

County of Santa Clara

Department of Planning and Development
 Planning Office
 County Government Center, East Wing, 7th Floor
 70 West Hedding Street
 San Jose, California 95110-1705
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 www.sccplanning.org



Notice of Intent to Adopt a Mitigated Negative Declaration

A notice, pursuant to the California Environmental Quality Act of 1970, as amended (Public Resources Code 21,000, et sec.) that the following project will not have a significant effect on the environment.

File Number	TAZ	APN(s)	Date
1253-16-62-07EA	347	351-18-039, 351-10-019, 351-10-020, 351-18-038, and 351-10-040.	4/15/09
Project Name		Project Type	
Stevens Creek Quarry Reclamation Plan Amendment		mining	
Owner		Applicant	
Stevens Creek Quarry, Inc.		Stevens Creek Quarry, Inc. (John Kolski)	
Project Location			
12100 Stevens Canyon Road, Cupertino, CA 95014. Located within unincorporated Santa Clara County, approximately 3 miles south of Highway 280.			
Project Description			
The project is an amendment to the previously approved Reclamation Plan prepared for the Stevens Creek Quarry (SCQ). The proposed amendment addresses compliance issues identified by the State Office of Mine Reclamation (OMR), including encroachment of quarry slopes at the eastern edge of the mined area, and disturbance of areas outside the approved reclamation plan boundary. These areas include an approximately 9.5 acre wedge abutting the eastern edge of Parcel B, and an approximately 1.5 acre fill area located on the western edge of Parcel B. In addition, the proposed reclamation plan amendment includes an updated planting palette.			
Purpose of Notice			
<p>The purpose of this notice is to inform you that the County Planning Staff has recommended that a Mitigated Negative Declaration be approved for this project. County of Santa Clara Planning Staff has reviewed the Initial Study for the project, and based upon substantial evidence in the record, finds that although the proposed project could initially have a significant effect on the environment, changes or alterations have been incorporated into the project to avoid or reduce impacts to a point where clearly no significant effects will occur.</p> <p>A public hearing for the proposed project is tentatively scheduled for the Architectural and Site Approval committee on May 14, 2009 at 9:30 a.m. in the County Government Center, 1st floor, Rm. 157. Where a date is not given, a separate notice will be sent to you informing you of the hearing date. It should be noted that the approval of a Mitigated Negative Declaration does not constitute approval of the project under consideration. The decision to approve or deny the project will be made separately.</p>			
Public Review Period:		Begins: 4/14/09	Ends: 5/13/09

Public Comments regarding the correctness, completeness, or adequacy of this negative declaration are invited and must be received on or before the hearing date. Such comments should be based on specific environmental concerns. Written comments should be addressed to the **County of Santa Clara Planning Office, County Government Center, 70 W. Hedding Street, San Jose, CA 95110, Tel: (408) 299-5770**. Oral comments may be made at the hearing. A file containing additional information on this project may be reviewed at the Planning Office under the file number appearing at the top of this form. For additional information regarding this project and the Mitigated Negative Declaration, please contact **Robert Salisbury** at (408) 299-5785.

The Mitigated Negative Declaration and Initial Study may be viewed at the following locations:

- (1) Santa Clara County Planning Office, 70 West Hedding Street, East Wing, 7th Floor, San Jose, CA 95110
- (2) Planning Office Website www.sccplanning.org (Environmental Documents under "Find it Fast")
- (3) Cupertino Library, 10800 Torre Avenue, Cupertino, CA 95014

Other Agencies sent a copy of this document

California Department of Fish and Game, Office of Mine Reclamation

Mitigation Measures

Air Quality

Mitigation Measure AQ-1: During any day when reclamation of the 9.5-acre amendment area or the stockpile area outside the western boundary of Parcel B will occur, the quarry operator shall not operate more than two pieces of equipment simultaneously anywhere within these two areas. During project-related sediment removal by the excavator, no more than one additional piece of equipment shall be operated simultaneously with the 9.5-acre amendment area or the stockpile area.

Biological Resources

Mitigation Measure BR-1: Prior to disturbance of the amendment areas, a focused botanical survey for Western Leatherwood shall be conducted during the blooming season (January–April) by a qualified plant biologist in order to ascertain the presence or absence of this species on the project site. If any individuals of this plant species are detected, its occurrence shall be mapped and individuals enumerated in a technical report, to be submitted to the County of Santa Clara. The biologist shall complete California native species survey forms and submit them to the California Natural Diversity Database (CNDDDB), and shall develop appropriate mitigation in consultation with the California Department of Fish and Game (CDFG) to reduce the project's impact on Western Leatherwood to a less-than-significant level. Suitable mitigation measures would include, in order of preference, 1) avoidance; 2) plant and seed salvage, cultivation, and reintroduction onto suitable soils in similar habitat, preservation in perpetuity, monitoring for no less than five years, and submittal of monitoring reports to the appropriate agencies.

