

**PLANNING COMMISSION
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION NO. 03003

A.P. # 422-111-030-000-M

**FINDINGS AND
DECISION**

In the matter of the application of
Orradre Ranch (PLN990292)

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, and reclamation plan for sand and gravel mining operation to remove approximately 340,000 cubic yards along the Pancho rico Creek; mining will average 17,000 cubic yards per year, with maximum production expected at 60,000 cubic yards per year; located at Sargents Road and Pancho Rico Creek, Sections 10, 11, 15 and 16, Township 22 South, Range 10 East, southeast of San Ardo, South County area, came on regularly for hearing before the Planning Commission on January 8, 2003.

Said Planning Commission, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

1. **FINDING:** The proposed surface mining operation, reclamation plan and the proposed end use of reclaimed land pursuant to the Plan are consistent with Chapter 16.04 of the Monterey County Code (Surface Mining and Reclamation Ordinance), the General Plan, South County Area Plan and Title 21, Zoning Ordinance Chapters 21.30 and 21.34, and with the Monterey County General Plan which designates the property as "Farmlands, 40 acre minimum, and Permanent Grazing, 40 acre minimum."

EVIDENCE: The text and policies of the South County Area Plan, the Monterey County General Plan and Title 21 have been evaluated during the course of the review of this application. The regulations of the Monterey County Surface Mining and Reclamation Ordinance (Chapter 16.04 of the Monterey County Code) have also been evaluated. No conflict or inconsistencies with the text or the policies were found to exist. No testimony, either written or oral, was received during the course of public hearing to indicate that there is any inconsistency with the Area Plan, General Plan or County Code.
2. **FINDING:** The Mining and Reclamation Plan consisting of the original submittal entitled Mining and Reclamation Plan for the Brinan Sand and Gravel Operation, dated February, 1997, and Planting Plan Amendment (Agreement #R3-2000-0361), dated December, 2001, complies with Sections 2772 and 2773 and other applicable provisions of the State Surface Mining and Reclamation Act (SMARA) and with Sections 3500-3505 and 3700-3713 of the California Code of Regulations.

EVIDENCE: The Mining and Reclamation Plan has been reviewed by the Planning and Building Inspection Department and the State Department of Conservation. County staff performed site inspections to verify existing conditions and to evaluate the adequacy of the Mining and Reclamation Plan. The Department of Conservation submitted comments on the proposed mining and reclamation plan. In response to comments, the applicant submitted the Planting Plan Amendment (Agreement #R3-2000-0361), dated December, 2001, which addresses concerns raised by the Department of Conservation. All comments by the State have been adequately addressed and incorporated into the Plan.

3. **FINDING:** The proposed project, including all permits and approvals, will not have significant adverse impacts on the environment. A Mitigated Negative Declaration has been prepared and is on file (File PLN990292) in the Department of Planning and Building Inspection. All mitigation measures identified in the Initial Study and Mitigated Negative Declaration and all project changes required to avoid significant effects on the environment have been incorporated into the approved project or are made conditions of approval. A Program for Monitoring and/or Reporting on Conditions of Approval (hereafter “the Program”) has been prepared pursuant to Public Resources Code 21081.6 and is made a condition of approval. The Program is attached hereto as Exhibit “E” and is incorporated herein by reference. Potential environmental effects have been studied, and there is no substantial evidence in the record, as a whole, that supports a fair argument that the project, as designed, may have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County based upon the findings and conclusions drawn in the Initial Study and the testimony and information received, and scientific and factual data presented as evidence during the public review process. The Monterey County Planning and Building Inspection Department, located at 2620 First Avenue, Marina, is the custodian of the documents and the materials that constitute the record of proceedings upon which the adoption of the Mitigated Negative Declaration is based.

EVIDENCE: The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file.

