

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



14.1

1:30 p.m. being the time set for considering the proposed Denial Findings for Surface Mining Permit No. 213 and Reclamation Plan, Change of Zone No. 7508 and Noise Ordinance Exception No. 2; and to certify or decline to certify Final Environmental Impact Report No. 475; 1st/3rd District.

The following people spoke on the matter:

Chuck Washington
Peter Thorson
Courtney Coyle

The following person acknowledged and accepted on behalf of the Applicant the indemnification condition read into the record by County Counsel:

Mark Harrison

On motion of Supervisor Benoit, seconded by Supervisor Ashley and duly carried, IT WAS ORDERED that Final Environmental Impact Report No. 475 is certified and the Applicant is required to indemnify and defend the County in the event any claim, action or proceeding is brought challenging the certification.

Roll Call:
Ayes: Tavaglione, Benoit and Ashley
Nays: Buster and Stone
Absent: None


On motion of Supervisor Buster, seconded by Supervisor Stone and duly carried, IT WAS ORDERED that the Denial Findings for Surface Mining Permit No. 213 and Reclamation Plan, Change of Zone No. 7508 and Noise Ordinance Exception No. 2 are adopted.

Roll Call:
Ayes: Buster, Tavaglione and Stone
Nays: Benoit and Ashley
Absent: None

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on May 15, 2012 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors
Dated: May 15, 2012
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

(seal)

By:  Deputy

AGENDA NO.
14.1

xc: Co.Co., Planning

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

813



FROM: County Counsel

SUBMITTAL DATE:
May 15, 2012

SUBJECT: Denial Findings for Surface Mining Permit No. 213 and Reclamation Plan, Change of Zone No. 7508 and Noise Ordinance Exception No. 2; Final Environmental Impact Report No. 475; District 1/3

RECOMMENDED MOTION: That the Board of Supervisors:

1. Adopt the attached denial findings for Surface Mining Permit No. 213 and Reclamation Plan, Change of Zone No. 7508 and Noise Ordinance Exception No. 2; and
2. Certify that Final Environmental Impact Report No. 475 has been completed in compliance with the California Environmental Quality Act; that Final Environmental Impact No. 475 was presented to the Board; that the Board considered the information contained in Final Environmental Impact Report No. 475; and that Final Environmental Impact Report No. 475 reflects the County's independent judgment and analysis; or
3. Decline to certify Final Environmental Impact Report No. 475.

(cont'd next page)

Karin Watts-Bazan
KARIN WATTS-BAZAN, Principal Deputy Co. Co. for
PAMELA J. WALLS, County Counsel

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: *Tina Grande*

County Executive Office Signature

Policy
 Policy
 Consent
 Consent

SEE PAGE ONE OF MINUTE ORDER FOR MOTION

Departmental Concurrence

Dept's Recomm.:
 Per Exec. Ofc.:

County Counsel

Denial Findings for Surface Mining Permit No. 213 and
Reclamation Plan, Change of Zone No. 7508 and Noise Ordinance
Exception No. 2; Final Environmental Impact No. 475; District 1/3

May 15, 2012

Page 2

BACKGROUND: On February 16, 2012, the Board of Supervisors tentatively denied Surface Mining Permit No. 213 and Reclamation Plan, Change of Zone No. 7508, and Noise Ordinance Exception No. 2 ("Project") and directed the preparation of denial findings.

The basis for the Board's tentative denial was the failure of the Project to meet the requirements of Ordinance No. 555 and the Board's determination that the benefits of the Project did not outweigh the significant effects that cannot be avoided or reduced to a level of insignificance. The basis for the tentative denial was not the inadequacy of Final Environmental Impact Report No. 475 ("EIR").

Alternative motions are presented on the issue of certification of Final EIR No. 475 as the Applicant included as a basis for its appeal the Planning Commission's "failure to certify" the Final EIR. A decision by the Board to certify or decline to certify the Final EIR would resolve this issue.

**Riverside County Board of Supervisors
Request to Speak**

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: MAYOR CHUCK WASHINGTON

Address: CITY OF JEMECULA, CA
(only if follow-up mail response requested)

City: _____ **Zip:** _____

Phone #: 951 694-6441

Date: 5/15/12 **Agenda #** 14.1

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

Support **Oppose** **Neutral**
WITH MODIFICATION

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

_____ **Support** _____ **Oppose** _____ **Neutral**

I give my 3 minutes to: _____

Riverside County Board of Supervisors

Request to Speak 6 minutes

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: PETER THORSON

Address: 355 S. GRAND 40TH
(only if follow-up mail response requested)

City: LA **Zip:** 90071

Phone #: (213) 626-8481

Date: 5/15/12 **Agenda #:** 14 LIBERTY QUARTER

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

Support Oppose Neutral

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

Support Oppose Neutral

I give my 3 minutes to: _____

Donates 3 mins
Riverside County Board of Supervisors
Request to Speak *Thorson*

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Ginetta Giovinco

Address: 40 Rwy; 355 S. Grand Ave. 40th Flr.
(only if follow-up mail response requested)

City: Los Angeles **Zip:** 90071

Phone #: 213-626-8484

Date: 5/15/12 **Agenda #** 14.1 (Liberty Quarry)

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

Support Oppose Neutral

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

Support Oppose Neutral

I give my 3 minutes to: Peter Thorson

**Riverside County Board of Supervisors
Request to Speak**

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Courtney Coyle

Address: Attorney for Reclamation
(only if follow-up mail response requested)

City: _____ **Zip:** _____

Phone #: 858-454-8687

Date: 5/15/12 **Agenda #** 14.1

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

Support **Oppose** **Neutral**

with modifications

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

Support **Oppose** **Neutral**

I give my 3 minutes to: _____

**Riverside County Board of Supervisors
Request to Speak**

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Chairman Mark Macarro

Address: Pechanga Indian Reservation
(only if follow-up mail response requested)

City: Temecula **Zip:** 92593

Phone #: _____

Date: 15 May 2012 **Agenda #** 14.1

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

X **Support** _____ **Oppose** _____ **Neutral**
w/ modification

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

_____ **Support** _____ **Oppose** _____ **Neutral**

I give my 3 minutes to: _____

**Riverside County Board of Supervisors
Request to Speak**

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Laura Miranda

Address: Pechanga
(only if follow-up mail response requested)

City: Temecula **Zip:** 92593

Phone #: _____

Date: 15 May 2012 **Agenda #** 14.1

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

Support **Oppose** **Neutral**
w/modification

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

Support **Oppose** **Neutral**

I give my 3 minutes to: _____

Harper-Ihem, Kecia

From: Seton Carr <scarr@spmcdonaldlaw.com>
Sent: Monday, May 14, 2012 5:38 PM
To: District1; District2; District3; District4 Supervisor John J Benoit; District5
Cc: Harper-Ihem, Kecia; Watts-Bazan, Karin; Walls, Paul; jmacarro@pechanga-nsn.gov; lburke@pechanga-nsn.gov; Courtcoyle@aol.com
Subject: RESEND - Pechanga Letter re Liberty Quarry Denial Findings
Attachments: Pechanga letter 2012 05 14.pdf; Attachments 1 - 7.pdf

Honorable Chairman and Members of the Riverside County Board of Supervisors,

Attached please find a letter with attachments from Courtney Ann Coyle, Attorney at Law, dated May 14, 2012, on behalf of the Pechanga Band of Luiseño Indians with regard to the proposed Liberty Quarry project for the May 15, 2012, hearing, Item 14.1, strongly objecting to the proposed findings certifying the FEIR and denying the project.

If you have any questions or have failed to receive any portion of this email submission, please contact me.

Additionally, hard copies of the entire submission (letter and all attachments) will be hand-delivered to the Supervisors prior to the hearing.

Thank you,

Seton Carr
for
Courtney Ann Coyle, Esq.

COURTNEY ANN COYLE
ATTORNEY AT LAW

HELD-PALMER HOUSE
1609 SOLEDAD AVENUE
LA JOLLA, CA USA 92037-3817

TELEPHONE: 858-454-8687

E-MAIL: COURT.COYLE@AOL.COM

FACSIMILE: 858-454-8493

John F. Tavaglione, Chairman
County of Riverside Board of Supervisors
County of Riverside Administrative Center
4080 Lemon Street, 5th Floor
Riverside, CA 92501

May 14, 2012

**Re: CONCERN Regarding Denial Findings for the proposed Liberty Quarry Project as presented in
County Counsel Report for May 15, 2012, Public Hearing, Agenda No. 14.1.**

Chairman Tavaglione and Honorable Supervisors:

This letter is submitted on behalf of the Pechanga Band of Luiseño Indians. As you know, Pechanga strongly opposes the proposed Liberty Quarry Project for several reasons particularly that it would irreparably destroy and desecrate the Luiseño Ancestral Origin Landscape, a sacred place. That the Board denied the project at its February 16, 2012, hearing, was very meaningful to us. We have eagerly awaited the Board's adoption of the denial findings for the project. The draft findings were made available to us and the public on May 10, 2012.

Pechanga has several serious concerns about the draft Denial Findings as proposed, and respectfully requests the Board: 1) Deny the applicant's appeal; 2) Find the denial of the project is exempt from CEQA; 3) Take no action to certify the EIR; and 4) Strengthen the findings for project denial.

Denial of Project is Exempt from CEQA

Pechanga does not understand why section B of the Findings (Applicable Statutes, Regulations and Ordinances) does not reference the exemptions from CEQA for denied projects found in California Public Resources Code section 21080(b)(5) (Projects Which a Public Agency Rejects or Disapproves) and CEQA Guidelines section 15042 (Authority to Disapprove Projects) and section 15270 (Projects Which are Disapproved). (See, attached code sections). See also, *Las Lomas Land Co., LLC v. City of Los Angeles*,

(2009) 177 Cal.App.4th 837 (if an agency at any time decides not to proceed with a project, CEQA is inapplicable from that time forward).

A CEQA document therefore should not be certified for a denied project; there is no need to take action on the Liberty Quarry environmental document and no need to potentially reopen the merits of the controversy. In fact, this legal authority was made part of your Planning Commission's findings to deny the project, approved as to form by your County Counsel last year. (See, attached Planning Department Staff Report (page 2) and adopted Planning Commission Denial Findings (page 34)). Pechanga is concerned that this authority is not even mentioned in County Counsel's report or its draft Denial Findings.

No Action Should be Taken to Certify the FEIR

Pechanga, along with many others, has made clear in the administrative record the many serious deficiencies in the Final Environmental Impact Report (FEIR). Many of these concerns were acknowledged on the record by the Board during its deliberations. We believe it would be a grave mistake for the Board to adopt any findings to certify the environmental document. Such action would invite, and possibly necessitate, judicial review by project opponents including Pechanga, as Granite, or some other applicant, could try and come forward later with a modified project supported by the certified, yet deficient, EIR.

Further, having reviewed the transcript for the Board's deliberations, we cannot find support for the statement in the proposed Denial Findings that, "the basis for the tentative denial was not the inadequacy of [the FEIR]." To the contrary, the Board hearing transcripts are full of questions from Board members regarding the severity of the proposed project's impacts and the insufficiency of the FEIR and environmental analysis for the project, including in the areas of: aggregate supply, reclamation, alternatives, traffic, cultural, air, geological, hydrological, biological resources and noise. (See attached, Board Deliberation Transcript, February 16, 2012). Further, no motion was made by the Board regarding the adequacy of the FEIR.

Denial Findings Should be Strengthened

Reference Unacceptable Impacts to Tribal Cultural Resources

The deficient FEIR concluded that there were no significant impacts to tribal cultural resources, among other concerns. The FEIR, as well as the proposed Denial Findings before you, ignore the substantial evidence submitted verbally and in writing by Pechanga and its consultants regarding the severe and irreparable impacts that this project, or a modified project, would have to Pechanga and other Luiseño Peoples. By letter dated February 2, 2012, Pechanga provided to each Board Member two volumes of material presented by the Tribe in support of its concerns. This material cannot be ignored as would occur if the FEIR were certified. The Tribe could not let that unsupported (and unsupportable) conclusion stand. Pechanga respectfully requests that the Board's Denial Findings reference the project's unacceptable impacts to tribal cultural resources.

Delete or Revise Project Description and Project Benefits

Pechanga is also uncomfortable with several of the items in the draft Denial Findings section A (Project Description and Procedural History) and section D (Project Benefits), as drafted, just as your Planning Commission was uncomfortable making similar findings, including regarding the specific number of jobs or dollars the project could bring, etc. We submit that the Board should take the same approach, exercise its independent judgment, and not adopt the statement of public benefit as presented in the draft Denial Findings.

Affirm the Findings of the Planning Commission and Cite to the Substantial Evidence Submitted by the Tribe and others During Public Testimony to the Board.

The Board could affirm the Denial Findings from its Planning Commission, attached here for your convenience along with Pechanga's submitted written comments on them, and along with having taken into account all the evidence received by the Board in its many hearings on the project. If this approach is taken, Pechanga respectfully requests that the Tribe's suggested revisions to the Planning Commission Findings be adopted by the Board.

As you know, substantial evidence includes facts, reasonable assumptions based on facts, and expert opinion supported by facts and public testimony and letters setting forth relevant personal observation. Lay observations have been treated by the courts as substantial evidence for issues such as traffic congestion and safety, noise, land use compatibility, construction impacts, wildlife impacts and in some cases for aesthetic impacts.

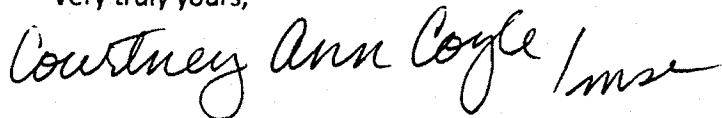
Conclusion

In sum, there is an easier solution for the Board, and that is to follow the structure the Planning Commission used to deny the project. Pechanga again requests the Board: 1) Deny the applicant's appeal; 2) Make a finding regarding the CEQA exemption for denied projects; 3) Take no action to certify FEIR No. 475; and 4) Strengthen the findings that the Board is unable to make the required findings for the requested Change of Zone No. 7508, Noise Ordinance Exception No. 2, Surface Mining Permit No. 213 and Reclamation Plan.

Pechanga is ready for the final decision to be made to deny the proposed project. We hope that our comments and concerns are important and helpful to you. Please contact me at 858-454-8687 or John Macarro, Pechanga General Counsel, at 951-676-2768 , should you have questions prior to the hearing tomorrow.

Thank you for your courtesy and consideration.

Very truly yours,

A handwritten signature in cursive script that reads "Courtney Ann Coyle" followed by a stylized flourish.

Courtney Ann Coyle
Attorney at Law

Attachs:

CCs:

Kecia Harper-Ihem, Clerk of the Board

Pamela Walls, County Counsel

Karin Watts-Bazan, Office of County Counsel

John Macarro, Pechanga, Office of the General Counsel

Louise Burke, Pechanga, Tribal Council Secretary

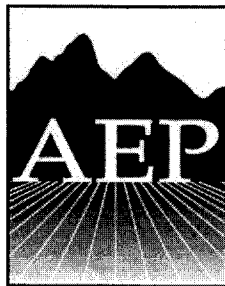
ATTACHMENT LIST

1	California Public Resources Code section 21080(b)(5) - Division Application To Discretionary Projects; Nonapplication; Negative Declarations; Environmental Impact Report Preparation
2	California Environmental Quality Act (CEQA) Guidelines section 15042 - Authority to Disapprove Projects
3	California Environmental Quality Act (CEQA) Guidelines section 15270 - Projects Which are Disapproved
4	Riverside County Planning Commission - Staff Report dated December 8, 2011
5	Riverside County Planning Commission - Denial Findings Liberty Quarry Project
6	Transcript from February 16, 2012, Riverside County Board of Supervisors Liberty Quarry Hearing
7	Pechanga Comment Letter dated December 6, 2011, re Planning Commission Candidate Findings for Denial of Liberty Quarry, December 7, 2011, Agenda Item 1.1

ATTACHMENT 1

2012
**California Environmental Quality Act
(CEQA)
Statute and Guidelines**

This book is an unofficial copy of CEQA (Public Resources Code 21000–21177) and the CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000–15387) available from <http://leginfo.ca.gov> as of January 1, 2012. While AEP has made every effort to see that this book is accurate, and that no changes have been made to the content of these state documents as a result of reformatting and reprinting, readers should reference official state versions to verify accuracy. Readers should also be aware that some changes in statutes, guidelines, or case law may have gone into effect since the date of publication. This book does not attempt to offer legal advice and readers should consult their own attorney.



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AEP recognizes ICF International (formerly ICF Jones & Stokes) for its contribution to the content and editing of this book, including summaries of key CEQA court cases and recent legislation.