Mitigation Measure BR-2: Prior to disturbance of the amendment areas, a focused botanical survey for robust monardella shall be conducted during the blooming season (June–July) by a qualified plant biologist in order to ascertain the presence or absence of this species on the project site. If any individuals of this plant species are detected, its occurrence shall be mapped and individuals enumerated in a technical report, to be submitted to the County of Santa Clara. The biologist shall complete California native species survey

forms and submit them to the California Natural Diversity Database (CNDDDB), and shall develop appropriate mitigation in consultation with the California Department of Fish and Game (CDFG) to reduce the project's impact on robust monardella to a less-than-significant level. Suitable mitigation measures would include, in order of preference, 1) avoidance; 2) plant and seed salvage, cultivation, and reintroduction onto suitable soils in similar habitat, preservation in perpetuity, monitoring for no less than five years, and submittal of monitoring reports to the appropriate agencies.

Mitigation Measure BR-3: Any trees that need to be removed to facilitate future development shall be felled outside of the general bird breeding season (January 1st through August 1st, or as determined by the California Department of Fish and Game), or a pre-construction bird nesting survey shall be conducted prior to tree and other vegetation removal by a qualified raptor biologist. If conducted during the early part of the breeding season (January to April), the survey shall be conducted no more than 14 days prior to initiation of tree/vegetation removal activities; if conducted during the late part of the breeding season (May to August), the survey shall be performed no more than 30 days prior to initiation of these activities. If active nests are identified, a 150-foot fenced buffer (or an appropriate buffer zone determined in consultation with the California Department of Fish and Game) shall be established around the nest tree and the site shall be protected until September 1st or until the young have fledged. A biological monitor shall be present during earth-moving activity near the buffer zone to make sure that grading does not enter the buffer area.

Mitigation Measure BR-4: Within 72 hours prior to the initiation of ground disturbance in either the stockpile or amendment areas, a qualified biologist shall perform a survey of the area. If California red-legged frogs (CRLF) are identified on the property, they shall be rescued and moved to a new location, to be determined through consultation with the U.S. Fish and Wildlife Service (USFWS). In addition, if CRLF are encountered in the project area and are relocated, construction fencing shall be installed to prevent migration of red-legged frogs back into the development area. Perimeter fencing to exclude CRLF may include buried silt fencing or other such fencing that red-legged frogs cannot crawl under or over, or as otherwise specified by USFWS guidelines.

Mitigation Measure BR-5: No more than 30 days prior to the initiation of any site disturbance, a qualified biologist shall perform a protocol-level survey of the area to be disturbed to identify the potential presence of western pond turtles and/or southwestern pond turtles. If any turtles are identified on the property, they shall be rescued and moved to a new location, to be determined through consultation with the U.S. Fish and Wildlife Service (USFWS). In addition, if pond turtles are encountered in the project area and are relocated, construction fencing shall be installed to prevent migration of turtles back into the development area. Perimeter fencing to exclude western pond turtles may include buried silt fencing or other such fencing that pond turtles cannot crawl under or over, or as otherwise specified by USFWS guidelines.

Mitigation Measure BR-6: No more than 30 days prior to the initiation of vegetation removal or other site disturbance within the amendment area, a bat survey shall be conducted by a qualified wildlife biologist to identify potential maternal bat roosts. If bat roosts are identified, the biologist shall initiate consultation with the California Department of Fish and Game (CDFG) to develop and implement an appropriate mitigation program to the satisfaction of CDFG.

Mitigation Measure BR-7: Prior new disturbance or removal of any oak trees within the amendment area, the woodland shall be surveyed by a registered arborist, or other professional deemed acceptable to the County Planning Office, who shall survey and tabulate the amount of oak tree canopy to be removed within the amended reclamation plan area. The owner shall provide an amendment to the existing planting pallet for the reclamation plan demonstrating the creation of oak woodland equal to 1.5 acres created for every acre removed. This amendment shall be created by a qualified plant biologist or other professional deemed acceptable to the County Planning Office. As an alternative the to creating oak woodland, the applicant may instead replace every removed oak tree at a 4:1 ratio, or may propose a combination of oak woodland creation and oak replacement.

Mitigation Measure BR-8: Prior new disturbance or removal of any oak trees within the amendment area, the quarry owner shall record an on-site conservation easement, which protects in perpetuity 1.5 acres of oak woodland on the project site for every acre of oak woodland removed, as determined under mitigation BR-7. The owner shall submit a report by a registered professional forester, arborist, or other professional deemed acceptable by the County Planning Office demonstrating that the area within the proposed easement is oak woodland habitat. If suitable on-site oak woodland does not exist the owner may record an easement to protect suitable off-site oak woodlands.

Cultural Resources

Mitigation Measure CR-1: If any prehistoric cultural artifacts (including chert, obsidian flakes, projectile points, mortars and pestles, shell, bone, heat-affected rock, or human burials) or historic cultural artifacts (including stone or adobe foundations or walls, structures or remains with square nails, refuse deposits, or bottle dumps) are encountered during site excavation or reclamation activities, ground disturbance shall be halted until the services of a qualified archaeologist can be retained to identify and evaluate the resource(s) and, if necessary, recommend mitigation measures to document and prevent any significant adverse effects on the resource(s). The applicant shall implement the mitigation in accordance with Section 15064.5(c)-(f) of the *CEQA Guidelines* and Public Resources Code Section 21083.2.

