.

7. Comment noted.

B. 4-11-12 letter from the Casitas Municipal Water District (CMWD)

1. Comment noted. No issue regarding the adequacy of the environmental document is raised. Thus, no response is required.

2. The 1995 EIR certified by the County identified the potentially significant impact of quarry-derived sedimentation of the creek on biological resources and, therefore, included feasible mitigation measures to address that issue. With implementation of these mitigation measures, the potentially significant impacts to biological resources, namely migratory fish, were mitigated or reduced to a less than significant level. In addition, the quarry operates in accordance with a Stormwater Pollution Prevention Plan (SWPPP; Attachment 8 of the RMA-Planning Staff Report for the April 12, 2012 hearing) prepared in accordance with stormwater runoff regulations implemented by the LARWQCB (refer to response #A5 above). The statement in the comment that water quality issues "are potentially significant adverse impacts associated with the proposed project" is a conclusion made without supporting evidence. No specific evidence is provided to indicate that the implementation of the RPCA or use of a portable rock crusher will have a substantial effect on water quality. As indicated in the response to comment A.2 above, it was anticipated and approved as part of the quarry design that unsold material (tailings) would be contained onsite as fill. The Quarry Tailings Disposal Area delineated on the Approved Reclamation Plan currently has approximately 100,000 cubic yards of available volume that can accept fine fill material. Given this approved project design, the required mitigation measures and compliance with stormwater regulations, the proposed RPCA and crusher do not have the potential to substantially change the level of sedimentation associated with the existing mining facility.

3. Refer to response #B2 above.

4. Refer to responses #A5 and #B2 above.
5. The Commenter requests that the County, as lead agency for this project, conduct a biological assessment of the Lower North Fork of Matilija Creek and the Ventura River to determine what, if any, impact the quarry operations have on these watercourses. However, the commenter neither cites to, or provides, any evidence that the proposed RPCA or use of a rock crusher at the quarry site will have a potential for causing a significant environmental effect on biological resources. Moreover, this unsubstantiated request for such an assessment is contrary to the guidance in CEQA Guidelines §15064 for determining significance of environmental effects. Please also refer to County responses #A2, #A3, #A5, and #B2 above.

C. 4-12-12 letter from Lorenz K. Schaller

1. Comment noted.

2. Comment noted.

3. Refer to responses #A1 through #A7 above.

D. 4-12-12 Letter from the Environmental Coalition

1. See County response #A2, A3 and A4 above. Pursuant to Section 15164 of the CEQA Guidelines, an Addendum to a previously certified EIR constitutes adequate environmental review where minor changes in an existing project would not result in new potentially significant impacts. In this case, the ongoing operation of the permitted Ojai Quarry is part of the existing environmental setting and not under review. The proposed project under review is the RPCA and the proposed operation of a portable rock crusher. The County has determined that these changes to the existing mining facility do not involve new potentially significant impacts that warrant the preparation of a subsequent EIR pursuant to CEQA Guidelines 15162. Thus, an Addendum to the previous EIR was prepared.

2. Refer to response #A2, #A5 and #B2 above.

3. No evidence or analysis is provided to support the conclusion that the "amount of sediment that will enter the north fork of the Matilija Creek will increase" with the operation of the rock crusher. Refer to response #A2 above.

4. Refer to responses #A1 through #A7.
E. 4-11-12 email from H. Smith, Ojai Stop the Trucks! Coalition, to K. Prillhart

1. The commenter requests that the County suspend and revoke the Ojai Quarry CUP because of the operator's alleged violation of state contracting laws (i.e., AB 3098). Not only is this comment unrelated to the CEQA issues of the RPCA project, but the commenter fails to understand that the AB 3098 list is exclusively administered by the California Department of Conservation. The County does not have a role in the preparation, maintenance or enforcement of the AB 3098 list. So, even if the alleged violations are true, they do not constitute a basis for CUP suspension or revocation under the Non-Coastal Zoning Ordinance.

2. The review and approval of a FACE is not a discretionary action subject to public review. The acceptance of a FACE by the County and the California Department of Conservation is a ministerial action based on the requirements of the Surface Mining and Reclamation Act.

3. Refer to response #E2 above.

4. The 1.5:1 gradient fill slopes are included in the Approved Reclamation Plan for the quarry. The stability of these slopes was considered at the time this Reclamation Plan was approved. The proposed RPCA would be consistent with the approved design. No substantial evidence is provided in this comment to indicate that the RPCA slopes will be unstable. Furthermore, comments on matters of engineering or geology must be provided by an Engineer or Geologist licensed to practice in the State of California.

5. The proposed RPCA and the requested Permit Adjustment to authorize the use of a portable rock crusher will be processed in accordance with applicable County Code and State Law. A public hearing was held on April 12, 2012 to receive comment on the proposed RPCA. Interested parties will be notified of any decision on the requested Permit Adjustment. Refer to response #A2 regarding the adequacy of the CEQA analysis.

6. Comment noted.

F. 4-11-12 letter from M. Black, on behalf of Ojai Stop the Trucks! Coalition, to K. Prillhart

1. Comment noted.

2. Refer to response #E1 above.

3. Comment noted.
4. As stated in the subject letter, the RPCA "will require restoration of areas subjected to illegal disturbance." It will not allow increased mining excavation at the quarry. Implementation of the RPCA will actually reduce erosion and sedimentation through a lowering of slope gradient and revegetation. Refer to responses #A2 and #A5 above regarding the proposed operation of a rock crusher.