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- (b) An unincorporated area that satisfies the criteria in both paragraph (1) and (2) of the following criteria:
 - (1) Is either of the following:
 - (A) Completely surrounded by one or more incorporated cities, and both of the following criteria are met:
 - (i) The population of the unincorporated area and the population of the surrounding incorporated city or cities equals not less than 100,000 persons.
 - (ii) The population density of the unincorporated area at least equals the population density of the surrounding city or cities.
 - (B) Located within an urban growth boundary and has an existing residential population of at least 5,000 persons per square mile. For purposes of this subparagraph, an "urban growth boundary" means a provision of a locally adopted general plan that allows urban uses on one side of the boundary and prohibits urban uses on the other side.
 - (2) The board of supervisors with jurisdiction over the unincorporated area has previously taken both of the following actions:
 - (A) Issued a finding that the general plan, zoning ordinance, and related policies and programs applicable to the unincorporated area are consistent with principles that encourage compact development in a manner that does both of the following:
 - (i) Promotes efficient transportation systems, economic growth, affordable housing, energy efficiency, and an appropriate balance of jobs and housing.
 - (ii) Protects the environment, open space, and agricultural areas.
 - (B) Submitted a draft finding to the Office of Planning and Research at least 30 days prior to issuing a final finding, and allowed the office 30 days to submit comments on the draft findings to the board of supervisors.

§ 21072. QUALIFIED URBAN USE; DEFINITION

"Qualified urban use" means any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

Chapter 2.6: General

§ 21080. DIVISION APPLICATION TO DISCRETIONARY PROJECTS; NONAPPLICATION; NEGATIVE DECLARATIONS; ENVIRONMENTAL IMPACT REPORT PREPARATION

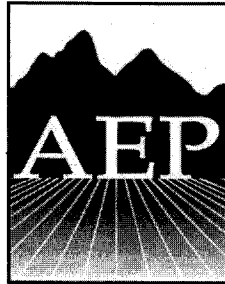
- (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from this division.
- (b) This division does not apply to any of the following activities:
 - (1) Ministerial projects proposed to be carried out or approved by public agencies.
 - (2) Emergency repairs to public service facilities necessary to maintain service.
 - (3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

- (4) Specific actions necessary to prevent or mitigate an emergency.
- (5) ~~Projects which a public agency rejects or disapproves.~~
- (6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report, negative declaration, or other document, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located if the environmental impact report, negative declaration, or document includes the environmental impact, if any, of the action described in this paragraph.
- (7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games.
- (8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of (A) meeting operating expenses, including employee wage rates and fringe benefits, (B) purchasing or leasing supplies, equipment, or materials, (C) meeting financial reserve needs and requirements, (D) obtaining funds for capital projects necessary to maintain service within existing service areas, or (E) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.
- (9) All classes of projects designated pursuant to Section 21084.
- (10) A project for the institution or increase of passenger or commuter services on rail or highway rights-of-way already in use, including modernization of existing stations and parking facilities.
- (11) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.
- (12) Facility extensions not to exceed four miles in length which are required for the transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.
- (13) A project for the development of a regional transportation improvement program, the state transportation improvement program, or a congestion management program prepared pursuant to Section 65089 of the Government Code.
- (14) Any project or portion thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in this state are subject to this division.
- (15) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect on the environment in the plan or other written documentation required by Section 21080.5 is subject to this division.

ATTACHMENT 2

2012
**California Environmental Quality Act
(CEQA)
Statute and Guidelines**

This book is an unofficial copy of CEQA (Public Resources Code 21000–21177) and the CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000–15387) available from <http://leginfo.ca.gov> as of January 1, 2012. While AEP has made every effort to see that this book is accurate, and that no changes have been made to the content of these state documents as a result of reformatting and reprinting, readers should reference official state versions to verify accuracy. Readers should also be aware that some changes in statutes, guidelines, or case law may have gone into effect since the date of publication. This book does not attempt to offer legal advice and readers should consult their own attorney.



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AEP recognizes ICF International (formerly ICF Jones & Stokes) for its contribution to the content and editing of this book, including summaries of key CEQA court cases and recent legislation.

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Title 14. California Code of Regulations

Chapter 3: Guidelines for Implementation of the California Environmental Quality Act

There were no additions or amendments to the CEQA Guidelines in 2011. On March 18, 2010, Amendments to the CEQA Guidelines for greenhouse gas emissions became effective. These were the most recent revisions to the CEQA Guidelines. Please note that the CEQA Guidelines are subject to change throughout the year.

Note: The numbered sections have been adopted by the Secretary of Resources as part of the California Code of Regulations.

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Article 1. General

SECTIONS 15000 TO 15007

15000. AUTHORITY

The regulations contained in this chapter are prescribed by the Secretary for Resources to be followed by all state and local agencies in California in the implementation of the California Environmental Quality Act. These Guidelines have been developed by the Office of Planning and Research for adoption by the Secretary for Resources in accordance with Section 21083. Additional information may be obtained by writing:

Secretary for Resources
1416 Ninth Street, Room 1311
Sacramento, CA 95814

These Guidelines are binding on all public agencies in California.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21082 and 21083, Public Resources Code; *City of Santa Ana v. City of Garden Grove*, (1979) 100 Cal. App. 3d 521.

15001. SHORT TITLE

These Guidelines may be cited as the "State CEQA Guidelines." Existing references to the "State EIR Guidelines" shall be construed to be references to the State CEQA Guidelines.

Note: Authority cited: Sections 21083, Public Resources Code; Reference: Section 21083, Public Resources Code.

another feasible, specific mitigation measure or alternative that would provide a comparable lessening of the significant effect.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002, 21002.1, and 21159.26, Public Resources Code; *Golden Gate Bridge, etc., District v. Muzzi*, 83 Cal. App. 3d 707.

15042. AUTHORITY TO DISAPPROVE PROJECTS

A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed. A Lead Agency has broader authority to disapprove a project than does a Responsible Agency. A Responsible Agency may refuse to approve a project in order to avoid direct or indirect environmental effects of that part of the project which the Responsible Agency would be called on to carry out or approve. For example, an air quality management district acting as a Responsible Agency would not have authority to disapprove a project for water pollution effects that were unrelated to the air quality aspects of the project regulated by the district.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002 and 21002.1, Public Resources Code; *Friends of Mammoth v. Mono County*, 8 Cal. App. 3d 247; *San Diego Trust and Savings Bank v. Friends of Gill*, 121 Cal. App. 3d 203.

15043. AUTHORITY TO APPROVE PROJECTS DESPITE SIGNIFICANT EFFECTS

A public agency may approve a project even though the project would cause a significant effect on the environment if the agency makes a fully informed and publicly disclosed decision that:

- (a) There is no feasible way to lessen or avoid the significant effect (see Section 15091); and
- (b) Specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project. (See: Section 15093.)

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002 and 21002.1, Public Resources Code; *San Francisco Ecology Center v. City and County of San Francisco*, (1975) 48 Cal. App. 3d 584; *San Diego Trust & Savings Bank v. Friends of Gill*, (1981) 121 Cal. App. 3d 203.

15044. AUTHORITY TO COMMENT

Any person or entity other than a Responsible Agency may submit comments to a Lead Agency concerning any environmental effects of a project being considered by the Lead Agency.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21000, 21001, 21002.1, 21104, and 21153, Public Resources Code.

15045. FEES

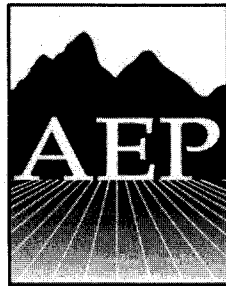
- (a) For a project to be carried out by any person or entity other than the lead agency, the lead agency may charge and collect a reasonable fee from the person or entity proposing the project in order to recover the estimated costs incurred in preparing environmental documents and for procedures necessary to comply with CEQA on the project. Litigation expenses, costs and fees incurred in actions alleging noncompliance with CEQA are not recoverable under this section.
- (b) Public agencies may charge and collect a reasonable fee from members of the public for a copy of an environmental document not to exceed the actual cost of reproducing a copy.

Note: Authority: Section 21083, Public Resources Code. Reference: Section 21089 and 21105, Public Resources Code.

ATTACHMENT 3

2012
**California Environmental Quality Act
(CEQA)
Statute and Guidelines**

This book is an unofficial copy of CEQA (Public Resources Code 21000–21177) and the CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000–15387) available from <http://leginfo.ca.gov> as of January 1, 2012. While AEP has made every effort to see that this book is accurate, and that no changes have been made to the content of these state documents as a result of reformatting and reprinting, readers should reference official state versions to verify accuracy. Readers should also be aware that some changes in statutes, guidelines, or case law may have gone into effect since the date of publication. This book does not attempt to offer legal advice and readers should consult their own attorney.



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Palm Desert, CA 92260
(760) 340-4499

www.califaep.org

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AEP recognizes ICF International (formerly ICF Jones & Stokes) for its contribution to the content and editing of this book, including summaries of key CEQA court cases and recent legislation.

Passion. Expertise. Results.

Title 14. California Code of Regulations

Chapter 3: Guidelines for Implementation of the California Environmental Quality Act

There were no additions or amendments to the CEQA Guidelines in 2011. On March 18, 2010, Amendments to the CEQA Guidelines for greenhouse gas emissions became effective. These were the most recent revisions to the CEQA Guidelines. Please note that the CEQA Guidelines are subject to change throughout the year.

Note: The numbered sections have been adopted by the Secretary of Resources as part of the California Code of Regulations.

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Article 1. General

SECTIONS 15000 TO 15007

15000. AUTHORITY

The regulations contained in this chapter are prescribed by the Secretary for Resources to be followed by all state and local agencies in California in the implementation of the California Environmental Quality Act. These Guidelines have been developed by the Office of Planning and Research for adoption by the Secretary for Resources in accordance with Section 21083. Additional information may be obtained by writing:

Secretary for Resources
1416 Ninth Street, Room 1311
Sacramento, CA 95814

These Guidelines are binding on all public agencies in California.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21082 and 21083, Public Resources Code; *City of Santa Ana v. City of Garden Grove*, (1979) 100 Cal. App. 3d 521.

15001. SHORT TITLE

These Guidelines may be cited as the "State CEQA Guidelines." Existing references to the "State EIR Guidelines" shall be construed to be references to the State CEQA Guidelines.

Note: Authority cited: Sections 21083, Public Resources Code; Reference: Section 21083, Public Resources Code.

- (b) In the absence of any discretionary provision contained in the local ordinance or other law establishing the requirements for the permit, license, or other entitlement for use, the following actions shall be presumed to be ministerial:
 - (1) Issuance of building permits.
 - (2) Issuance of business licenses.
 - (3) Approval of final subdivision maps.
 - (4) Approval of individual utility service connections and disconnections.
- (c) Each public agency should, in its implementing regulations or ordinances, provide an identification or itemization of its projects and actions which are deemed ministerial under the applicable laws and ordinances.
- (d) Where a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(1), Public Resources Code; *Day v. City of Glendale*, 51 Cal. App. 3d 817.

15269. EMERGENCY PROJECTS

The following emergency projects are exempt from the requirements of CEQA.

- (a) Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code. This includes projects that will remove, destroy, or significantly alter an historical resource when that resource represents an imminent threat to the public of bodily harm or of damage to adjacent property or when the project has received a determination by the State Office of Historic Preservation pursuant to Section 5028(b) of Public Resources Code.
- (b) Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety or welfare.
- (c) Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.
- (d) Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This exemption does not apply to highways designated as official state scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.
- (e) Seismic work on highways and bridges pursuant to Section 180.2 of the Streets and Highways Code, Section 180 et seq.

Note: Authority: Section 21083, Public Resources Code; Reference: Sections 21080(b)(2), (3), and (4), 21080.33 and 21172, Public Resources Code; *Castaic Lake Water Agency v. City of Santa Clarita* (1995) 41 Cal.App.4th 1257; and *Western Municipal Water District of Riverside County v. Superior Court of San Bernardino County* (1987) 187 Cal.App.3d 1104.

15270. PROJECTS WHICH ARE DISAPPROVED

- (a) ~~CEQA does not apply to projects which a public agency rejects or disapproves.~~

- (b) This section is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved.
- (c) This section shall not relieve an applicant from paying the costs for an EIR or Negative Declaration prepared for his project prior to the Lead Agency's disapproval of the project after normal evaluation and processing.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(5), Public Resources Code.

15271. EARLY ACTIVITIES RELATED TO THERMAL POWER PLANTS

- (a) CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for such a thermal power plant, if the thermal power plant site and related facility will be the subject of an EIR or Negative Declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 21080.5, which will be prepared by:
 - (1) The State Energy Resources Conservation and Development Commission,
 - (2) The Public Utilities Commission, or
 - (3) The city or county in which the power plant and related facility would be located.
- (b) The EIR, Negative Declaration, or other document prepared for the thermal power plant site or facility, shall include the environmental impact, if any, of the early activities described in this section.
- (c) This section acts to delay the timing of CEQA compliance from the early activities of a utility to the time when a regulatory agency is requested to approve the thermal power plant and shifts the responsibility for preparing the document to the regulatory agency.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 15080(b)(6), Public Resources Code.

15272. OLYMPIC GAMES

CEQA does not apply to activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, Olympic Games under the authority of the International Olympic Committee, except for the construction of facilities necessary for such Olympic Games. If the facilities are required by the International Olympic Committee as a condition of being awarded the Olympic Games, the Lead Agency need not discuss the "no project" alternative in an EIR with respect to those facilities.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(7), Public Resources Code.

15273. RATES, TOLLS, FARES, AND CHARGES

- (a) CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of:
 - (1) Meeting operating expenses, including employee wage rates and fringe benefits,
 - (2) Purchasing or leasing supplies, equipment, or materials,
 - (3) Meeting financial reserve needs and requirements,
 - (4) Obtaining funds for capital projects, necessary to maintain service within existing service areas, or

ATTACHMENT 4

ATTACHMENT LIST

1	California Public Resources Code section 21080(b)(5) - Division Application To Discretionary Projects; Nonapplication; Negative Declarations; Environmental Impact Report Preparation
2	California Environmental Quality Act (CEQA) Guidelines section 15042 - Authority to Disapprove Projects
3	California Environmental Quality Act (CEQA) Guidelines section 15270 - Projects Which are Disapproved
4	Riverside County Planning Commission - Staff Report dated December 8, 2011
5	Riverside County Planning Commission - Denial Findings Liberty Quarry Project
6	Transcript from February 16, 2012, Riverside County Board of Supervisors Liberty Quarry Hearing
7	Pechanga Comment Letter dated December 6, 2011, re Planning Commission Candidate Findings for Denial of Liberty Quarry, December 7, 2011, Agenda Item 1.1

Harper-Ihem, Kecia

From: Peter M. Thorson <PThorson@rwglaw.com>
Sent: Monday, May 14, 2012 4:03 PM
To: District1; District2; District3; District4 Supervisor John J Benoit; District5
Cc: COB; AAB Staff; Harper-Ihem, Kecia; Barton, Karen; Smith, Raymond; Executive CEO; Counsel, County; Walls, Paul; 'kwatts-bazan@co.riverside.ca.us'; Bob Johnson; Patrick Richardson; 'Betsy Lowrey'; Ginetta Giovinco; David Snow; Jeff Comerchero; Maryann Edwards; Naggar; Roberts; Washington
Subject: City of Temecula Objections to Proposed Liberty Quarry Findings
Attachments: Temecula Objections to Proposed Liberty Quarry Findings 5-14-12.PDF

Honorable Chairman and Members of the Board of Supervisors,

Attached please find my letter on behalf of the City of Temecula strongly opposing the proposed findings certifying the Final Environmental Impact Report for Liberty Quarry and denying the Project.

The draft findings fail to adequately reflect the Board's decision and direction in denying the project. A Board action certifying the flawed Final Environmental Impact Report ("FEIR") as complying with the California Environmental Quality Act ("CEQA") is legally unnecessary and will lead to lawsuits against the County challenging any such certification.

Additionally, a Board action certifying the FEIR means that the Board has rejected all of the compelling public and expert testimony presented challenging the methodologies of the EIR and the evidence and expert opinions of significant, unmitigated adverse environmental impacts and accepts the conclusions of the FEIR. Certifying the FEIR is simply not logically consistent with the proposed findings for denial of the Project.

If the FEIR is certified, the City of Temecula will have no choice but to initiate litigation to protect the interests of its citizens and to ensure that the flawed and illegal FEIR does not become the basis of environmental review for any future proposed quarry project.

Peter Thorson
City Attorney
City of Temecula



PETER M. THORSON
RICHARDS, WATSON & GERSHON
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LOS ANGELES, CA 90071
(213) 253-0216
pthorson@rwglaw.com

NOTICE: This communication may contain privileged or other confidential information. If you are not the intended recipient of this communication, or an employee or agent responsible for delivering this communication to the intended recipient, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.