Mitigation Measure CR-2: In the event that any human remains are encountered during site disturbance, all ground-disturbing work shall cease immediately and the Santa Clara County Coroner shall be notified immediately. If the coroner determines the remains to be Native American, the Native American Heritage Commission (NAHC) must be contacted within 24 hours. The NAHC will then appoint a "Most Likely Descendant" (MLD). The MLD, in consultation

with a qualified archaeological consultant and the project sponsor, will advise and help formulate an appropriate plan for treatment of the remains, which might include recordation, removal, and scientific study of the remains and any associated artifacts. After completion of analysis and preparation of the report of findings, the remains and associated grave goods shall be returned to the MLD for reburial.

Mitigation Measure CR-3: If any paleontological resources are encountered during site grading or other construction activities, all ground disturbance shall be halted until the services of a qualified paleontologist can be retained to identify and evaluate the resource(s) and, if necessary, recommend mitigation measures to document and prevent any significant adverse effects on the resource(s).

Geology and Soils

Mitigation Measure G-1: Once removal of surface soils commences in the northeast and southeast areas of the 9.5-acre amendment area, the Applicant shall retain the services of a qualified engineering geologist to confirm the width and extent of the shear zone of the Berrocal fault in these areas. If the extent of the shear zone exceeds that addresses in Norfleet Consultant's slope stability report, then the engineering geologist shall determine whether the shear zone warrants the placement of additional fill cover to serve as a buffer on top of the shear zone. The engineering geologist shall present the recommended final fill and slope design specifications in a supplemental report to be reviewed and approved by the Santa Clara County Department of Planning and Development. Final slope construction within the amendment area shall be performed in accordance with the approved supplemental report and with the January 22, 2008 and May 19, 2008 slope stability reports prepared by Norfleet Consultants.

Mitigation Measure G-2: The post-reclamation use of Parcel B, including the 9.5-acre amendment area, shall be limited to open space. If another use is proposed in the future, a new slope stability analysis shall be performed by a qualified geotechnical professional to evaluate slope stability for the intended use and identify appropriate site preparation and design features necessary to maintain slope and structure stability throughout the life of the proposed use. The recommendations shall be subject to review and approval by the Santa Clara County Department of Planning and Development, and all approved recommendations shall be implemented.

Mitigation Measure G-3: Because a wide variety of materials (which could affect slope stability) may be encountered during mining and reclamation within the 9.5-acre amendment area, the operator shall backfill excavations within the amendment area with engineered fill as soon as feasible following excavation.

Mitigation Measure G-4: If significant wedge failures or incipient ground failures are observed in the western cut rock slope of Parcel B, the quarry operator shall restrict movement of stockpiled material within 100 feet of the cut slope beneath and adjacent to the failures until a civil engineer or certified engineering geologist has evaluated the overall stability of the slope and provided

repair/stabilization recommendations, and appropriate recommendations are considered and implemented.

Hydrology and Water Quality

Mitigation Measure WQ-1: Prior to construction of the final stormwater detention basin in the 9.5-acre amendment area, the Applicant shall complete a supplemental hydrological study that evaluates the size of the final detention basin to fully contain runoff from the amendment area following reclamation and allow it to infiltrate and/or evaporate. Because the actual final grading conditions at reclamation cannot be accurately predicted at this time, the study shall be based on reasonably anticipated final grading conditions (e.g., the final grades shown on Figure 2 of the Applicant's *Technical Stormwater Memorandum*). This study shall demonstrate the feasibility of constructing a final settling basin to fully contain runoff from the amendment area following reclamation and allow it to infiltrate and/or evaporate without offsite discharge. If this evaluation indicates the potential for some runoff from the amendment area, the supplemental study shall be expanded to include: (i) evaluation of the capacity of the existing stormwater settling ponds; (ii) evaluation of the incremental runoff associated with the reclaimed amendment area; and (iii) evaluation of the ability of the existing stormwater settling ponds to accommodate the additional flow associated with the amendment area and prevent any discharge that would violate water quality protection standards. When reclamation is completed, the Applicant shall prepare final as-built drawings of the stormwater management system for the amendment area and provide a set of full-size plans to the Santa Clara County Planning Office.

Noise

Mitigation Measure N-1: No more than one bulldozer shall operate within the 9.5-acre amendment area at any given time. This restriction shall apply whether aggregate is being extracted and/or slope reclamation is occurring. Two bulldozers may operate simultaneously within the amendment area only if professional noise monitoring demonstrates that noise levels with two dozers operating simultaneously would not exceed the Noise Ordinance limit at the nearest residence.

A reporting or monitoring program must be adopted for measures to mitigate significant impacts at the time the Mitigated Negative Declaration is approved, in accord with the requirements of section 21081.6 of the Public Resources Code.

Prepared by:

Robert Salisbury, Planner II

Signature

Date

Approved by:

Rob Eastwood, Senior Planner, AICP

Signature

Date