EVIDENCE: County staff prepared an Initial Study for the project in compliance with the California Environmental Quality Act (CEQA) and its Guidelines. The Initial Study provided substantial evidence that the project would not have significant environmental impacts that could not be avoided or mitigated to a less than significant level. A Mitigated Negative Declaration was filed with the County Clerk and the State Clearinghouse on November 20, 2002. It was also sent directly to the California Dept. of Forestry and Fire Protection, U.S. Fish and Wildlife Service, and Monterey Bay Unified Air Pollution Control District for comments and was also noticed for public review. The following evidence has been received and considered: All comments on the Initial Study; evidence in the record that includes studies, data and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; information presented during public hearings; staff reports that reflect the County’s independent judgment and analysis regarding the above referenced studies, data and reports; application materials, and expert testimony. Among the studies, data and reports analyzed as part of the environmental determination are the following:

1. Project Application/ Reclamation Plan
2. Monterey County General Plan
3. South County Area Plan
4. Monterey County Zoning Ordinance (Title 21)
5. Monterey Bay Unified Air Pollution Control District. Air Quality Management Plan.
6. Monterey Bay Unified Air Pollution Control District CEQA Guidelines, September 2002.
7. Kohler-Antablin, Susan, 1999, Update of Mineral Land Classification: Aggregate Materials in the Monterey Bay Production-Consumption Region: Open-File Report 99-01, California Division of Mines and Geology, Sacramento, CA.
8. Consulting Engineers and Land Surveyors of California (CELSOC), 2001 California Environmental Quality Act: CEQA Guidelines
9. Higgins Associates. Brinan Pit Revised Traffic Analysis Report, July 29, 2002
10. Quad Consultants. San Joaquin Kit Fox Survey, June 1992.
11. Quad Consultants. San Joaquin Kit Fox Spotlighting Survey Results, July 25, 2000.

12. Quad Consultants. San Joaquin Kit Fox Habitat Evaluation, July 2, 2002.
13. Quad Consultants. Arroyo Toad Survey Report. July 1, 2002.
14. Quad Consultants. November 30, 2001, Concurrence of No Effect for the California red-legged and foothill yellow-legged frogs letter to USFWS.
15. California State Department of Conservation, Farmland Mapping and Monitoring Program. 1998 Farmland Classification of Monterey County
16. Rosenberg, Lewis I., and County of Monterey, Environmental Resource Policy Department, 2001, Erosion hazards of Monterey County, California. Unpublished report to be incorporated into Monterey County Century General Plan Update.
17. Rosenberg, Lewis I., 2001, Relative earthquake-induced landslide susceptibility of Monterey County, California. Unpublished report to be incorporated into Monterey County Century General Plan Update, when adopted.
18. Rosenberg, Lewis I., 2001, Relative liquefaction susceptibility of Monterey County, California. Unpublished report to be incorporated into Monterey County General Plan Update, when adopted.
19. Rosenberg, Lewis I., 2001, Earthquake epicenters of Monterey County, California. Unpublished report to be incorporated into Monterey County General Plan, when adopted.
20. Rosenberg, Lewis I., 2001, Relative seismic shaking hazards of Monterey County, California. Unpublished report to be incorporated into Monterey County General Plan, when adopted.
21. Rosenberg, Lewis I., 2001, Faults of Monterey County, California.
22. Rosenberg, Lewis I., and Feeney, Martin B., 2001, Potential aquifer recharge areas of Monterey County, California.
23. U.S. Department of Agriculture, Natural Resources Conservation Service, 19990316, Soil Survey Geographic (SSURGO) database for Monterey County, California: U.S. Department of Agriculture, Natural Resources Conservation Service, Fort Worth, Texas.
24. California Native Plant Society. 6th Inventory of Rare Plants (Online Edition).
25. Quad Consultants. Engineering Hydrology Study for Pancho Rico Creek Gravel Extraction Area, August 28, 2002.
26. Caterpillar Inc. Caterpillar Performance Handbook, 29th ed.
27. U.S. Environmental Protection Agency, Publication AP—42.
28. Kleinfelder Inc. Pavement Evaluation Study, Maintenance and Rehabilitation Strategy for Sargent's Road, Railroad Street and Cattleman Road, April, 2000.

EVIDENCE: The Program for Monitoring and/or Reporting on Conditions of Approval, prepared and required pursuant to Section 21081.6 of the Public Resources Code, is designed to ensure compliance during project implementation.