RICHARDS | WATSON | GERSHON

ATTORNEYS AT LAW - A PROFESSIONAL CORPORATION

355 South Grand Avenue, 40th Floor, Los Angeles, California 90071-3101
Telephone 213.626.8484 Facsimile 213.626.0078

May 14, 2012

RICHARD RICHARDS
(1916-1988)

GLENN R. WATSON
(1917-2010)

HARRY L. GERSHON
(1922-2007)

VIA ELECTRONIC TRANSMITTAL

Chairman John Tavaglione and Members
of the Riverside County Board of Supervisors
County of Riverside Administrative Center
4080 Lemon Street, 1st Floor
Riverside, California 92501

Reference: Draft Denial Findings for Liberty Quarry Project
(Surface Mining Permit No. 213 and Reclamation Plan,
Change of Zone No. 7508 and Noise Ordinance Exception No.
2; Final Environmental Impact Report No. 475)

Honorable Chairman and Members of the Board of Supervisors:

The City of Temecula strongly opposed the Liberty Quarry project and now strongly opposes the Staff Recommendation to approve the proposed findings for denial of the project. The draft findings fail to adequately reflect the Board's decision and direction in denying the project.

A Board action certifying the flawed Final Environmental Impact Report ("FEIR") as complying with the California Environmental Quality Act ("CEQA") is legally unnecessary and will lead to lawsuits against the County challenging any such certification.

Additionally, a Board action certifying the FEIR means that the Board has rejected all of the compelling public and expert testimony presented challenging the methodologies of the EIR and the evidence and expert opinions of significant, unmitigated adverse environmental impacts and accepts the conclusions of the FEIR. Certifying the FEIR is simply not logically consistent with the proposed findings for denial of the Project.

If the FEIR is certified, the City of Temecula will have no choice but to initiate litigation to protect the interests of its citizens and to ensure that the flawed and illegal FEIR does not become the basis of environmental review for any future proposed quarry project.

- STEVEN L. DORSEY
- WILLIAM L. STRAUSS
- MITCHELL E. ABBOTT
- GREGORY W. STEPANICICH
- ROCHELLE BROWNE
- QUINN M. BARROW
- CAROL W. LYNCH
- GREGORY M. KUNERT
- THOMAS M. JIMBO
- ROBERT C. CECCON
- STEVEN H. KAUFMANN
- KEVIN G. ENNIS
- ROBIN D. HARRIS
- MICHAEL ESTRADA
- LAURENCE S. WIENER
- STEVEN R. ORR
- B. TILDEN KIM
- SASKIA T. ASAMURA
- KAYSER O. SUME
- PETER M. THORSON
- JAMES L. MARKMAN
- CRAIG A. STEELE
- T. PETER PIERCE
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- PATRICK K. BOBKO
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- DAVID M. SNOW
- LOLLY A. ENRIQUEZ
- KIRSTEN R. BOWMAN
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- STEVEN L. FLOWER
- CHRISTOPHER J. DIAZ
- ERIN L. POWERS
- TOUSSAINT S. BAILEY
- SERITA R. YOUNG
- SHIRI KLIMA
- DIANA H. VARAT
- JULIE A. HAMILL
- ANDREW J. BRADY
- MOLLY R. MCLUCAS
- AARON C. O'DELL
- BYRON MILLER

OF COUNSEL
MARK L. LAMKEN
SAYRE WEAVER
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TERESA HO-URANO

SAN FRANCISCO OFFICE
TELEPHONE 415.421.8484

ORANGE COUNTY OFFICE
TELEPHONE 714.990.0901

Honorable Riverside County Board of Supervisors
Re: Liberty Quarry, FEIR No. 475, SMP No. 213 and Related Entitlements
May 14, 2012
Page 2

1. **The Board should find that denial of the Liberty Quarry project is exempt from CEQA and should not certify the flawed FEIR.**

The law is clear: the decision to reject or disapprove a project is exempt from CEQA. (Pub. Res. Code § 21080(b)(5).) Thus, there is no need for the Board to conclude, as requested in the staff report, that the FEIR complies with CEQA.

A decision to certify the FEIR not only is unnecessary in light of this statutory exemption from CEQA, but rejects the substantial expert opinion and public testimony – and statements of Board members – that the FEIR fails to adequately and accurately disclose and mitigate the project’s significant adverse impacts. Certifying the FEIR is simply not logically consistent with the proposed findings for denial of the Project.

In short, there simply is no reason and no basis for the Board to certify the FEIR.

If the FEIR is certified, the City of Temecula will have no choice but to initiate litigation to protect the interests of its citizens and to ensure that the flawed FEIR does not become the basis of environmental review for any future proposed quarry project. The Board heard many hours of compelling testimony from the City of Temecula’s expert witnesses about the defective methodologies and false conclusions in the draft EIR and the devastating impact on the City of Temecula and the surrounding areas that the draft EIR failed to address. Board certification of the FEIR is a rejection and denial of this important work and an affirmation of the improper analysis and defective conclusions of the FEIR. If the FEIR is not challenged at this time, the defective FEIR could not be challenged at a later date if the project is renewed.

Several other parties are likely to challenge the certification of the FEIR as well, resulting in costly litigation to be borne by the County alone.

The Board should avoid this protracted litigation and (1) should find that the denial of the Liberty Quarry project is exempt from CEQA pursuant to Public Resources Code section 21080(b)(5) and (2) should take no action to certify the FEIR.

2. **The Board should delete the purported “Project Benefits” section from the draft findings.**

As currently drafted, the findings include a section (page 8, Section D) with six purported benefits of the Liberty Quarry project. This presentation implies that

Honorable Riverside County Board of Supervisors
Re: Liberty Quarry, FEIR No. 475, SMP No. 213 and Related Entitlements
May 14, 2012
Page 3

the Board concurred that these benefits would result if the project were approved, and we do not believe this to be the case.

For example, we do not believe that the Board affirmatively agreed that the project "would produce approximately \$300 million in new sales tax revenue and \$41 million in new property taxes and fees for the County of Riverside" (Section D, item 5), particularly in light of the substantial expert testimony to the contrary. Likewise, we do not believe that the Board found that the project "is consistent with the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP)...." (Section D, item 6.) Moreover, this statement directly contradicts one of the reasons for denying the project: "In light of the conclusion concerning the cumulative wildlife movement impact identified in the EIR, the Project, would result in an unavoidable adverse biological impact...." (Section E, item 3.)

There is no reason to include in the denial findings a list of purported (and disputed) project benefits, and therefore we request that the Board delete the "Project Benefits" section from the findings.

3. **The Board should include specific findings to deny the Surface Mining Permit and Noise Ordinance Exception applications.**

Although the findings include a section on "Project Denial" (Section E), the findings in large part are not specific to the denial of the Surface Mining Permit based on Ordinance No. 555, and Noise Ordinance Exceptions based on Ordinance No. 847. We therefore offer the following additional support for the denial of these applications:

- i. The adverse effects of surface mining operations will not be prevented or minimized. (See Ordinance No. 555, Section 1. b.)
- ii. The production of minerals at the project site is inappropriate when giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment, and the residual hazards to the public health and safety, the impacts of which would not be eliminated. (See Ordinance No. 555, Section 1. c.)
- iii. The Board of Supervisors finds that the activities described in the noise ordinance exception application would be detrimental to the health, safety or general welfare of the community, based on the proposed duration of the activities and their location in relation to sensitive receptors. (See Ordinance No. 847, Section 7 b.)

Honorable Riverside County Board of Supervisors
Re: Liberty Quarry, FEIR No. 475, SMP No. 213 and Related Entitlements
May 14, 2012
Page 4

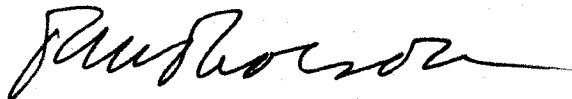
iv. The public's health, safety, and general welfare are not protected through project design. (See Ordinance No. 555, Section 7. b., and Ordinance No. 847, Section 7. b.)

v. The proposed project is not conditionally compatible with the present and future logical development of the area. (See Ordinance No. 555, Section 6. g.)

The City again requests that the Board: (1) Find that the denial of the Liberty Quarry project is exempt from CEQA pursuant to Public Resources Code section 21080(b)(5); (2) take no action to certify the FEIR; and (3) strengthen the findings for denial.

Should you have any questions regarding the contents of this letter, please do not hesitate to contact me.

Very truly yours,



Peter M. Thorson
City Attorney
City of Temecula

cc: Pamela Walls, County Counsel
Karin Watts-Bazan, Principal County Counsel
Kecia Harper-Ihem, Clerk of the Board of Supervisors
Mayor and Members of the City Council
Bob Johnson, City Manager
Betsy Lowrey, City Management Analyst

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WINTER KING
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May 15, 2012

Via E-Mail

Chairman John Tavaglione and
Riverside County Board of Supervisors
4080 Lemon Street, 1st Floor
Riverside, CA 92501

Re: Proposed Denial Findings for Liberty Quarry Project

Honorable Chairman and Members of the Board of Supervisors:

This firm represents San Diego State University Research Foundation (“SDSURF”) with respect to the proposed Liberty Quarry project. As you are aware, SDSURF owns and manages the Santa Margarita Ecological Reserve (“SMER”) on property adjacent to the proposed Quarry site, and has expressed deep concern over the proposed Quarry’s impact to research and education programs at the SMER since the Quarry was first proposed in 2005. When the Board voted to deny the project as inconsistent with the health, safety and welfare of the community on February 16, 2012, SDSURF supported and celebrated that decision.

Having participated so extensively in the administrative process leading up to this denial, SDSURF was disappointed to receive staff’s proposed “Denial Findings,” which do not reflect the Supervisors stated reasons for denying the project, much less the voluminous public comments supporting that decision. SDSURF was also surprised to see staff’s recommendation to *certify* the seriously flawed environmental impact report (“EIR”), given that the California Environmental Quality Act (“CEQA”) provides a specific exemption for projects that are denied. *See* Cal. Pub. Res. Code § 21080(b)(5).

Thus, SDSURF joins in the comments and concerns of the Pechanga Band of Luiseño Indians and the City of Temecula. Like the Tribe and City, SDSURF objects to staff’s proposal that the County certify the Final EIR for the denied project. The Board did not vote to do so at the February 16 hearing and, indeed, members of the Board raised

141.1

serious questions about the document's adequacy. SDSURF, along with many others, provided the Board with extensive expert scientific testimony identifying numerous inadequacies in the EIR, including the EIR's failure to adequately analyze the project's significant impacts on the research and resources at the neighboring SMER. Remarkably, the proposed findings do not even mention the SMER, much less reflect the severity of the project's potential impacts there.

SDSURF is also concerned about several legal conclusions that are inappropriately included in the "Project Description and Procedural History" portion of the proposed findings. For example, the findings assert that "the Project is consistent with the Multi-Species Habitat Conservation Plan (MSHCP)," and that "[t]he Change of Zone is not required for the Surface Mining Permit or the Project to be approved." These assertions are both incorrect and unnecessary to support the Board's denial of the project.

In sum, there are many strong reasons supporting the County's denial of the project, including the reasons stated by the Supervisors themselves at the February 16 hearing. Almost none of these reasons are set forth in staff's proposed findings. There is *no* reason, however, to certify the flawed EIR prior to denying the project. Thus, SDSURF respectfully urges the Board to reject staff's proposed findings; adopt in their place findings that reflect the comments and concerns of the Supervisors, the public, and the Planning Commission; and invoke CEQA's exemption for denied projects.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Winter King

cc: Clerk of the Board of Supervisors

329187.2

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Attorney
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May 15, 2012

Via E-Mail

Chairman John Tavaglione and
Riverside County Board of Supervisors
4080 Lemon Street, 1st Floor
Riverside, CA 92501

Re: Proposed Denial Findings for Liberty Quarry Project

Honorable Chairman and Members of the Board of Supervisors:

This firm represents San Diego State University Research Foundation ("SDSURF") with respect to the proposed Liberty Quarry project. As you are aware, SDSURF owns and manages the Santa Margarita Ecological Reserve ("SMER") on property adjacent to the proposed Quarry site, and has expressed deep concern over the proposed Quarry's impact to research and education programs at the SMER since the Quarry was first proposed in 2005. When the Board voted to deny the project as inconsistent with the health, safety and welfare of the community on February 16, 2012, SDSURF supported and celebrated that decision.

Having participated so extensively in the administrative process leading up to this denial, SDSURF was disappointed to receive staff's proposed "Denial Findings," which do not reflect the Supervisors stated reasons for denying the project, much less the voluminous public comments supporting that decision. SDSURF was also surprised to see staff's recommendation to *certify* the seriously flawed environmental impact report ("EIR"), given that the California Environmental Quality Act ("CEQA") provides a specific exemption for projects that are denied. See Cal. Pub. Res. Code § 21080(b)(5).

Thus, SDSURF joins in the comments and concerns of the Pechanga Band of Luiseño Indians and the City of Temecula. Like the Tribe and City, SDSURF objects to staff's proposal that the County certify the Final EIR for the denied project. The Board did not vote to do so at the February 16 hearing and, indeed, members of the Board raised

14.1

Received via email 5-15-12

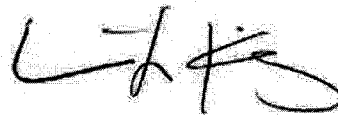
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SDSURF is also concerned about several legal conclusions that are inappropriately included in the "Project Description and Procedural History" portion of the proposed findings. For example, the findings assert that "the Project is consistent with the Multi-Species Habitat Conservation Plan (MSHCP)," and that "[t]he Change of Zone is not required for the Surface Mining Permit or the Project to be approved." These assertions are both incorrect and unnecessary to support the Board's denial of the project.

In sum, there are many strong reasons supporting the County's denial of the project, including the reasons stated by the Supervisors themselves at the February 16 hearing. Almost none of these reasons are set forth in staff's proposed findings. There is *no* reason, however, to certify the flawed EIR prior to denying the project. Thus, SDSURF respectfully urges the Board to reject staff's proposed findings; adopt in their place findings that reflect the comments and concerns of the Supervisors, the public, and the Planning Commission; and invoke CEQA's exemption for denied projects.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Winter King

cc: Clerk of the Board of Supervisors

329187.2

Wagner, Lisa M

From: Cynthia Jawad <jawad@smwlaw.com>
Sent: Tuesday, May 15, 2012 11:05 AM
To: District2; District1; District3; District4 Supervisor John J Benoit; District5
Cc: COB; Winter King
Subject: Liberty Quarry Project
Attachments: Letter to BOS re Draft Denial Findings (05-15-2012).PDF

Importance: High

TO: Chairman John Tavaglione and Riverside County Board of Supervisors

Attached is a letter from Winter King of Shute, Mihaly & Weinberger LLP on behalf of San Diego State University Research Foundation regarding the proposed denial findings for Liberty Quarry Project.

If you have any questions, please contact Ms. King at 415.552.7272 or king@smwlaw.com. If you have a problem accessing this attachment, please contact me at 415.552.7272 or jawad@smwlaw.com.

Thank you.

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**BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE**

**IN THE MATTER OF SURFACE MINING PERMIT)
NO. 213 AND RECLAMATION PLAN, CHANGE OF)
ZONE NO. 7508 AND NOISE ORDINANCE)
EXCEPTION NO. 2)**

FINDINGS

On December 8, 2011, Granite Construction Company, ("Applicant") appealed the Planning Commission's December 7, 2011 denial of Surface Mining Permit No. 213 and Reclamation Plan, Change of Zone No. 7508, and Noise Ordinance Exception No. 2, and Environmental Impact Report No. 475 (collectively, "Project") to the Board of Supervisors ("Board"). The Board heard the appeal during regular and special sessions assembled on January 30, February 6, February 14, and February 16, 2012 after giving the required notice. The Planning Department made an introductory presentation and the Applicant, the Applicant's representatives, and members of the public provided oral testimony and documentation to the Board throughout the hearing process. Following the presentation and oral testimony, the Board tentatively denied the Project and directed the preparation of denial findings. The basis for the Board's tentative denial was the failure of the Project to meet the requirements of Ordinance No. 555 and the Board's determination that the benefits of the Project did not outweigh the significant effects that cannot be avoided or reduced to a level of insignificance. The basis for the tentative denial was not the inadequacy of Environmental Impact Report No. 475 ("EIR"). The Board has reviewed the findings and hereby denies the Project based thereon.