5. Refer to responses #A2, #A5 and #B2 above regarding the proposed operation of a rock crusher.

6. Refer to responses #A2, #A5 and #B2 above regarding the proposed operation of a rock crusher.

7. Comments noted.

8. Refer to responses #A2, #A5 and #B2 above regarding the proposed operation of a rock crusher. The comment appears to discuss potential environmental effects of the existing permitted quarry operations rather that the potential effects of the minor project changes currently under CEQA review. Therefore, this comment is not relevant to the proposed EIR Addendum.

9. Comment noted.

10. Whether or not the proposed project changes are consistent with the January 2012 Southern California Steelhead Recovery Plan prepared by the National Oceanic and Atmospheric Administration, National Marine Fisheries Service is not part of the County’s CEQA review of the proposed changes in the mining facility. Please be aware that a County Biologist review of the 2012 Southern California Steelhead Recovery Plan has determined that the plan is in agreement with the findings of the 1995 certified EIR that sedimentation from mining facilities has a potential significant impact on aquatic species. Regarding its applicability as a regulatory document, the Recovery Plan states:

   Recovery Plans identify recovery actions, based upon the best scientific and commercial data available, necessary for the protection and recovery of listed species. Recovery Plans published by the National Marine Fisheries Service (NMFS) are guidance documents, not regulatory documents; identification of an action to be implemented by any public or private party does not create a legal obligation beyond existing legal requirements. [emphasis added]

   It is also important to note here that the 1995 EIR imposed mitigation measures on the project to address those potential significant environmental impacts to aquatic life in the Matilija Creek. In any case, no explanation is provided in the
comment as to why the proposed changes are inconsistent with the Recovery Plan. Refer to responses #A2 and #A3 above.

11. Refer to responses #A2, #A3, #A5 and #B2 above regarding the proposed operation of a rock crusher.

12. Refer to responses #A2, #A3, #A5 and #B2 above regarding the proposed operation of a rock crusher.

13. The comment does not provide any evidence or analysis of the volume or quantity of particulate matter that would be produced by the proposed rock crusher. It appears to assume that any increase in particulate emissions is significant. However, the particulate emissions are analyzed and estimated in the March 29, 2012 Engineering Report prepared by the Ventura County Air Pollution Control District (Attachment 3 of the Addendum). This report finds that the permitted emissions levels for the rock crusher and associated equipment do not exceed established thresholds for the requirement of emission offsets. For example, the Particulate Matter (PM-10) permitted emissions of 0.07 tons per year is far less than the 15.0 tons per year threshold.

14. Refer to comment #A2. The EIR includes the following statements regarding the scope of the project:

The materials extracted from the quarry consist of large rocks and sandstone for production of rip-rap, crushed rock aggregate, and related stone products. [Page 27]

The project objectives of the applicant are: To continue to be the sole source provider of rock materials, including rip-rap and crushed rock aggregate, which meet both State and County standards for Ventura County and surrounding areas. [Page 29]

This language indicates that the production of crushed rock was part of the project evaluated in the EIR.

15. The Project Description provided in the Addendum will be clarified to indicate that the additional equipment requested to be authorized includes a portable rock crusher. This project description clarification does not have an impact on the County decision to prepare an EIR Addendum in this case.

16. The Addendum has been augmented to include information on water use associated with the use of a portable rock crusher.

According to the March 29, 2012 Engineering Report prepared by the Ventura County Air Pollution Control District (Attachment 3 of the Addendum), the
The proposed rock crusher would operate at a maximum output of 150 tons/hour for a maximum of 300 hours per year. With these parameters, the output of the crusher would be a maximum of 45,000 tons per year (150 x 300 = 45,000).

The VCAPCD report cites a 3% moisture content for the crushed material as the operation would use water for dust suppression. Assuming a 6% water content (increased from 3% to account for evaporation), the crusher would utilize up to 1.9 acre-feet of water per year (AFY). This demand figure is calculated as follows:

\[ \frac{(45,000 \text{ tons/year})(0.06)(2000 \text{ lbs/ton})(1 \text{ gallon/8.34 lbs})(1 \text{ CF/7.48 gal})}{(1 \text{ AF/43560 CF})} = 1.99 \text{ AFY} \]

According to records maintained by the County Watershed Protection District, the average annual flow in the North Fork Matilija Creek for the 10-year period 2000-2009 was 7,033 AFY. The minimum annual flow during this period was 1020 AFY in 2002. Thus, the maximum potential water use of the crusher would be 0.2% of the minimum annual flow during the 10-year period. To account for peak production periods, the water demand for a single month in which 33% of the total annual production (15,000 tons) is assumed to occur was compared to the lowest monthly flow in the 10-year modeling period. An estimated 0.66 AF of water would be used in such a month for the production of 15,000 tons of crushed product. The lowest monthly flow during the 10-year period was 12 AF in August of 2004. Even in this theoretical extreme case, the water use by the crusher would only represent 5% of the creek flow. Given the above figures, the water demand associated with the proposed rock crusher would be negligible and not have the potential to substantially affect creek flows or biological resources.

17. This comment or complaint does not have a direct linkage to the proposed EIR Addendum. Moreover, the commenter should know that the mine operator has the opportunity under the provisions of the County Non-Coastal Zoning Ordinance to seek abatement of the violation of the unpermitted rock crusher through the application for a Permit Adjustment. The County decision-makers have the discretion to grant, deny or grant with modification such a request.

18. As stated in the subject letter, the RPCA "will require restoration of areas subjected to illegal disturbance." It will not allow increased mining excavation at the quarry. Although there will be some short-term effects during the creation of the final slopes, implementation of the RPCA will reduce long-term erosion and sedimentation through a lowering of slope gradient and revegetation. Note that the County is mandated to approve a Reclamation Plan that meets the standards of SMARA.

20. Refer to response #E1 above.

21. Refer to responses #F1 through #F20 above.