EVIDENCE: No facts, reasonable assumptions predicated on facts, testimony supported by adequate factual foundation, or expert opinion supported by facts, have been submitted that refute the conclusions reached by these studies, data and reports. Nothing in the record alters the environmental determination, as presented by staff, based on investigation and the independent assessment of those studies, data and reports.

EVIDENCE: Studies, data and reports prepared by staff from various County departments including Planning and Building Inspection, Public Works, Environmental Health and Monterey County Water Resources Agency support the adoption of the Mitigation Negative Declaration for the project.

4. **FINDING:** The land and/or resources contained within the land to be disturbed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources.

EVIDENCE: The Mining and Reclamation Plan submitted with the project application and other materials in the project file.

EVIDENCE: Site visits by the project planner.

5. **FINDING:** For purposes of the Fish and Game Code, the project will have a potential for changes to fish and wildlife resources upon which the wildlife depends.

EVIDENCE: Staff analysis contained in the Initial Study and the record as a whole indicate the project may or will result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations. It is anticipated that the project and alteration of the site will not have a significant adverse environmental impact due to project design, operating protocols and mitigation measures contained in the Mitigated Negative Declaration and incorporated into this permit as conditions of approval

6. **FINDING:** The site is suitable for the use proposed.

EVIDENCE: There has been no testimony received either written or oral, during the course of public hearings to indicate that the site is not suitable for the project. Necessary public facilities are available for the use proposed. The project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Health Department, Monterey Bay Unified Air Pollution Control District, California Department of Forestry (South County Fire Protection District) California State Dept. of Conservation, U.S. Fish and Wildlife Service, U. S. Army Corp of Engineers and the California State Dept. of Fish and Game. There are no significant physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats, or similar areas that would indicate the site is not suitable for the use proposed.

EVIDENCE: Evidence for Findings 1 through 4, above.

7. **FINDING:** The establishment, maintenance or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvement in the neighborhood, or to the general welfare of the County.

EVIDENCE: The project as described in the application and accompanying materials was reviewed by the Planning and Building Inspection, Health Department, Public Works Department, Water Resources Agency, California Department of Forestry (South County Fire Protection District). These departments have recommended conditions, where appropriate, to ensure that the project will not have adverse effects on the health, safety and general welfare of persons residing or working in the neighborhood, or the County in general.

EVIDENCE: Initial Study and Mitigated Negative Declaration.

8. **FINDING:** Implementation of the Reclamation Plan will restore the mined lands to a usable condition, which is readily adaptable for appropriate land uses consistent with the General Plan.

EVIDENCE: Materials in file PLN990292.

EVIDENCE: The Reclamation Plan proposes restoration to grazing land for the area outside of the stream. The General Plan designates this site for agricultural uses, including grazing.

EVIDENCE: Evidence for Finding 1, above.

9. **FINDING:** A written response to the State Department of Conservation has been prepared describing the disposition of major issues raised by the Department.

EVIDENCE: Letter from Department of Conservation dated July 3, 1997.

EVIDENCE: Response to State comments through preparation of an Addendum to the Mining and Reclamation Plan, dated February 4, 1998.

10. **FINDING:** That the subject property is in compliance with all rules and regulations pertaining to the use of the property, that no violations exist on the property and that all zoning abatement costs, if any have been paid.

EVIDENCE: Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.

DECISION

THEREFORE, it is the decision of said Planning Commission that said application be granted as shown on the attached sketch, subject to the following conditions:

1. This Combined Development Permit allows the extraction, processing and sale of up to 60,000 cubic yards (90,000 tons) of aggregates annually for a period of 20 years on 95 acres within Assessor's Parcel Numbers 422-111-015, -017, and -030, in accordance with County ordinances, land use regulations, and the State Surface Mining and Reclamation Act, subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. **(Planning and Building Inspection Dept.)**