A. Project Description and Procedural History

1. As proposed in the application, Surface Mining Permit No. 213 would, if approved, permit the construction and operation of a mine on 414 acres located in southwest Riverside County. 155 acres of the 414-acre site would be used for the quarry including aggregate, asphalt, concrete batch, and recycling plants, and related facilities; nine acres would be used for the access road and lower utility pad; and the remaining 250 acres would remain as undisturbed open space. The open space would be located west and east of the quarry footprint. Approximately 70 acres on the western and southwestern portion of the site would remain undisturbed along both sides of an existing unnamed drainage, which flows north to south and then west, offsite. This undisturbed area would act as a buffer to the adjacent properties to the west. An additional 180 acres would remain undisturbed by quarry operations to the northeast and southeast to maintain the existing ridges to block views of the Project. These areas would be placed into a conservation easement or similar legal restriction. 50 foot setbacks would be established along properties adjacent to the actual quarry.
2. The proposed maximum aggregate production during the Project life would be five million tons per year. It is anticipated that it would take approximately 10 years for the

*05.15.2012
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- Project to reach this level of production due to construction of facilities and market demand. The estimated total volume of the proposed quarry is over 270 million tons. Because it is unlikely that the maximum extraction rate would reach five million tons each year, the Applicant has requested a 75-year operations plan for the quarry. Certain reclamation activities would be ongoing throughout the operational life of the quarry. At the conclusion of aggregate mining and production, a final reclamation phase of five years would commence.
3. The proposed maximum mining depth would be 1,020 feet below ground surface.
 4. Mining would occur from 4:00 a.m. until 12 a.m., six days per week, 52 weeks per year. The site would be closed during a maximum of eight holidays. Shipping of material could occur 24 hours per day, seven days per week to avoid peak freeway traffic times and to meet customer needs and provide aggregate products for night construction on freeways.
 5. Approximately 70 percent of the aggregate produced by the Project would be transported to San Diego County, while 30 percent would remain in Riverside County.
 6. As proposed in the application, Change of Zone No. 7508 would, if approved, change the zone from Rural Residential (R-R) to Mineral Resources and Related Manufacturing (M-R-A) on 14 parcels consisting of 110 acres near the center of the site. No change is proposed to the rest of the Project site. The Change of Zone is not required for the Surface Mining Permit or the Project to be approved, but is more specific to the uses that are permitted with a Surface Mining Permit.
 7. As proposed in the application, Noise Ordinance Exception No. 2 would, if approved, provide a continuous noise exception from County Ordinance No. 847.
 8. The Project site is designated Rural: Rural Mountainous (R:RM) on the Southwest Area Plan which is part of the Riverside County General Plan.
 9. Surface mining and related activities, are conditionally permitted uses in the R:RM designation which specifically provides "limited recreational uses, compatible resource development (which may include the extraction of mineral resources with approval of a surface mining permit) and associated uses, and governmental uses are also allowed within this designation."
 10. The Project site is surrounded by properties to the north and west which the City of Temecula has designated Open Space (OS), properties to the east which the County of Riverside has designated Community Development: Light Industrial (CD:LI) and properties to the south which the County of San Diego has designated Multiple Rural Use.
 11. The existing zoning for the Project site is R-R.
 12. Surface mining and related activities, are a permitted use, pursuant to Section 5.1a.(15) of Article V of Ordinance No. 348, in the R-R zone.
 13. A 2.5 acre portion of the Project site located in San Diego County is zoned as A-70. Surface mining and related activities are permitted in this zoning district, subject to a San Diego County approved and issued Major Grading Permit.
 14. The Project site is surrounded by properties to the north and west which the City of Temecula has zoned Open Space-Conservation-Santa Margarita (OS-C-SM), properties to the east which the County of Riverside has zoned R-R , and property to the south which the County of San Diego has zoned A-70.
 15. The Project is consistent with the Multi-Species Habitat Conservation Plan (MSHCP).

16. The Project is not located within a Criteria Area of the MSHCP.
17. There are a number of residential subdivisions within two to three miles of the Project site, such as the community of Red Hawk, consisting of approximately 3,000 homes. Single family homes generally on lots over one half acre in size, are located west of the Project site.
18. The Applicant submitted its original Project application to the County in March, 2005 and subsequently amended its application in April, 2007.
19. The Planning Commission heard the Project in regular and special sessions assembled on April 26, 2011, May 3, 2011, June 22, 2011, July 18, 2011, August 15, 2011 and August 31, 2011, after giving the required notice.
20. On August 31, 2011, the Planning Commission tentatively denied the Project and requested the Planning Department and County Counsel to prepare appropriate denial findings.
21. On December 7, 2011, the Planning Commission adopted denial findings and conclusions for this Project based on the information contained in the Final Environmental Impact Report No. 475 (EIR) and on evidence presented at the public hearings. The Planning Commission determined at that time that the environmental effects of the Project were not outweighed by the Project's benefits. Additionally, the Planning Commission found that the Project and proposed conditions of approval for Surface Mining Permit No. 213 did not protect the public health, safety or general welfare.
22. On December 8, 2011, the Applicant filed an appeal of the Planning Commission's denial of the Project to the Board. The Applicant also appealed the Planning Commission's "failure to certify" the Final EIR.
23. In four successive hearings beginning on January 30, 2010, the Board reviewed and considered de novo the Applicant's appeals from the Planning Commission's denial of the Project. These hearings were held in Riverside and were intended to facilitate public input on the Project.
24. During these hearings, the Board received lengthy and extensive oral and written comments on the Project through testimony of individuals present, as well as through the submittal of emails, letters, petitions and other documentation.
25. On February 16, 2012, the Board voted to tentatively deny the Project after considering the oral and written testimony and other information provided throughout the hearing process.

B. Applicable Statutes, Regulations and Ordinances

1. Section 7(b) of Ordinance No. 555, provides that an application for a permit shall not be granted unless that permit is expressly subject to such conditions as are necessary to protect the health, safety or general welfare of the community.
2. Section 15093(a) of the California Environmental Quality Act ("CEQA") Guidelines requires the decision making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, of the project against its unavoidable environmental risks when determining whether to approve the project. If the benefits outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered acceptable.

3. CEQA Guidelines Section 15002(h)(5) provides, in pertinent part, when an environmental impact report shows that a project could cause substantial adverse changes in the environment, the governmental agency must respond to the information by one of several listed methods, including disapproving the project.

C. Significant and Unavoidable Environmental Impacts

1. Even after the design and mitigation measures were taken into account, the EIR determined that the Project would have the following significant and unavoidable impacts to Air Quality:

- **Direct Air Impacts:**

Impact AQ-2 from the EIR analyzed if, “*construction-related air emissions from the Proposed Project could result in construction-related emissions that exceed any of the South coast Air Quality management District (SCAQMD) thresholds of significance in [DEIR] Table 3.2-8 (SCAQMD Thresholds for Construction Emissions).*” The EIR identified that the impacts would be significant but temporary, approximately 2 years. According to EIR Table 3.2-15, particulate matter less than 10 microns in size (PM10) and Sulfur Dioxide (SO2) emissions would be below the SCAQMD thresholds. However, emissions of Nitrogen Oxides (NOx), Organic Gases (ROG), Carbon Monoxide (CO), and particulate matter less than 2.5 microns in size (PM2.5) would exceed SCAQMD daily emission thresholds for construction and would be considered a potential significant impact. These impacts are related to construction only and would, therefore, be temporary in nature.

Impact AQ-3 from the EIR analyzed if, “*operational emissions from the Proposed Project could exceed any of the SCAQMD thresholds of significance in [DEIR] Table 3.2-10 (SCAQMD Thresholds for Operational Emissions).*” According to EIR Table 3.2-20, after mitigation, the emissions of ROG, PM10, and PM2.5 are expected to be reduced to less than their SCAQMD CEQA operation emission significance thresholds. However, NOx and CO emissions are expected to remain above their SCAQMD CEQA operation significance thresholds and would be considered a potentially significant impact.

Impact AQ-5 from the EIR analyzed if, “*construction from the Proposed Project could result in off site ambient air pollutant concentrations that exceed the SCAQMD thresholds of significance in the [DEIR] Table 3.2.9 (SCAQMD Thresholds for Ambient Air Quality Concentrations Associated with Proposed Project Construction).*” Construction impacts are short term (approximately 2 years), and there are no residential or worker receptors (i.e., no human exposure) at the point of maximum impact, which is at the Project boundary. According to EIR Table 3.2-24, modeled air quality concentrations for construction activities all remain below the SCAQMD air quality impact thresholds, except the 24 hour and annual PM10 concentrations. Therefore, the EIR determined that off site air

pollutant concentrations due to Project construction would be significant for PM10. These impacts are related to construction only and would, therefore, be temporary in nature.

Impact aQ-6 from the EIR analyzed if, “*Proposed Project operations could result in off site ambient air pollutant concentrations that exceed a SCAQMD threshold of significant in [DEIR} Table 3.2-11 (SCAQMD Thresholds for Ambient Air Quality Concentrations Associated with Proposed Project Operations).*” According to EIR Table 3.2-25, the offsite ambient concentration impacts associated with the Project’s operation would be less than significant for NO2, SO2, CO, and annual Pm2.5. However, the EIR concludes that the maximum off site ambient pollutant concentrations of 24 hour PM10, annual PM10, and 24 hour PM2.5 associated with operations would be significant as compared to the SCAQMD incremental thresholds.

- **Cumulative Air Impacts:**

Impact AQ-8 from the EIR analyzed if, “*the Proposed Project could result in GHG [greenhouse gas] emissions that would hinder or delay the state’s ability to meet the reduction targets contained in [Assembly Bill] AB 32.*” The Project is still anticipated to generate approximately 80,000 (30,000 with truck displacement) tons per year of CO2d even with mitigation applied. Additionally, Section 5.4.2 of the EIR analyzes cumulative effects and explains that although there are regional benefits to air from the Project, the analysis takes the most conservative approach and concludes that any new source of pollution that contributes to a cumulative exceedance of daily operational emissions thresholds or contributes to a cumulative net increase in GHG emissions is significant. Beyond the Project level measures indentified in Section 3.2 of the EIR, there are no additional feasible mitigations available. As such, the Project’s air quality impacts related to criteria pollutants and GHG are cumulatively considerable significant and unavoidable. However, the EIR also concluded that even though the environmental documents conservatively determine the impacts to be significant and unavoidable, given the EIR analysis, it is unlikely that the Project would hinder or delay the State’s ability to meet the reduction targets of AB 32.

2. Even after the design and mitigation measures were taken into account, the EIR determined that the Project would have the following cumulative significant and unavoidable impact to Biology:

- **Cumulative Biological Impact:**

Cumulative biological impacts were assessed in Section 5.4.3 in the DEIR. The biological function of the SAPM linkage area and the Pechanga Corridor is currently substantially impaired by the eight-land I-15, existing urban development in north San Diego County (Community of Rainbow,

Old US 395, and CHP truck weigh station) and in southwest Riverside County (Border Patrol checkpoint, CHP truck weigh station, Temecula and surrounding development). Despite compliance with the MSHCP and implementation of the recommended mitigation measures, the projects in the cumulative list show in DEIR/FEIR Table 5-1 would contribute to cumulative effects to wildlife movement in the vicinity of the Project. As no additional, feasible mitigation measures are available, the Project's cumulative effects on wildlife movement remain significant and unavoidable.

3. Even after the design and mitigation measures were taken into account, the EIR determined that the Project would have the following significant and unavoidable impacts to Traffic:

- **Direct Traffic Impacts:**

Impact T-1a from the EIR analyzed if, "*the Proposed Project could cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in reduction of [level of service] LOS at intersections).*" According to the EIR, the Project has included mitigation to pay for and construct intersection improvements that are outside the County's jurisdiction. Although this is technically (physically) feasible, implementation would require approval of other agencies including Caltrans, Temecula, and San Diego County. Because the intersections are within the jurisdictions of Caltrans, Temecula, and San Diego County, and because no improvement can be made without the approval of these jurisdictions, Riverside County cannot ensure that the improvements would mitigate the impacts of the Project. Therefore, although Riverside County would undertake all reasonable steps to coordinate with these jurisdictions to install the improvements, the Project's impacts on these intersections are significant and unavoidable.

Impact T-1b from the EIR analyzed if, "*the Proposed Project could cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in increased queue lengths).*" The EIR determined that this impact is significant and unavoidable for the same reason noted above.

Impact T-1c from the EIR analyzed if, "*the Proposed Project could cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in increased traffic volume along roadway segments).*" The EIR concluded that this impact is significant and unavoidable for the same reason noted above.

Impact T-3 from the EIR analyzed if, "*the Proposed Project could exceed, either individually or cumulatively, an LOS standard established by the San Diego County Congestion Management Agency for designated roads or highways.*" The EIR also determined that this impact is significant and unavoidable for the same reason noted above.

- **Cumulative Traffic Impacts:**

Cumulative traffic impacts were assessed in Section 5.4.3 of the EIR. According to the EIR, potential project related local, regional, and cumulative traffic impacts were determined to be less than significant with implementation of mitigation measures. The applicant would pay their fair share of cumulative traffic and transportation improvements including participation in the Riverside County Development Impact Fee Program and the Transportation Uniform Mitigation Fee, as well as the San Diego County Traffic Impact Fees for local road improvements. Although improvements to roadways would mitigate impacts to a less than significant level, for the same reasons noted in the transportation section above, the authority to fund and implement those improvements would be outside the jurisdictional authority of Riverside County in its role as the CEQA Lead Agency. Because this analysis cannot assume or rely upon the funding and construction by other entities, the EIR concluded that the impacts remain significant and unavoidable. It is also important to note that the impacts to intersections were determined without using the truck trip reduction concept in an attempt to create the most conservative analysis possible.

- **Impacts to the City of Temecula:**

Winchester Road, Rancho California Road, and SR-79 South provide access to and from I-15 within Temecula. As evaluated in Section 3.11 of the EIR, the Project would result in these intersections operating at a less than acceptable LOS and would cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system. Mitigation Measures T-1 and T-2 specify improvements that would reduce delays and allow these intersections to operate at an acceptable LOS and for traffic load to not exceed capacity of the street system. Because the intersections are within the jurisdictions of Caltrans and Temecula, and because no improvement can be made without approval of these jurisdictions, Riverside County cannot ensure that improvements would mitigate the impacts of the Project. Therefore, although Riverside County would undertake all reasonable steps to coordinate with these jurisdictions to install the improvements, the Project's impacts on these intersections are significant and unavoidable.

4. Even after the design and mitigation measures were taken into account, the EIR determined that the Project would have the following significant and unavoidable impact to utility and service systems:

- **Cumulative Impact to Water Supply:**

Impact USS-2 from the EIR analyzed if, *"the Proposed Project could have insufficient water supplies from existing entitlements and resources, or new*

or expanded entitlements might be needed." Western Municipal Water District (WMWD) has prepared and approved a Water Supply Assessment (WSA) which indicates a sufficient supply of water to serve the Project for a 20 year period. Impacts to water supply are determined to be less than significant. However, cumulative water supply impacts were assessed in Section 5.4.12 in the DEIR. Despite implementation of recommended mitigation measures to reduce demand to 369 acre feet/year, the County has conservatively determined that given the uncertainties in the ability of the State to provide future water supply, as discussed in Sections 3.12 and 5.4.12, the Project's water supply impacts are considered cumulatively significant.

D. Project Benefits

1. The Project would produce a significant economic mineral resource; provide a portion of the local and regional demand for aggregate; and, would help ensure a reliable supply of aggregate to meet western Riverside County's aggregate needs for 75 years.
2. The Project would create approximately 99 direct jobs and 178 indirect jobs.
3. The Project site is located in close proximity to a major transportation corridor, thus reducing the overall cost of aggregate by reducing transportation costs.
4. The Project site is not as visible to large population areas as alternative locations identified in the EIR.
5. The Project would produce approximately \$300 million in new sales tax revenue and \$41 million in new property taxes and fees for the County of Riverside. The Project would also produce significant tax revenue for the State of California.
6. The Project is consistent with the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) and would contribute undisturbed open space land to the MSHCP through the dedication of a conservation easement or similar restriction over approximately 250 acres included in the Project site. Additionally, \$1,038,612 in Ordinance No. 810 mitigation fees would be paid under the current fee. These funds would be transferred to the Western Riverside County Regional Conservation Agency (RCA) for use in the purchase of additional reserve land for the MSHCP.

E. Project Denial

1. The Project conditions do not protect the health, safety or general welfare of the community as required by Section 7(b) of Ordinance No. 555 for the following reasons:
 - a. The proposed maximum mining depth --1,020 feet below ground surface-- may preclude adequate reclamation.
 - b. The proposed mining hours --4:00 a.m. until 12:00 a.m., six days per week, 52 weeks per year-- would have a detrimental effect on surrounding uses.
 - c. The proposed 75-year Project term exceeds a reasonable time period.
 - d. The proposed market area would result in the sale of approximately 70 percent of the mineral resources from the Project to San Diego County which would disproportionately burden Riverside County.

2. In light of the conclusions concerning direct and cumulative air quality impacts identified in the EIR, the Project, would result in unavoidable adverse air quality impacts that are not outweighed by the Project's benefits set forth above.
3. In light of the conclusion concerning the cumulative wildlife movement impact identified in the EIR, the Project, would result in an unavoidable adverse biological impact that is not outweighed by the Project's benefits set forth above.
4. In light of the conclusions concerning direct and cumulative traffic impacts identified in the EIR, the Project would result in unavoidable adverse traffic impacts that are not outweighed by the Project's benefits set forth above.
5. In light of the conclusions concerning the cumulative water supply impact identified in the EIR, the Project would result in an unavoidable adverse utility and service system impact that is not outweighed by the Project's benefits set forth above.
6. For these reasons and in consideration of the above findings, the Project is hereby denied.



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VIA ELECTRONIC TRANSMITTAL

Chairman John Tavaglione and Members
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4080 Lemon Street, 1st Floor
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Reference: Draft Denial Findings for Liberty Quarry Project
(Surface Mining Permit No. 213 and Reclamation Plan,
Change of Zone No. 7508 and Noise Ordinance Exception No.
2; Final Environmental Impact Report No. 475)

Honorable Chairman and Members of the Board of Supervisors:

The City of Temecula strongly opposed the Liberty Quarry project and now strongly opposes the Staff Recommendation to approve the proposed findings for denial of the project. The draft findings fail to adequately reflect the Board's decision and direction in denying the project.

A Board action certifying the flawed Final Environmental Impact Report ("FEIR") as complying with the California Environmental Quality Act ("CEQA") is legally unnecessary and will lead to lawsuits against the County challenging any such certification.

Additionally, a Board action certifying the FEIR means that the Board has rejected all of the compelling public and expert testimony presented challenging the methodologies of the EIR and the evidence and expert opinions of significant, unmitigated adverse environmental impacts and accepts the conclusions of the FEIR. Certifying the FEIR is simply not logically consistent with the proposed findings for denial of the Project.

If the FEIR is certified, the City of Temecula will have no choice but to initiate litigation to protect the interests of its citizens and to ensure that the flawed and illegal FEIR does not become the basis of environmental review for any future proposed quarry project.

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Submitted by Thorson

5-15-12 Item 14.1
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VIA ELECTRONIC TRANSMITTAL

Chairman John Tavaglione and Members
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Reference: **Draft Denial Findings for Liberty Quarry Project**
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Additionally, a Board action certifying the FEIR means that the Board has rejected all of the compelling public and expert testimony presented challenging the methodologies of the EIR and the evidence and expert opinions of significant, unmitigated adverse environmental impacts and accepts the conclusions of the FEIR. Certifying the FEIR is simply not logically consistent with the proposed findings for denial of the Project.

If the FEIR is certified, the City of Temecula will have no choice but to initiate litigation to protect the interests of its citizens and to ensure that the flawed and illegal FEIR does not become the basis of environmental review for any future proposed quarry project.

Submitted by _____

(date) _____ Item 14.1

Honorable Riverside County Board of Supervisors
Re: Liberty Quarry, FEIR No. 475, SMP No. 213 and Related Entitlements
May 14, 2012
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1. **The Board should find that denial of the Liberty Quarry project is exempt from CEQA and should not certify the flawed FEIR.**

The law is clear: the decision to reject or disapprove a project is exempt from CEQA. (Pub. Res. Code § 21080(b)(5).) Thus, there is no need for the Board to conclude, as requested in the staff report, that the FEIR complies with CEQA.

A decision to certify the FEIR not only is unnecessary in light of this statutory exemption from CEQA, but rejects the substantial expert opinion and public testimony – and statements of Board members – that the FEIR fails to adequately and accurately disclose and mitigate the project's significant adverse impacts. Certifying the FEIR is simply not logically consistent with the proposed findings for denial of the Project.

In short, there simply is no reason and no basis for the Board to certify the FEIR.

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Re: Liberty Quarry, FEIR No. 475, SMP No. 213 and Related Entitlements
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City of Temecula's Proposed Alternate Board of Supervisor's Motion to Approve Findings Denying Liberty Quarry Project May 15, 2012

Motion to approve the proposed Findings to deny the Liberty Quarry Project as proposed by Staff with the following modifications:

1. Delete Section B.2. regarding CEQA and replace it with "The denial of the Project is exempt from CEQA pursuant to Public Resources Code Section 2180(b)(5) and other applicable law."
2. Delete Section B.3 regarding CEQA and replace it with: "Section 7b of Ordinance No. 847 provides that an application for a noise exception shall not be granted if the Project's activities would be detrimental to the health, safety or general welfare of the community."
3. Delete Section D, regarding Project Benefits
4. Add Sections E.1.e. through concerning the surface mining application to read as follows:

E.1.e. The adverse effects of surface mining operations will not be prevented or minimized. (See Ordinance No. 555, Section 1. b.)

E.1.f. The production of minerals at the project site is inappropriate when giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment, and the residual hazards to the public health and safety, the impacts of which would not be eliminated. (See Ordinance No. 555, Section 1. c.)

E.1.g. The public's health, safety, and general welfare are not protected through Project design. (See Ordinance No. 555, Section 7. b., and Ordinance No. 847, Section 7. b.)

E.1.h. The proposed Project is not conditionally compatible with the present and future logical development of the area. (See Ordinance No. 555, Section 6. g.)

5. Amend Sections E.2 through E.5 to read as follows:

E.2. In light of the conclusions concerning direct and cumulative air quality impacts identified in the EIR and expert testimony presented to the Board, the Project would result in unavoidable adverse air quality impacts.

E.3. In light of the conclusions concerning direct and cumulative wildlife movement impacts identified in the EIR and expert testimony presented to the Board, the Project would result in unavoidable adverse biological impacts.

E.4. In light of the conclusions concerning direct and cumulative traffic impacts identified in the EIR and expert testimony presented to the Board, the Project would result in unavoidable adverse biological impacts.

E.5. In light of the conclusions concerning cumulative water supply impacts identified in the EIR and expert testimony presented to the Board, the Project would result in unavoidable adverse utility and service system impacts.

5. Renumber E.6., denial of Project, to E.8. and add new Sections E.6, E.7. and E.8. to read as follows:

E.6. In light of the information and conclusions concerning tribal cultural resources identified in the expert testimony and public testimony presented to the Board, the Project would result in unavoidable adverse impacts on tribal cultural resources.

E.7 In light of the information and conclusions concerning the impacts on the Santa Margarita Ecological Reserve identified in the expert testimony and public testimony presented to the Board, the Project would result in unavoidable adverse impacts on the Santa Margarita Ecological Reserve.

E.8. The activities described in the Project's noise ordinance exception application would be detrimental to the health, safety or general welfare of the community, based on the proposed duration of the activities and their location in relation to sensitive receptors. (See Ordinance No. 847, Section 7 b.).



City of Temecula

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May 14, 2012

The Honorable John F. Tavaglione, Chairman
County of Riverside Board of Supervisors
County of Riverside Administrative Center
4080 Lemon Street, 5th Floor
Riverside, CA 92501

Re: CONCERN Regarding Denial Findings for the proposed Liberty Quarry Project as presented in County Counsel Report for May 15, 2012, Public Hearing, Agenda No. 14.1.

Dear Chairman Tavaglione and Honorable Supervisors:

The City of Temecula has strongly opposed the Liberty Quarry project in order to protect the health, safety, and well-being of the City's residents, visitors, and businesses. The City was pleased that the Board of Supervisors likewise recognized the serious flaws in the project and voted, on February 16, 2012, to deny the project.

We have concerns, however, about the proposed denial findings as currently drafted that are presented in the Staff Report dated May 15, 2012. In particular, we strongly object that they propose to certify a seriously deficient environmental impact report; disregard substantial expert and public testimony in opposition to the project; and suggest that the project has undisputed benefits. Specifically:

- 1. We urge you not to certify a flawed EIR.** Extensive expert testimony repeatedly demonstrated that the Liberty Quarry EIR fails to comply with CEQA for multiple reasons, including the lack of full disclosure and mitigation of environmental impacts. Rather than rehashing EIR issues, the Board should find, in accordance with CEQA, that a project denial is exempt from CEQA review (Public Resources Code Section 21080(b)(5)). It is not necessary for the Board to wade back into the obviously contested merits of the EIR when there is no legal reason to do so. Rather, certification of the EIR

Chairman John Tavaglione and
Riverside County Board of Supervisors
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exposes the County to needless CEQA legal challenges and we urge you to specifically make use of this statutory CEQA exemption and take no action that would certify the flawed Liberty Quarry EIR.

2. **We urge you to delete the "Project Benefits" section.** The City and other project opponents obviously strongly disagree with the alleged "project benefits," and presented substantial testimony demonstrating that many of these "benefits" are overstated or simply will not occur. There is no reason to include these benefits. We respectfully request that the "Project Benefits" list be removed entirely as they are disputed and irrelevant.

3. **We urge you to strengthen the list of reasons supporting denial of the project.** The reasons listed under "Project Denial" do not fully reflect the Board's careful and considerate deliberations, or the substantial expert and public testimony in opposition to the project and its adverse impacts. To this end, the Temecula City Attorney has included a list of additional supporting reasons to include in the Denial Findings that we ask you to include them prior to adopting the Denial Findings.

The Board spoke and made its decision to deny the project. We encourage the Board to ensure that the Denial Findings fully and accurately reflect that decision.

Thank you for your courtesy and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuck Washington". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Chuck Washington
Mayor

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City of Temecula's Proposed Alternate Board of Supervisor's Motion to Approve Findings Denying Liberty Quarry Project May 15, 2012

Motion to approve the proposed Findings to deny the Liberty Quarry Project as proposed by Staff with the following modifications:

1. Delete Section B.2. regarding CEQA and replace it with "The denial of the Project is exempt from CEQA pursuant to Public Resources Code Section 2180(b)(5) and other applicable law."
2. Delete Section B.3 regarding CEQA and replace it with: "Section 7b of Ordinance No. 847 provides that an application for a noise exception shall not be granted if the Project's activities would be detrimental to the health, safety or general welfare of the community."
3. Delete Section D, regarding Project Benefits
4. Add Sections E.1.e. through concerning the surface mining application to read as follows:

E.1.e. The adverse effects of surface mining operations will not be prevented or minimized. (See Ordinance No. 555, Section 1. b.)

E.1.f. The production of minerals at the project site is inappropriate when giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment, and the residual hazards to the public health and safety, the impacts of which would not be eliminated. (See Ordinance No. 555, Section 1. c.)

E.1.g. The public's health, safety, and general welfare are not protected through Project design. (See Ordinance No. 555, Section 7. b., and Ordinance No. 847, Section 7. b.)

E.1.h. The proposed Project is not conditionally compatible with the present and future logical development of the area. (See Ordinance No. 555, Section 6. g.)

5. Amend Sections E.2 through E.5 to read as follows:

E.2. In light of the conclusions concerning direct and cumulative air quality impacts identified in the EIR and expert testimony presented to the Board, the Project would result in unavoidable adverse air quality impacts.

E.3. In light of the conclusions concerning direct and cumulative wildlife movement impacts identified in the EIR and expert testimony presented to the Board, the Project would result in unavoidable adverse biological impacts.

E.4. In light of the conclusions concerning direct and cumulative traffic impacts identified in the EIR and expert testimony presented to the Board, the Project would result in unavoidable adverse biological impacts.

E.5. In light of the conclusions concerning cumulative water supply impacts identified in the EIR and expert testimony presented to the Board, the Project would result in unavoidable adverse utility and service system impacts.

5. Renumber E.6., denial of Project, to E.8. and add new Sections E.6, E.7. and E.8. to read as follows:

E.6. In light of the information and conclusions concerning tribal cultural resources identified in the expert testimony and public testimony presented to the Board, the Project would result in unavoidable adverse impacts on tribal cultural resources.

E.7 In light of the information and conclusions concerning the impacts on the Santa Margarita Ecological Reserve identified in the expert testimony and public testimony presented to the Board, the Project would result in unavoidable adverse impacts on the Santa Margarita Ecological Reserve.

E.8. The activities described in the Project's noise ordinance exception application would be detrimental to the health, safety or general welfare of the community, based on the proposed duration of the activities and their location in relation to sensitive receptors. (See Ordinance No. 847, Section 7 b.).



City of Temecula

41000 Main Street ■ Temecula, CA 92590 ■ Mailing Address: P.O. Box 9033 ■ Temecula, CA 92589-9033
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May 14, 2012

The Honorable John F. Tavaglione, Chairman
County of Riverside Board of Supervisors
County of Riverside Administrative Center
4080 Lemon Street, 5th Floor
Riverside, CA 92501

Re: CONCERN Regarding Denial Findings for the proposed Liberty Quarry Project as presented in County Counsel Report for May 15, 2012, Public Hearing, Agenda No. 14.1.

Dear Chairman Tavaglione and Honorable Supervisors:

The City of Temecula has strongly opposed the Liberty Quarry project in order to protect the health, safety, and well-being of the City's residents, visitors, and businesses. The City was pleased that the Board of Supervisors likewise recognized the serious flaws in the project and voted, on February 16, 2012, to deny the project.

We have concerns, however, about the proposed denial findings as currently drafted that are presented in the Staff Report dated May 15, 2012. In particular, we strongly object that they propose to certify a seriously deficient environmental impact report; disregard substantial expert and public testimony in opposition to the project; and suggest that the project has undisputed benefits. Specifically:

- 1. We urge you not to certify a flawed EIR.** Extensive expert testimony repeatedly demonstrated that the Liberty Quarry EIR fails to comply with CEQA for multiple reasons, including the lack of full disclosure and mitigation of environmental impacts. Rather than rehashing EIR issues, the Board should find, in accordance with CEQA, that a project denial is exempt from CEQA review (Public Resources Code Section 21080(b)(5)). It is not necessary for the Board to wade back into the obviously contested merits of the EIR when there is no legal reason to do so. Rather, certification of the EIR

Chairman John Tavaglione and
Riverside County Board of Supervisors
May 14, 2012
Page 2

exposes the County to needless CEQA legal challenges and we urge you to specifically make use of this statutory CEQA exemption and take no action that would certify the flawed Liberty Quarry EIR.

2. **We urge you to delete the "Project Benefits" section.** The City and other project opponents obviously strongly disagree with the alleged "project benefits," and presented substantial testimony demonstrating that many of these "benefits" are overstated or simply will not occur. There is no reason to include these benefits. We respectfully request that the "Project Benefits" list be removed entirely as they are disputed and irrelevant.

3. **We urge you to strengthen the list of reasons supporting denial of the project.** The reasons listed under "Project Denial" do not fully reflect the Board's careful and considerate deliberations, or the substantial expert and public testimony in opposition to the project and its adverse impacts. To this end, the Temecula City Attorney has included a list of additional supporting reasons to include in the Denial Findings that we ask you to include them prior to adopting the Denial Findings.

The Board spoke and made its decision to deny the project. We encourage the Board to ensure that the Denial Findings fully and accurately reflect that decision.

Thank you for your courtesy and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuck Washington". The signature is fluid and cursive, with a large initial "C" and "W".

Chuck Washington
Mayor

COURTNEY ANN COYLE
ATTORNEY AT LAW

HELD-PALMER HOUSE
1609 SOLEDAD AVENUE
LA JOLLA, CA USA 92037-3817

TELEPHONE: 858-454-8687

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John F. Tavaglione, Chairman
County of Riverside Board of Supervisors
County of Riverside Administrative Center
4080 Lemon Street, 5th Floor
Riverside, CA 92501

May 14, 2012

**Re: CONCERN Regarding Denial Findings for the proposed Liberty Quarry Project as presented in
County Counsel Report for May 15, 2012, Public Hearing, Agenda No. 14.1.**

Chairman Tavaglione and Honorable Supervisors:

This letter is submitted on behalf of the Pechanga Band of Luiseño Indians. As you know, Pechanga strongly opposes the proposed Liberty Quarry Project for several reasons particularly that it would irreparably destroy and desecrate the Luiseño Ancestral Origin Landscape, a sacred place. That the Board denied the project at its February 16, 2012, hearing, was very meaningful to us. We have eagerly awaited the Board's adoption of the denial findings for the project. The draft findings were made available to us and the public on May 10, 2012.

Pechanga has several serious concerns about the draft Denial Findings as proposed, and respectfully requests the Board: 1) Deny the applicant's appeal; 2) Find the denial of the project is exempt from CEQA; 3) Take no action to certify the EIR; and 4) Strengthen the findings for project denial.