PRIOR TO COMMENCEMENT OF MINING OPERATIONS

2. The applicant shall record a notice which states: "A permit (Resolution #03003) was approved by the Planning Commission for Assessor's Parcel Numbers 422-111-030-000, 422-111-015-000 and 422-111-017-000 on January 8, 2003. The permit was granted subject to 26 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. **(Planning and Building Inspection Dept.)**
3. The applicant shall provide proof that permit applications have been submitted to the appropriate local, state and federal agencies for the maximum extraction of material anticipated. The agencies include but are not limited to: United States Army Corps of Engineers, California Department of Fish and Game, U. S. Fish & Wildlife Service, and the California Regional Water Quality Control Board. Copies of all permits shall be submitted to the Planning and Building Inspection Department. **(Water Resources Agency)**

4. The operator shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the Reclamation Plan. Said statement shall be kept by the Planning and Building Inspection Department in the mining operation's permanent record. Upon sale or transfer of the operation, the new operator shall submit a signed statement of responsibility to the Planning and Building Inspection Department. **(Planning and Building Inspection Dept.)**
5. Pursuant to the State Public Resources Code, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of **\$1,275. This fee shall be paid within 5 days of permit approval, before the filing of the Notice of Determination.** Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the recordation of the tentative map, the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested or final until the filing fees are paid. **(Planning and Building Inspection Dept.)**
6. The applicant shall pay a Mitigation Monitoring fee and enter into an agreement with the County to implement a Mitigation Monitoring Plan. **(Planning and Building Inspection Department)**
7. The applicant shall obtain an encroachment permit for construction of a commercial driveway, from the Monterey County Public Works Dept. **(Public Works)**
8. The internal haul roads shall be maintained in a mud free and dust free condition. **(Public Works)**
9. The applicant shall post the project site street address at the designated entrances to the site. **(CDF)**

PRIOR TO COMMENCEMENT OF MINING OPERATIONS / CONTINUOUS

10. Due to concerns over potential impacts to the San Joaquin kit fox and in accordance with condition # 15 of California Department of Fish and Game (CDFG) Streambed Alteration Agreement # R3-2000-0361, no expansion into the area designated as Section E on Figure 3a of the mining and reclamation plan will be allowed until a qualified biologist conducts a survey for San Joaquin kit fox in this area. Survey protocols are to be determined in consultation with CDFG and USFWS. The results of the survey shall be submitted to CDFG and the Monterey County Planning and Building Inspection Department. If CDFG determines that due to changing circumstances this survey is no longer necessary, the County will not require that this survey be conducted. If evidence of kit fox is observed, the operator shall contact CDFG and USFWS. No mining shall be conducted within the expansion area until the requirements of CDFG and USFWS are fully met **(Planning and Building Inspection Department, MM #4).**
11. At least 45 days prior to commencing mining activities and thereafter on an annual basis (by October 1), the operator shall submit a reclamation cost estimate to the Planning and Building Inspection Department. The estimate shall be based on local equipment and labor rates and shall include all standard reclamation tasks and contingency costs recommended by the California Department of Conservation. Upon approval of the reclamation estimate by the Director of the Planning and Building Inspection Department, the operator shall provide financial assurance, in the form of a surety bond, certificate of deposit or other suitable mechanism, to the County prior to commencement of operations and shall maintain this financial assurance in effect for the duration of the permit and any additional period required until the Director of the Planning and Building Inspection Department determines that the site is fully reclaimed. **(Planning and Building Inspection Dept.)**

12. To ensure that stream banks and associated riparian vegetation are not adversely impacted by mining operations, Condition #14 of Streambed Alteration Agreement # R3-2000-0361 establishes these setbacks: 25 ft. from banks less than 20 ft. in height and 50 ft. from banks greater than 20 ft. in height. Prior to initiating annual mining activities, the operator shall stake the proposed excavation area. To prevent damage to native trees and in accordance with conditions # 18 and #19 of CDFG Streambed Alteration Agreement # R3-2000-0361, no mining activities will be allowed within a distance equal to twice the radius of the canopies of any native trees, greater than 6 inches diameter at breast height. If either of the two sycamore trees, identified in condition #19, of pending Streambed Alteration Agreement #R3-2000, are lost due to mining activities the operator shall replace them on a 5 to 1 basis. The operator shall notify the Monterey County Planning and Building Inspection Department and CDFG when staking is complete. Staff from these agencies will be provided the opportunity to review the proposed excavation setbacks prior to the commencement of excavation activities. Setbacks established in the Streambed Alteration Agreement, as may be amended, are hereby incorporated into this permit.

Cross section locations shall have permanent monuments set to establish elevations from which annual measurements shall be taken to ensure that mining does not exceed depth requirements. Excavation depth is limited to four feet per year, and cumulatively to a maximum of six feet from the streambed elevation existing at the time of Use Permit application. Annual cross-sections shall be submitted to the Planning and Building Inspection Department prior to November 1. **(Planning and Building Inspection Dept., MM#5 and #6)**

CONTINUOUS PERMIT CONDITIONS

13. All aspects of the operation shall be conducted in compliance with the approved Mining and Reclamation Plan and other applicable requirements of the State Surface Mining and Reclamation Act (SMARA) and conditions of this permit and shall be conducted only within the boundaries indicated in the approved Mining and Reclamation Plan. **(Planning and Building Inspection Dept.)**
14. The operator shall spray water or use palliatives and other surface binding agents on access roads, processing area, active mining area and dust-prone stockpiles in order to reduce potential fugitive dust impacts to nearby sensitive receptors to a less than significant level. Water shall be applied twice daily or as needed to prevent dust, visible with unaided vision, from leaving the site and impacting nearby sensitive receptors. **(Planning and Building Inspection Department, MM #1)**
15. Haul Trucks shall maintain at least 2 feet of freeboard or haul material shall be covered. A sign stating this requirement shall be posted at the project entrance/exit. **(Planning and Building Inspection Department, MM #2)**
16. The project's permit shall be subject to review by Planning and Building Inspection Dept. staff every five years for the 20-year life of the permit. This review shall take place concurrently with the renewal of the CDFG Streambed Alteration Agreement. The applicant shall submit copies of the Streambed Alteration Agreement application to the County concurrent with application to CDFG, prior to the renewal date. Based on changing circumstances or requirements of the Streambed Alteration Agreement, the Planning Director may require the applicant to submit an amended Mining and Reclamation Plan for approval in order to maintain consistency. **(Planning and Building Inspection Department, MM #3)**

17. Annual material extraction and sales shall not exceed the maximum amount identified in the Mining and Reclamation Plan (60,000 cubic yards (90,000 tons). Material extraction, regardless of gross tonnage shall be limited to the area and depth identified in the Mining and Reclamation Plan and approved CDFG Streambed Alteration Agreement. **(Planning and Building Inspection Dept.)**
18. The operator shall request (by November 1) and allow annual inspections of the mining operation by the Planning and Building Inspection Department during the duration of the permit as required by the State Surface Mining and Reclamation Act. The operator shall reimburse or pay to the County the full cost of the inspection services, including related administrative costs required pursuant to the Act. **(Planning and Building Inspection Dept.)**
19. Upon the sale or transfer of the operation, the new operator shall record a Notice stating that “The operator shall accept responsibility for operating and reclaiming the mined lands in accordance with the approved Reclamation Plan and shall operate the surface mining activity within the limits and according to the conditions of the Use Permit and Reclamation Plan.” **(Planning and Building Inspection Dept.)**
20. Within 90 days of the mining operation becoming “idle” (to curtail surface mining operations for a period of one year or more, by more than 90% of the operation’s previous maximum annual mineral production, with the intent to resume mining operations at a future date), the operator shall submit to the Planning and Building Inspection Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA and shall provide measures the operator will implement to maintain the site in a stable condition taking into consideration public health and safety. The IMP shall be subject to the review and approval by the Monterey County Planning Commission. **(Planning and Building Inspection Dept.)**
21. If cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist found on the County’s list of qualified archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. If the find is determined to be a unique archaeological resource, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation shall be available. Work can continue on other parts of the site while resource mitigation takes place. The mitigation measures shall include the following steps if human remains are discovered:
 - a) There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
 1. The coroner of the county must be contacted to determine that no investigation of the cause of death is required, and
 2. If the coroner determines the remains to be Native American:
 - i) The coroner shall contact the Native American Heritage Commission within 24 hours.
 - ii) The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.
 - iii) The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98, OR