Denial of Project is Exempt from CEQA

Pechanga does not understand why section B of the Findings (Applicable Statutes, Regulations and Ordinances) does not reference the exemptions from CEQA for denied projects found in California Public Resources Code section 21080(b)(5) (Projects Which a Public Agency Rejects or Disapproves) and CEQA Guidelines section 15042 (Authority to Disapprove Projects) and section 15270 (Projects Which are Disapproved). (See, attached code sections). See also, *Las Lomas Land Co., LLC v. City of Los Angeles*,



(2009) 177 Cal.App.4th 837 (if an agency at any time decides not to proceed with a project, CEQA is inapplicable from that time forward).

A CEQA document therefore should not be certified for a denied project; there is no need to take action on the Liberty Quarry environmental document and no need to potentially reopen the merits of the controversy. In fact, this legal authority was made part of your Planning Commission's findings to deny the project, approved as to form by your County Counsel last year. (See, attached Planning Department Staff Report (page 2) and adopted Planning Commission Denial Findings (page 34)). Pechanga is concerned that this authority is not even mentioned in County Counsel's report or its draft Denial Findings.

No Action Should be Taken to Certify the FEIR

Pechanga, along with many others, has made clear in the administrative record the many serious deficiencies in the Final Environmental Impact Report (FEIR). Many of these concerns were acknowledged on the record by the Board during its deliberations. We believe it would be a grave mistake for the Board to adopt any findings to certify the environmental document. Such action would invite, and possibly necessitate, judicial review by project opponents including Pechanga, as Granite, or some other applicant, could try and come forward later with a modified project supported by the certified, yet deficient, EIR.

Further, having reviewed the transcript for the Board's deliberations, we cannot find support for the statement in the proposed Denial Findings that, "the basis for the tentative denial was not the inadequacy of [the FEIR]." To the contrary, the Board hearing transcripts are full of questions from Board members regarding the severity of the proposed project's impacts and the insufficiency of the FEIR and environmental analysis for the project, including in the areas of: aggregate supply, reclamation, alternatives, traffic, cultural, air, geological, hydrological, biological resources and noise. (See attached, Board Deliberation Transcript, February 16, 2012). Further, no motion was made by the Board regarding the adequacy of the FEIR.

Denial Findings Should be Strengthened

Reference Unacceptable Impacts to Tribal Cultural Resources

The deficient FEIR concluded that there were no significant impacts to tribal cultural resources, among other concerns. The FEIR, as well as the proposed Denial Findings before you, ignore the substantial evidence submitted verbally and in writing by Pechanga and its consultants regarding the severe and irreparable impacts that this project, or a modified project, would have to Pechanga and other Luiseño Peoples. By letter dated February 2, 2012, Pechanga provided to each Board Member two volumes of material presented by the Tribe in support of its concerns. This material cannot be ignored as would occur if the FEIR were certified. The Tribe could not let that unsupported (and unsupported) conclusion stand. Pechanga respectfully requests that the Board's Denial Findings reference the project's unacceptable impacts to tribal cultural resources.



Delete or Revise Project Description and Project Benefits

Pechanga is also uncomfortable with several of the items in the draft Denial Findings section A (Project Description and Procedural History) and section D (Project Benefits), as drafted, just as your Planning Commission was uncomfortable making similar findings, including regarding the specific number of jobs or dollars the project could bring, etc. We submit that the Board should take the same approach, exercise its independent judgment, and not adopt the statement of public benefit as presented in the draft Denial Findings.

Affirm the Findings of the Planning Commission and Cite to the Substantial Evidence Submitted by the Tribe and others During Public Testimony to the Board.

The Board could affirm the Denial Findings from its Planning Commission, attached here for your convenience along with Pechanga's submitted written comments on them, and along with having taken into account all the evidence received by the Board in its many hearings on the project. If this approach is taken, Pechanga respectfully requests that the Tribe's suggested revisions to the Planning Commission Findings be adopted by the Board.

As you know, substantial evidence includes facts, reasonable assumptions based on facts, and expert opinion supported by facts and public testimony and letters setting forth relevant personal observation. Lay observations have been treated by the courts as substantial evidence for issues such as traffic congestion and safety, noise, land use compatibility, construction impacts, wildlife impacts and in some cases for aesthetic impacts.

Conclusion

In sum, there is an easier solution for the Board, and that is to follow the structure the Planning Commission used to deny the project. Pechanga again requests the Board: 1) Deny the applicant's appeal; 2) Make a finding regarding the CEQA exemption for denied projects; 3) Take no action to certify FEIR No. 475; and 4) Strengthen the findings that the Board is unable to make the required findings for the requested Change of Zone No. 7508, Noise Ordinance Exception No. 2, Surface Mining Permit No. 213 and Reclamation Plan.



Pechanga is ready for the final decision to be made to deny the proposed project. We hope that our comments and concerns are important and helpful to you. Please contact me at 858-454-8687 or John Macarro, Pechanga General Counsel, at 951-676-2768 , should you have questions prior to the hearing tomorrow.

Thank you for your courtesy and consideration.

Very truly yours,

A handwritten signature in black ink that reads "Courtney Ann Coyle" followed by a stylized flourish.

Courtney Ann Coyle
Attorney at Law

Attachs:

CCs:

Kecia Harper-Ihem, Clerk of the Board
Pamela Walls, County Counsel
Karin Watts-Bazan, Office of County Counsel
John Macarro, Pechanga, Office of the General Counsel
Louise Burke, Pechanga, Tribal Council Secretary



ATTACHMENT LIST

1	California Public Resources Code section 21080(b)(5) - Division Application To Discretionary Projects; Nonapplication; Negative Declarations; Environmental Impact Report Preparation
2	California Environmental Quality Act (CEQA) Guidelines section 15042 - Authority to Disapprove Projects
3	California Environmental Quality Act (CEQA) Guidelines section 15270 - Projects Which are Disapproved
4	Riverside County Planning Commission - Staff Report dated December 8, 2011
5	Riverside County Planning Commission - Denial Findings Liberty Quarry Project
6	Transcript from February 16, 2012, Riverside County Board of Supervisors Liberty Quarry Hearing
7	Pechanga Comment Letter dated December 6, 2011, re Planning Commission Candidate Findings for Denial of Liberty Quarry, December 7, 2011, Agenda Item 1.1

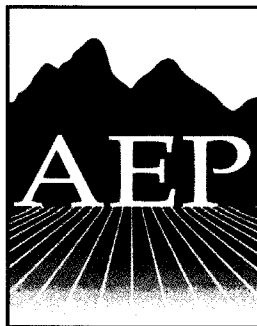


ATTACHMENT 1



2012
**California Environmental Quality Act
(CEQA)
Statute and Guidelines**

This book is an unofficial copy of CEQA (Public Resources Code 21000–21177) and the CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000–15387) available from <http://leginfo.ca.gov> as of January 1, 2012. While AEP has made every effort to see that this book is accurate, and that no changes have been made to the content of these state documents as a result of reformatting and reprinting, readers should reference official state versions to verify accuracy. Readers should also be aware that some changes in statutes, guidelines, or case law may have gone into effect since the date of publication. This book does not attempt to offer legal advice and readers should consult their own attorney.



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AEP recognizes ICF International (formerly ICF Jones & Stokes) for its contribution to the content and editing of this book, including summaries of key CEQA court cases and recent legislation.

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- (b) An unincorporated area that satisfies the criteria in both paragraph (1) and (2) of the following criteria:
- (1) Is either of the following:
 - (A) Completely surrounded by one or more incorporated cities, and both of the following criteria are met:
 - (i) The population of the unincorporated area and the population of the surrounding incorporated city or cities equals not less than 100,000 persons.
 - (ii) The population density of the unincorporated area at least equals the population density of the surrounding city or cities.
 - (B) Located within an urban growth boundary and has an existing residential population of at least 5,000 persons per square mile. For purposes of this subparagraph, an "urban growth boundary" means a provision of a locally adopted general plan that allows urban uses on one side of the boundary and prohibits urban uses on the other side.
 - (2) The board of supervisors with jurisdiction over the unincorporated area has previously taken both of the following actions:
 - (A) Issued a finding that the general plan, zoning ordinance, and related policies and programs applicable to the unincorporated area are consistent with principles that encourage compact development in a manner that does both of the following:
 - (i) Promotes efficient transportation systems, economic growth, affordable housing, energy efficiency, and an appropriate balance of jobs and housing.
 - (ii) Protects the environment, open space, and agricultural areas.
 - (B) Submitted a draft finding to the Office of Planning and Research at least 30 days prior to issuing a final finding, and allowed the office 30 days to submit comments on the draft findings to the board of supervisors.

§ 21072. QUALIFIED URBAN USE; DEFINITION

"Qualified urban use" means any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

Chapter 2.6: General

§ 21080. DIVISION APPLICATION TO DISCRETIONARY PROJECTS; NONAPPLICATION; NEGATIVE DECLARATIONS; ENVIRONMENTAL IMPACT REPORT PREPARATION

- (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from this division.
- (b) This division does not apply to any of the following activities:
 - (1) Ministerial projects proposed to be carried out or approved by public agencies.
 - (2) Emergency repairs to public service facilities necessary to maintain service.
 - (3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.



- (4) Specific actions necessary to prevent or mitigate an emergency.
- ~~(5) Projects which a public agency rejects or disapproves.~~
- (6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report, negative declaration, or other document, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located if the environmental impact report, negative declaration, or document includes the environmental impact, if any, of the action described in this paragraph.
- (7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games.
- (8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of (A) meeting operating expenses, including employee wage rates and fringe benefits, (B) purchasing or leasing supplies, equipment, or materials, (C) meeting financial reserve needs and requirements, (D) obtaining funds for capital projects necessary to maintain service within existing service areas, or (E) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.
- (9) All classes of projects designated pursuant to Section 21084.
- (10) A project for the institution or increase of passenger or commuter services on rail or highway rights-of-way already in use, including modernization of existing stations and parking facilities.
- (11) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.
- (12) Facility extensions not to exceed four miles in length which are required for the transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.
- (13) A project for the development of a regional transportation improvement program, the state transportation improvement program, or a congestion management program prepared pursuant to Section 65089 of the Government Code.
- (14) Any project or portion thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in this state are subject to this division.
- (15) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect on the environment in the plan or other written documentation required by Section 21080.5 is subject to this division.

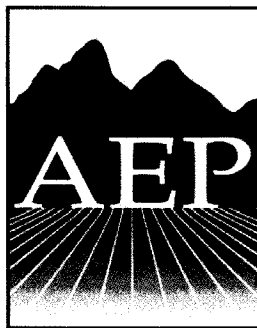


ATTACHMENT 2



2012
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Title 14. California Code of Regulations

Chapter 3: Guidelines for Implementation of the California Environmental Quality Act

There were no additions or amendments to the CEQA Guidelines in 2011. On March 18, 2010, Amendments to the CEQA Guidelines for greenhouse gas emissions became effective. These were the most recent revisions to the CEQA Guidelines. Please note that the CEQA Guidelines are subject to change throughout the year.

Note: The numbered sections have been adopted by the Secretary of Resources as part of the California Code of Regulations.

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Article 1. General

SECTIONS 15000 TO 15007

15000. AUTHORITY

The regulations contained in this chapter are prescribed by the Secretary for Resources to be followed by all state and local agencies in California in the implementation of the California Environmental Quality Act. These Guidelines have been developed by the Office of Planning and Research for adoption by the Secretary for Resources in accordance with Section 21083. Additional information may be obtained by writing:

Secretary for Resources
1416 Ninth Street, Room 1311
Sacramento, CA 95814

These Guidelines are binding on all public agencies in California.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21082 and 21083, Public Resources Code; *City of Santa Ana v. City of Garden Grove*, (1979) 100 Cal. App. 3d 521.

15001. SHORT TITLE

These Guidelines may be cited as the "State CEQA Guidelines." Existing references to the "State EIR Guidelines" shall be construed to be references to the State CEQA Guidelines.

Note: Authority cited: Sections 21083, Public Resources Code; Reference: Section 21083, Public Resources Code.



another feasible, specific mitigation measure or alternative that would provide a comparable lessening of the significant effect.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002, 21002.1, and 21159.26, Public Resources Code; *Golden Gate Bridge, etc., District v. Muzzi*, 83 Cal. App. 3d 707.

15042. AUTHORITY TO DISAPPROVE PROJECTS

A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed. A Lead Agency has broader authority to disapprove a project than does a Responsible Agency. A Responsible Agency may refuse to approve a project in order to avoid direct or indirect environmental effects of that part of the project which the Responsible Agency would be called on to carry out or approve. For example, an air quality management district acting as a Responsible Agency would not have authority to disapprove a project for water pollution effects that were unrelated to the air quality aspects of the project regulated by the district.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002 and 21002.1, Public Resources Code; *Friends of Mammoth v. Mono County*, 8 Cal. App. 3d 247; *San Diego Trust and Savings Bank v. Friends of Gill*, 121 Cal. App. 3d 203.

15043. AUTHORITY TO APPROVE PROJECTS DESPITE SIGNIFICANT EFFECTS

A public agency may approve a project even though the project would cause a significant effect on the environment if the agency makes a fully informed and publicly disclosed decision that:

- (a) There is no feasible way to lessen or avoid the significant effect (see Section 15091); and
- (b) Specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project. (See: Section 15093.)

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002 and 21002.1, Public Resources Code; *San Francisco Ecology Center v. City and County of San Francisco*, (1975) 48 Cal. App. 3d 584; *San Diego Trust & Savings Bank v. Friends of Gill*, (1981) 121 Cal. App. 3d 203.

15044. AUTHORITY TO COMMENT

Any person or entity other than a Responsible Agency may submit comments to a Lead Agency concerning any environmental effects of a project being considered by the Lead Agency.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21000, 21001, 21002.1, 21104, and 21153, Public Resources Code.

15045. FEES

- (a) For a project to be carried out by any person or entity other than the lead agency, the lead agency may charge and collect a reasonable fee from the person or entity proposing the project in order to recover the estimated costs incurred in preparing environmental documents and for procedures necessary to comply with CEQA on the project. Litigation expenses, costs and fees incurred in actions alleging noncompliance with CEQA are not recoverable under this section.
- (b) Public agencies may charge and collect a reasonable fee from members of the public for a copy of an environmental document not to exceed the actual cost of reproducing a copy.

Note: Authority: Section 21083, Public Resources Code. Reference: Section 21089 and 21105, Public Resources Code.

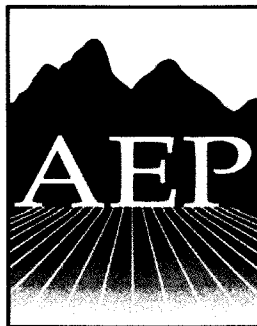


ATTACHMENT 3



2012
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(CEQA)
Statute and Guidelines**

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Article 1. General

SECTIONS 15000 TO 15007

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15001. SHORT TITLE

These Guidelines may be cited as the "State CEQA Guidelines." Existing references to the "State EIR Guidelines" shall be construed to be references to the State CEQA Guidelines.

Note: Authority cited: Sections 21083, Public Resources Code; Reference: Section 21083, Public Resources Code.



- (b) In the absence of any discretionary provision contained in the local ordinance or other law establishing the requirements for the permit, license, or other entitlement for use, the following actions shall be presumed to be ministerial:
 - (1) Issuance of building permits.
 - (2) Issuance of business licenses.
 - (3) Approval of final subdivision maps.
 - (4) Approval of individual utility service connections and disconnections.
- (c) Each public agency should, in its implementing regulations or ordinances, provide an identification or itemization of its projects and actions which are deemed ministerial under the applicable laws and ordinances.
- (d) Where a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(1), Public Resources Code; *Day v. City of Glendale*, 51 Cal. App. 3d 817.

15269. EMERGENCY PROJECTS

The following emergency projects are exempt from the requirements of CEQA.

- (a) Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code. This includes projects that will remove, destroy, or significantly alter an historical resource when that resource represents an imminent threat to the public of bodily harm or of damage to adjacent property or when the project has received a determination by the State Office of Historic Preservation pursuant to Section 5028(b) of Public Resources Code.
- (b) Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety or welfare.
- (c) Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.
- (d) Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This exemption does not apply to highways designated as official state scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.
- (e) Seismic work on highways and bridges pursuant to Section 180.2 of the Streets and Highways Code, Section 180 et seq.

Note: Authority: Section 21083, Public Resources Code; Reference: Sections 21080(b)(2), (3), and (4), 21080.33 and 21172, Public Resources Code; *Castaic Lake Water Agency v. City of Santa Clarita* (1995) 41 Cal.App.4th 1257; and *Western Municipal Water District of Riverside County v. Superior Court of San Bernardino County* (1987) 187 Cal.App.3d 1104.

15270. PROJECTS WHICH ARE DISAPPROVED

- (a) CEQA does not apply to projects which a public agency rejects or disapproves.



- (d) ~~This section is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved.~~
- (e) ~~This section shall not relieve an applicant from paying the costs for an EIR or Negative Declaration prepared for his project prior to the Lead Agency's disapproval of the project after normal evaluation and processing.~~

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(5), Public Resources Code.

15271. EARLY ACTIVITIES RELATED TO THERMAL POWER PLANTS

- (a) CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for such a thermal power plant, if the thermal power plant site and related facility will be the subject of an EIR or Negative Declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 21080.5, which will be prepared by:
 - (1) The State Energy Resources Conservation and Development Commission,
 - (2) The Public Utilities Commission, or
 - (3) The city or county in which the power plant and related facility would be located.
- (b) The EIR, Negative Declaration, or other document prepared for the thermal power plant site or facility, shall include the environmental impact, if any, of the early activities described in this section.
- (c) This section acts to delay the timing of CEQA compliance from the early activities of a utility to the time when a regulatory agency is requested to approve the thermal power plant and shifts the responsibility for preparing the document to the regulatory agency.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 15080(b)(6), Public Resources Code.

15272. OLYMPIC GAMES

CEQA does not apply to activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, Olympic Games under the authority of the International Olympic Committee, except for the construction of facilities necessary for such Olympic Games. If the facilities are required by the International Olympic Committee as a condition of being awarded the Olympic Games, the Lead Agency need not discuss the "no project" alternative in an EIR with respect to those facilities.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(7), Public Resources Code.

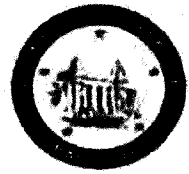
15273. RATES, TOLLS, FARES, AND CHARGES

- (a) CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of:
 - (1) Meeting operating expenses, including employee wage rates and fringe benefits,
 - (2) Purchasing or leasing supplies, equipment, or materials,
 - (3) Meeting financial reserve needs and requirements,
 - (4) Obtaining funds for capital projects, necessary to maintain service within existing service areas, or



ATTACHMENT 4





**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FROM: TLMA - Planning Department

SUBMITTAL DATE:
December 8, 2011

SUBJECT: SURFACE MINING PERMIT NO. 213 (Liberty Quarry), CHANGE OF ZONE NO. 7508 and NOISE ORDINANCE EXCEPTION NO. 2 – Applicant: Granite Construction Co. – First/Third Supervisorial Districts.

RECOMMENDED MOTION:

RECEIVE AND FILE the Notice of Decision for the above referenced case acted on by the Planning Commission on August 31, 2011 and December 7, 2011.

ON AUGUST 31, 2011 THE PLANNING COMMISSION:

DENIED CHANGE OF ZONE NO. 7508, amending the zoning classification for 110 acres of the subject property from Rural Residential (R-R) to Mineral Resources and Related Manufacturing (M-R-A) in accordance with Exhibit No. 3, subject to the adoption of the findings and conclusions; and,

DENIED NOISE ORDINANCE EXCEPTION NO. 2, pursuant to Section No. 7 of Ordinance No. 847, requesting exception to Section Nos. 4 and 6 subject to the adoption of the findings and conclusions; and,

DENIED SURFACE MINING PERMIT NO. 213, subject to the adoption of the findings and conclusions.

ON DECEMBER 7, 2011 THE PLANNING COMMISSION:

Carolyn Syme Luna

Carolyn Syme Luna
Planning Director

Initials:

REVIEWED BY EXECUTIVE OFFICE

DATE 12/22/11
The Grande
Departmental Concurrence

Dept's Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.

District: First/Third | Agenda Number:

1.3



The Honorable Board of Supervisors
Re: Change of Zone No. 7508, Noise Ordinance Exception No. 2, and
Surface Mining Permit No. 213
Page 2 of 2

ADOPTED the findings and conclusions for **DENIAL** of the Project.

BACKGROUND:

Granite Construction Company (Applicant), submitted an application for a surface mining permit to construct and operate an aggregate quarry on a 414 acre site in Southwest Riverside County, as well as a change of zone request. At the time the Planning Department considered the applications, the subject property was located in the First Supervisorial District. Due to recent redistricting efforts, the subject property has been identified as being in the Third Supervisorial District.

The Project, as analyzed in the EIR, was subject to the following discretionary actions:

- Surface Mining Permit No. 213, and,
- Change of Zone No. 7508 from Rural Residential (R-R) to Mineral Resources and Related Manufacturing (M-R-A) on 14 parcels consisting of 110 acres near the center of the site, and,
- Noise Ordinance Exception No. 2 which requested an exception from the County noise requirements set forth in Ordinance No. 847.

The Planning Department presented the Project at the April 26, 2011 Planning Commission Hearing and recommended approval of a reduced quarry footprint alternative as presented in the Project EIR. Over the course of six meetings, the Planning Commission listened to in excess of fifty hours of public testimony culminating in denial of the Project.

[REDACTED]



ATTACHMENT 5



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PLANNING COMMISSION
COUNTY OF RIVERSIDE

IN THE MATTER OF CHANGE OF ZONE NO. 7508, SURFACE MINING PERMIT NO. 213, AND
NOISE ORDINANCE EXCEPTION NO. 2
DENIAL FINDINGS AND CONCLUSIONS

The County of Riverside Planning Commission (the "Commission") heard the above-referenced matters (the "Project") in regular and special sessions assembled on April 26, 2011, May 3, 2011, June 22, 2011, July 18, 2011, August 15, 2011, and August 31, 2011, after giving the required notice. The County of Riverside Planning Department (the "Planning Department") made a presentation before the Commission and recommended certification of the Environmental Impact Report (EIR) and recommended approval of the Project subject to the conditions of approval. Granite Construction (the "applicant") and the applicant's representatives gave oral testimony, as did members of the public. Following the presentation and oral testimony, the Commission tentatively denied the project and directed the Planning Department and Office of County Counsel to prepare the following findings. Surface Mining Permit No. 213, Change of Zone Case No. 7508, and Noise Ordinance Exception No. 2 constitute the Project (Project). The Commission has reviewed the findings and hereby denies the Project based thereon.

A. Factual and Procedural History

1. As proposed in the application, Surface Mining Permit No. 213 would, if approved, permit the construction and operation of a mine on 414 acres located in southwest Riverside County. The 414 acre site would include 155 acres to be used for the quarry and associated support operations, 9 acres would be used for the access road and lower utility pad, and the remaining 250 acres would serve as a buffer area intended for permanent conservation.
2. As proposed in the application, Change of Zone No. 7508 would, if approved, change the zone from Rural Residential (R-R) to Mineral Resources and Related Manufacturing (M-R-A) on 14 parcels consisting of 110 acres near the center of the site where the processing plant would be located, the application proposes no change to the rest of the site. The Change of Zone is not required for the Surface Mining Permit to be approved. It would make ancillary uses, contemplated under the mining permit, permitted without requiring a conditional use permit.
3. As proposed in the application, Noise Ordinance Exception No. 2 would, if approved, provide an exception from County Ordinance No. 847 to address the existing ambient noise levels resulting from noise levels related to the I-15 Interstate Highway.
4. The Project site is designated Rural: Rural Mountainous (R:RM) on the Southwest Area Plan which is part of the Riverside County General Plan.
5. The proposed use, surface mining and related activities, are conditionally permitted uses in the Rural: Rural Mountainous (R:RM) designation which specifically explains "limited recreational uses, compatible resource development (which may include the extraction of mineral resources with approval of a surface mining permit) and associated uses, and governmental uses are also allowed within this designation."
6. The Project site is surrounded by properties which have General Plan designations of Open Space (OS) by the City of Temecula to the north and west, Community Development: Light Industrial (CD:LI) to the east by the County of Riverside, and Multiple Rural Use by the County of San Diego to the south
7. The City of Temecula on November 10, 2010, annexed the surrounding property to the north and west of the Project site, which is also part of the Santa Margarita Ecological Reserve ("SMER").



- 1 8. The zoning for the Project site is Rural Residential (R-R).
- 2 9. The proposed use, surface mining and related activities, is a permitted use, per section 5.1a(15)
- 3 of Article V, of Ordinance No. 348, in the Rural Residential (R-R) zone.
- 4 10. A 2.5-acre portion of the Project site located in San Diego County is zoned as A-70. Surface
- 5 mining operations, and related facilities and activities are permitted in this zoning district,
- 6 subject to a San Diego County approved Major Grading Permit.
- 7 11. The Project site is surrounded by properties which are zoned Open Space-Conservation-Santa
- 8 Margarita (OS-C-SM) by the City of Temecula to the north and west, Rural Residential (R-R)
- 9 to the east by the County of Riverside, and A-70 by the County of San Diego to the south.
- 10 12. The Project is consistent with the Multi-Species Habitat Conservation Plan (MSHCP).
- 11 13. This Project is not located within a Criteria Area of the MSHCP.
- 12 14. The Project is located in a Special Linkage Area (SLA) of the MSHCP.
- 13 15. The Project site is located adjacent to the San Diego State University's SMER on the west and
- 14 north.
- 15 16. There are a number of residential subdivisions within one half mile of the Project site, such as
- 16 the community of Red Hawk, consisting of approximately 3,000 homes. Single family homes,
- 17 generally on lots over one half acre in size, are located to the south, north and east of the
- 18 Project site.
- 19 17. Five public hearings were held on the Project in Temecula, California, in order to be close to
- 20 the Project site and facilitate community input on the Project. In addition to the hearings, one
- 21 public meeting for Commissioners' deliberations was held in Riverside, California.
- 22 18. In total, the public hearings lasted approximately 51.5 hours
- 23 19. In addition to comments received on the Project's Environmental Impact Report No. 475
- 24 ("EIR"), the Planning Department received 55 letters in support of the project, 14 letters that
- 25 were neutral, and 77 letters in opposition.
- 26 20. The EIR evaluates four project alternatives, a no project alternative, a reduced quarry footprint
- 27 alternative, a reduced annual production alternative, and a Double Butte alternative location.
- 28 At the first public hearing, the Planning Department recommended approval of the reduced
- footprint alternative as presented in the Project's EIR which would reduce the mine site from
- 155 acres to 135 acres, eliminate a settling pond, which created a buffer to the south, create an
- additional 250 acres of conservation and create a 400 foot buffer to the north of the Project
- site.
21. On July 18, 2011, after taking testimony from all members of the public who submitted a
- speaker card, the Planning Commission closed the public hearing to further public testimony.
- The public hearing was left open for all other purposes.
22. Those not present at the hearing made their opposition known in other ways such as submitting
- email, letters, petitions, and aerial photos showing groups of people arranged to spell out anti
- quarry sentiments.
23. A petition with signatures of many residents of the Red Hawk Community was submitted to
- the Commission in opposition to the Project.
24. Project supporters also submitted letters and attended the public hearings; however, the
- majority of those in attendance at the hearings expressed opposition to the Project.
25. During the applicant's rebuttal, the Commission asked questions of the applicant, the
- applicant's representative, the Planning Department and members of the public. The applicant
- was given an opportunity to respond to the answers provided to these questions.
26. Many residents of nearby neighborhoods, users of the neighboring SMER, elected officials
- and representatives from the City of Temecula and the Pechanga Band of Luiseno Indians
- ("Pechanga") presented written and oral testimony at the hearings and expressed concerns



1 regarding impacts including air quality, traffic, noise, blasting, rock fall, biological resources,
2 cultural resources, and impacts to the Temecula Valley Wine Country.

3 27. The City of Temecula, which borders the Project to the north and west, approved a resolution
4 on March 8, 2011 opposing the Project.

5 28. Representatives of the San Diego State University opposed the Project citing several potential
6 impacts to the SMER, which is an open space research area that borders the Project to the
7 north and west.

8 29. The EIR studied the Project's potential environmental impacts. The EIR is divided by areas of
9 environmental study such as geological impacts, cultural impacts, air quality impacts, etc.
10 The EIR concluded that there are six (6) categories (12 specific impacts) that remained
11 significant, even after mitigation was analyzed. These six (6) significant and unavoidable
12 impacts are direct impacts to both Air Quality and Traffic as well as Cumulative impacts to
13 Air, Biological Resources, Traffic, and Utilities (water).

14 B. Applicable Statutes, Regulations and Ordinances

15 1. Section 15093(a) of the California Environmental Quality Act ("CEQA") Guidelines
16 requires the decision making agency to balance, as applicable, the economic, legal, social,
17 technological, or other benefits, of the project against its unavoidable environmental risks
18 when determining whether to approve the project. If the benefits outweigh the unavoidable
19 adverse environmental effects, the adverse environmental effects may be considered
20 acceptable.

21 2. Public Resources Code Section 21082.2(e) provides that "statements in an environmental
22 impact report and comments with respect to an environmental impact report shall not be
23 deemed determinative of whether the project may have a significant effect on the
24 environment."

25 3. Additionally, CEQA Guidelines Section 15002(h)(5) provides, in pertinent part, when an
26 [environmental impact report] shows that a project could cause substantial adverse changes
27 in the environment, the governmental agency must respond to the information by one of
28 several listed methods, including disapproving the project.

1 According to Section 7(b) of Riverside County Ordinance No. 555, an application for a
2 permit shall not be granted unless that permit is expressly subject to such conditions as are
3 necessary to protect the health, safety or general welfare of the community.

4 C. Project Benefits as determined by the Planning Commission

5 1. The Project would mine a significant economic mineral resource, provide a portion of the
6 local and some of the regional demand for aggregate for Western Riverside County.

7 2. The Project would also create employment opportunities.

8 3. Additionally, the Project site is not as visible to large population areas as alternative
9 locations as presented in the EIR.

10 4. The Project would produce new sales tax revenue and new property taxes and fees for the
11 County of Riverside over the life of the Project.

12 5. The Project would also produce tax revenue for the State of California.



1 D. Environmental Impacts

2 I. Air Quality

3 a. EIR Information

4 Air Quality EIR Background

5 Potential air quality impacts generally occur when the emissions of a project result in a
6 violation of an air quality standard, conflict with an applicable air quality plan, expose
7 sensitive receptors to significant levels of toxic air contaminants, or allow regional
8 exposure to significant levels of sulfate and nitrate deposition.

9 Section 3.2 of the EIR summarized project specific research contained mainly in the
10 Project's Air Quality Impact Assessment (AQIA), which was conducted consistent
11 with the SCAQMD Air Quality CEQA Handbook (SCAQMD, 1993). Criteria for
12 determining both the construction and operation impacts associated with air quality
13 have been developed in accordance with Appendix G of the CEQA Guidelines,
14 SCAQMD Air Quality Thresholds, and a set of thresholds established to determine
15 impacts to greenhouse gas emissions.

12 Design Features That Assist in Mitigation

13 The Project design for the operation of the quarry includes the following design
14 features, which were included in the air quality modeling and assessment. These
15 features assist in mitigating the air quality impacts and were considered by the
16 Commission.

- 16 • Installation of baghouse emission control on crushers and screens with the
17 potential for emissions. This reduces PM10 emissions by estimated 97.5 percent.
- 18 • Installation of baghouse emission controls on transfer points with the potential for
19 emissions that are associated with the screens and crushers. This reduces emissions
20 by estimated 97.5 percent.
- 21 • Pavement around the entire aggregate, asphalt, concrete, and electrical generation
22 plant sites. Only on-site haul roads will be unpaved, and those will be chemically
23 stabilized and/or routinely watered.
- 24 • Installation of an ultra-efficient material loading system to minimize the amount of
25 product delivery trucks idling time.
- 26 • Utilization of material load-out chutes to minimize the potential for dust
27 generation during product loading.
- 28 • Purchase and use of all new off-road equipment (such as off-road quarry haul
trucks, loaders, graders, etc.) that meet required, stringent emission controls.
- Installation of emission controls on drilling equipment to minimize dust
generation.
- Utilization of only natural gas fuels and installation of a 3-way oxidation catalyst
on the engines driving the on-site electrical generators.
- Implementation of a "blue smoke" program and other nationally accepted practices
that reduce the potential for odor from asphaltic concrete (conventional, recycled
asphalt products, and rubberized) production, including mixing the asphalt at as
low a temperature as feasible.



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- Establishment of a conservation easement over undeveloped land within the Project site at an effective ratio of 2 to 1 compared to impacted land, which will result in protecting habitat that would offset greenhouse gas emissions in perpetuity.

4 Conditions of Approval Considered During Hearings That Assist in Mitigation

5 In addition, during the public hearings additional conditions of approval were
6 proposed by County staff. One required all on-road heavy duty diesel trucks serving
7 the facility to comply with EPA2007 on-road emission standards for PM-10 and NOx
8 (0.01g/bhp-hr and at least 1.2 g/bhp-hr respectively). Annual reports would assure
9 compliance. The second required solar panels over parking areas and on all office
10 rooftops.