- b) Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance:
 - 1. The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.
 - 2. The descendent identified fails to make a recommendation, or
 - 3. The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner. **(Planning and Building Inspection, MM#7)**
- 22. The operator shall ensure that all haul trucks use the designated haul route depicted in the Mining and Reclamation Plan and the Traffic Analysis Report prepared by Higgins & Associates, dated July 29, 2002. **(Planning and Building Inspection Dept. / Public Works)**
- 23. The Use Permit shall expire on January 8, 2023. **(Planning and Building Inspection Dept.)**
- 24. The operator shall contribute a fair share towards the maintenance and repair of impacted road segments, as identified in Brinan Pit Revised Traffic Analysis Report, July 29, 2002, prepared by Higgins & Associates and in Pavement Evaluation Study, Maintenance and Rehabilitation Strategy for Sargent's Road, Railroad Street and Cattleman Road, Monterey County, California, April 2000, prepared by Kleinfelder and Associates. The operator's contribution shall be paid annually (by December 31) and shall initially be at a rate of \$0.41 per ton of material shipped on County roads. Prior to the required annual site inspection, the operator shall provide production / shipping records to the Monterey County Planning and Building Inspection Department and the Monterey County Public Works Department. Every 5 years, concurrent with project review required under Mitigation Measure #3, Monterey County Public Works Dept. staff shall review the adequacy of the operator's annual contribution to road maintenance and repair of affected road segments. If Public Works staff determines that additional documentation is necessary to evaluate the level of project impacts or the adequacy of the operator's annual contribution, the operator may be required to submit updated documentation and recommendations prepared by a qualified engineer. Within 120 days of approval of this permit, the operator shall enter into a road maintenance agreement with the Monterey County Public Works Department. The road maintenance agreement will ensure that the operator contributes a fair share towards the ongoing maintenance of roads negatively impacted by project-generated traffic and will include a timetable for fair share payments. Potentially impacted road segments, quantification of impacts and recommended mitigation measures are contained in the Revised Traffic Analysis Report, dated July 29, 2002, prepared by Higgins & Associates. Based on the proposed maximum annual production (60,000 cubic yards / 90,000 tons), the Higgins study recommends that the operator's contribution towards total ongoing maintenance of impacted road segments should be: Sargents Road, 25.7%, Railroad Street, 15.7%, and Cattleman Road, 8.1%. Prior to the required annual site inspection, the operator shall provide production / shipping records to the Monterey County Planning and Building Inspection Department and the Monterey County Public Works Department. The operator's contribution towards road maintenance shall be based on actual tonnage shipped. The required contribution shall be adjusted to reflect fluctuations in annual production as well as inflation. **(Public Works)**
- 25. If fuel and other petroleum products are stored on site, the operator will be required to store these products in areas with adequate secondary containment to prevent discharge in the event of container leakage or spills. The operator shall contact the Monterey County Environmental Health Division for requirements and applicable permits. **(Planning and Building Inspection)**

26. Within five years of the approval of the use permit, if determined necessary by Caltrans, the operator shall perform, on a one-time basis, up to a 45-millimeter (two-inch) thick asphalt overlay (or equivalent improvements) to the on-ramps and off-ramps at the Route 101/Cattlemen Road Interchange (San Ardo Undercrossing, Post Mile MON-101-22.01). The determination of the necessity and timetable for performing this work shall be made by Caltrans District 5, based on ramp pavement conditions observed during the five-year period. During the County's initial five-year review required by Condition #16, the applicant shall provide proof that they performed, or agreed to a timetable with Caltrans for, the work as determined by Caltrans. **(Planning and Building Inspection)**

PASSED AND ADOPTED this 8th day of January, 2003, by the following vote:

AYES: Errea, Sanchez, Hawkins, Brennan, Parsons, Diehl, Gonzalves, Engell, Wilmot
NOES: None
ABSENT: Pitt-Derdivanis

Original Signed By:

DALE ELLIS, SECRETARY

Copy of this decision mailed to applicant on

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Salinas.
2. This permit expires 2 years after the above date of granting thereof unless construction or use is started within this period.