11 Mitigation Measures

12 In addition to the design features listed above, numerous mitigation measures were
13 applied to the Project to further reduce impacts, a full list of mitigation is provided in
14 Table ES-1 of the FEIR.

15 Significant and Unavoidable Air Quality Impacts

16 Even after the design features and mitigation measures were taken into account, the
17 EIR determined that the Project would have the following significant and unavoidable
18 impacts to Air Quality in two categories:

19 • Direct Air Impacts:

- 20
- Impact AQ-2 from the EIR analyzed if, "*construction-related air emissions from the Proposed Project could result in construction-related emissions that exceed any of the South Coast Air Quality Management District (SCAQMD) thresholds of significance in [DEIR] Table 3.2-8 (SCAQMD Thresholds for Construction Emissions).*" The EIR identified that the impacts would be significant but temporary, approximately 2 years. According to EIR Table 3.2-15, particulate matter less than 10 microns in size (PM10) and Sulfur Dioxide (SO2) emissions would be below the South Coast Air Quality Management District (SCAQMD) thresholds. However, emissions of Nitrogen Oxides (NOx), Organic Gases (ROG), Carbon Monoxide (CO), and particulate matter less than 2.5 microns in size (PM2.5) would exceed SCAQMD daily emission thresholds for construction and would be considered a potentially significant impact. These impacts are related to construction only and would, therefore, be temporary in nature.
 - Impact AQ-3 from the EIR analyzed if, "*operational emissions from the Proposed Project could exceed any of the SCAQMD thresholds of significance in [DEIR] Table 3.2-10 (SCAQMD Thresholds for Operational Emissions).*" According to EIR Table 3.2-20, after mitigation, the emissions of ROG, PM10, and PM2.5 are expected to be reduced to less than their SCAQMD CEQA operation emission significance thresholds. However, NOx and CO emissions are expected to remain above their SCAQMD CEQA operation significance thresholds and would be considered a potentially significant impact.



- 1 ○ Impact AQ-5 from the EIR analyzed if, "construction from the Proposed
2 Project could result in off site ambient air pollutant concentrations that
3 exceed the SCAQMD thresholds of significance in [DEIR] Table 3.2-9
4 (SCAQMD Thresholds for Ambient Air Quality Concentrations Associated
5 with Proposed Project Construction)." Construction impacts are short term
6 (approximately 2 years), and there are no residential or worker receptors
7 (i.e., no human exposure) at the point of maximum impact, which is at the
8 Project boundary. According to EIR Table 3.2-24, modeled air quality
9 concentrations for construction activities all remain below the SCAQMD
10 air quality impact thresholds, except the 24-hour and annual PM10
11 concentrations. Therefore, the EIR determined that off-site air pollutant
12 concentrations due to Project construction would be significant for PM10.
13 These impacts are related to construction only and would, therefore, be
14 temporary in nature.
- Impact AQ-6 from the EIR analyzed if, "Proposed Project operations
could result in off site ambient air pollutant concentrations that exceed a
SCAQMD threshold of significance in [DEIR] Table 3.2-11 (SCAQMD
Thresholds for Ambient Air Quality Concentrations Associated with
Proposed Project Operations)." According to EIR Table 3.2-25, the off
site ambient concentration impacts associated with the Projects operation
would be less than significant for NO2, SO2, CO, and annual PM2.5.
However, the EIR concludes that the maximum off-site ambient pollutant
concentrations of 24-hour PM10, annual PM10, and 24-hour PM2.5
associated with operations would be significant as compared to the
SCAQMD incremental thresholds.

- Cumulative Air Impacts:

- Impact AQ-8 from the EIR analyzed if, "the Proposed Project could result
in GHG [greenhouse gas] emissions that would hinder or delay the state's
ability to meet the reduction targets contained in [Assembly Bill] AB 32."
The Project is still anticipated to generate approximately 80,000 (30,000
with truck displacement) tons per year of CO2e even with mitigation
applied. Additionally, Section 5.4.2 of the EIR analyzes cumulative effects
and explains that although there are regional benefits to air from the
Project, the analysis takes the most conservative approach and concludes
that any new source of pollution that contributes to a cumulative
exceedance of daily operational emissions thresholds or contributes to a
cumulative net increase GHG emissions is significant. Beyond the Project
level measures identified in Section 3.2 of the EIR, there are no additional
feasible mitigations available. As such, the Project's air quality impacts
related to criteria pollutants and GHG are cumulatively considerable,
significant and unavoidable. However, the EIR also concluded that even
though the environmental documents conservatively determine the impacts
to be significant and unavoidable, given the EIR analysis, it is unlikely that
the Project would hinder or delay the State's ability to meet the reduction
targets of AB 32.



1 • Impacts to Surrounding Communities

- 2 ○ *The SMER.* The EIR explained that PM10 and NO2 impacts are of primary
3 interest in evaluating air quality impacts on the SMER because the other pollutant
4 impacts are equally as small. The increases in these particulates were far less than
5 the most stringent annual federal and California ambient air quality standard
6 threshold for PM10 and NO2 and far under the SCAQMD annual threshold for a
7 project-related increase. Therefore, the EIR determined that the potential air
8 quality impacts at the SMER are less than significant.

9 The EIR also provides that the levels of sulfate and nitrate deposition are less
10 than levels associated with vegetative injury as discussed in Section 3.2.3 and
11 Table 3.2-31 of the EIR. Consequently, the EIR concluded that when considering
12 existing and future research projects that analyze deposition rates and effects on
13 soils and vegetation, the Project would result in a less than significant impact
14 from sulfate and nitrate deposition. Additionally, questionnaire responses
15 indicated that approximately ten research projects were related to air quality, four
16 of which were assessing nitrogen deposition impacts to vegetation that could be
17 affected by nitrate and dust deposition. According to the EIR, since deposition is
18 less than the thresholds, it is not expected that the incremental increases in nitrate
19 deposition would affect the ongoing vegetation research within the SMER.
20 Similarly for dust deposition, the anticipated deposition rate at the point of
21 maximum impact would be less than 10 percent of the minimum amount that has
22 been shown in published literature to have an adverse effect on vegetation.

23 The EIR also studied the cancer risk from exposure to hexavalent chromium,
24 diesel exhaust, and crystalline silica. Because the cancer risk is below the
25 SCAQMD threshold of 10 in a million, the EIR determined that the Project would
26 result in less than significant health risk impacts to researchers working near the
27 property boundary and on research projects that would be conducted within the
28 SMER.

The SMER also maintains a network of data acquisition sensors and towers
throughout the SMER. According to the EIR, the Project would not affect these
sensors and their ability to collect data. With implementation of recommended
mitigation measures, the EIR concluded that direct and indirect project specific
emissions would not significantly impact research projects within the SMER
related to air quality or to other biological resources affected by air emissions
deposition.

- *City of Temecula, Rainbow, De Luz and Fallbrook.* Regarding air quality
impacts to the City of Temecula and communities of Rainbow, De Luz and
Fallbrook, the EIR explained that PM10 and NO2 impacts are of primary interest
in evaluating air quality impacts on the SMER because the other pollutant
impacts are equally as small. The increases in these particulates were far less than
the most stringent annual federal and California ambient air quality standard
threshold for PM10 and NO2 and far under the SCAQMD annual threshold for a
project-related increase. Therefore, the EIR concluded that potential air quality
impacts to the surrounding cities and communities are less than significant.



1 The EIR studied the cancer risk from exposure to hexavalent chromium, diesel
2 exhaust, and crystalline silica. Because the cancer risk, as modeled at receptor
3 locations near the communities, were below the SCAQMD threshold of 10 in a
4 million, the EIR concluded that the Project would result in less than significant
5 health risk impacts to residences in the surrounding cities and communities.

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14 **b. Public Testimony**

- 15 ○ During the public hearings several experts testified in opposition with regard to
16 Air Quality Impacts. In particular, Paul Weir, Senior Engineer for Sage
17 Environmental Consulting.
- 18 ○ Mr. Weir explained that air quality emission factors, used by the EIR, are
19 specifically discouraged by the EPA for hard rock blast modeling. He also
20 explained that because the particulate levels for PM10 in the EIR were 98% of
21 the AQMD requirements, small changes to the emission factors could result in
22 important changes to the significance determination.
- 23 ○ Additionally, Mr. Weir indicated that higher emission factors contribute to higher
24 concentrations of toxic dust contaminants.
- 25 ○ Mr. Weir also commented that the Project site has lower moisture content than
26 the air quality model indicates.
- 27 ○ Several area doctors also testified that the Project would create detrimental health
28 impacts to the community.

a. Air Quality Calculations Made by the Planning Commission

1. Based on the public's testimony, the Planning Commission should advise the surrounding communities that while there would be small but less significant impacts in the short term, the level of impacts in the long-term represent a danger to the public's health and safety.
2. Additionally, the air quality impacts resulting from the Project would reduce the number of businesses and residents capable of living in and the overall economic conditions may prevent the spending time as an investment in their health.
3. Despite mitigation measures, the Project should also minimize conditions that result in additional hazardous environmental adverse impacts to air quality.
4. In light of the public's testimony, the Project would cause air quality impacts and result in unacceptable environmental risks that are not outweighed by the Project's benefits or short-term. Therefore, the air quality impacts are not acceptable.
5. Additionally, the unacceptable environmental risks that would be detrimental to the public's health and general welfare.



1 2. Aesthetics and Light

2 a. EIR Information-

3 Aesthetics and Light EIR Background

4 Aesthetics, or visual resources, are the natural and cultural features of the landscape
5 that can be seen and contribute to the public's appreciative enjoyment of the
6 environment. Visual resource or aesthetic impacts are generally defined in terms of a
7 project's physical characteristics and potential visibility, and the extent to which the
8 project's presence would change the perceived visual character and quality of the
9 environment in which it would be located.

10 Section 3.1 of the EIR summarized project specific research contained mainly in the
11 following reports prepared by CH2M HILL which were reviewed to assess the
12 potential nighttime light impacts and are included as Appendix M (Lighting Plan for
13 the Proposed Liberty Quarry [Lighting Plan] [CH2M HILL, 2007a]) and Appendix M-
14 1 (An Analysis of Potential Light Impacts for the Proposed Liberty Quarry [Light
15 Impact Technical Report] [CH2M HILL, 2007b]). The Lighting Plan was reviewed by
16 the Riverside County Environmental Programs Division for consistency with the
17 County's MSHCP in September 2007. In addition, the analysis of potential light
18 impacts was reviewed by Palomar Observatory in 2007. Criteria for determining both
19 the construction and operation impacts associated with the aesthetics and light have
20 been developed in accordance with Appendix G of the CEQA Guidelines.

21 Summary of EIR Evaluation and General Methodology for Aesthetics

22 For aesthetics, the EIR included a comparison of the "before" photographs with the
23 simulations of the Project as it would appear during its operational phase. This
24 provided the basis for determining Project impacts on views and visual quality. Two to
25 three images were included for each specific vantage point as follows: a view toward
26 the site under existing conditions; a view toward the site as it would appear without
27 full mitigation; and, a view toward the site with mitigation measures incorporated.
28 The EIR concluded that all potentially significant impacts for aesthetics were reduced
with mitigation to a level of less than significant.

Summary of EIR Evaluation and General Methodology for Light Impact

In regards to lighting, The EIR determined that with implementation of the applicable
County Ordinances, potentially significant impacts from lighting would be less than
significant. The EIR's analysis of the Project's potential light-related impacts, found
that in terms of the standards for determining the significance, the Project would not
create a significant impact because of the following:

- o It would not result in light spilling onto off site areas creating light trespass and changes in ambient lighting conditions. In particular, the EIR found that the Project would have no effect on the ambient lighting conditions in the adjacent SMER or on residential properties in the Project vicinity;
- o it would not result in substantial adverse alteration of nighttime views; and
- o it would not create substantial daytime or nighttime glare.

The County of Riverside has not established specific assessment criteria or thresholds for evaluating the significance of a project's light impacts in terms of effects on sky



1 glow. Riverside and San Diego Counties, however, have adopted ordinances whose
2 objectives include limiting sky glow to protect visibility of the nighttime skies from
3 the Palomar Observatory. As a result, the EIR states that a reasonable standard for
4 assessing a project's sky glow impact is the extent to which a project is in
5 conformance with these ordinances. The EIR concludes that the use of low wattage
6 lighting, low pressure sodium lamps, shielding, pointing all lights downward, and full
7 cutoff fixtures specified by these ordinances will prevent direct transmission of light
8 up into the atmosphere, and will minimize the amount of light that is cast onto the
9 surface of the quarry and then reflected upwards. Therefore, the EIR determined that
10 the Project's net contribution to the skyglow conditions will be minimized.

11 Mitigation Measures

12 The EIR includes numerous mitigation measures for the Project to further reduce
13 impacts, a full list of mitigation is provided in Table ES-1 of the FEIR.

14 Impacts to Surrounding Communities

15 The EIR also specifically analyzed the impacts to surrounding communities.

- 16 • *Tribal lands.* The area of the Tribal lands east of the Project site and I-15 is
17 vacant, mostly undisturbed rocky hills and ridges similar to much of the open
18 space mountains in the area. There are no homes or marked trails in the area,
19 therefore, the EIR determined that few if any viewers would be affected by
20 views of the Project which results in low viewer sensitivity. While the site
21 would be seen from this area, due to the fact that there are no permanent
22 receptors and infrequent hikers and even less potential viewers at night, the
23 EIR concluded that visual impacts from this area are considered less than
24 significant. Nighttime lighting of the process plants, mining, and street lights
25 along the access road, however, would be visible.
- 26 • *Luiseno Ancestral Origin Landscape.* With respect to the two potential
27 traditional cultural properties (TCP) identified in the EIR, the EIR concludes
28 that the Project would not result in changes to the ambient lighting conditions
north and west of the Project site. The EIR addresses potential project light
impacts in and around the asserted Luiseno Ancestral Origin Landscape and, as
noted above, concluded that with the application of mitigation the Project
would not result in the spilling or trespass of light onto adjacent properties or
increase ambient nighttime lighting conditions.
- *The SMER.* The SMER borders the site on its north and west boundary. Views
from adjacent higher elevations in SMER, would be able to see the Project
quarry. Views from SMER areas to the west of the site would be able to see the
hills and ridges within the property boundary. The Project ridgeline would
reduce most direct views of the quarry and plants from the central and western
portions of SMER including the North and South Stations. The site would not
be visible from anywhere along the Santa Margarita River because of the
canyon depth and intervening ridges. The remaining areas of potential
visibility are 3.5 or more miles from the site on higher elevation areas where
viewers are few.



1 The EIR provided that to the extent that there are any human nighttime viewers
2 in the SMER, their views toward lighting associated with the Project quarry
3 would be very limited. From this area, the lighting at the aggregate processing
4 area and asphalt plant would be visible in the distance. The EIR emphasized
5 that although the Project lighting might be visible as distant points of light
6 visible from limited areas in the SMER, this lighting would have no effect on
7 ambient lighting conditions within the SMER's boundaries.

8 The EIR provided that from most other portions of the area north and west of
9 the site, the Project's lighting would not be visible. The only exception is that
10 lighting from the processing area and asphalt plant has the potential to be seen
11 from the upper portions of the ridgeline located immediately to the west of the
12 SMER's western boundary and from some small higher elevation areas located
13 north of the SMER's northwest corner. The EIR determined that new light
14 sources would be minimal areas of illumination seen at a distance of more than
15 3 miles, the overall effect on the views from these areas would be low. Night
16 lighting at the quarry site was of concern to potential influence on bat behavior
17 and conflict with SMER research programs striving to understand bat feeding
18 behavior in natural environments. According to the EIR, the extent to which
19 additional regional lighting may influence bat behavior, if at all, is uncertain.

20 According to the EIR, two SMER researchers currently utilize lights to attract
21 species for collection, one at the North and South Stations and one throughout
22 the SMER. Small mammals and crickets sensitive to light are studied near the
23 North Station and South Station, nearly 2 miles from the Project's light sources
24 and blocked from view by intervening ridges. Additionally, another researcher
25 records wildlife movement along I-15 where vehicle lights and the border
26 patrol checkpoint create substantial lighting. The EIR concluded that lighting
27 at the site would not be discernable from the I-15 corridor.

28 The EIR determined that it is not expected that Project lighting would affect
the SMER, SMER projects, or wildlife within the SMER due to
implementation of design and mitigation measures, distance between light
sources and SMER, and topography that blocks Project lighting.

- *The City of Temecula.* The Temecula vantage points used for the EIR's analysis included the entire area located to the northeast and east of the site beyond the I-15 corridor. Ridgelines as high as 2,350 feet in elevation separate the Temecula Valley from the site and would obstruct most views from the north-northeast. Based on topographic maps, portions of the high ridge tops impacted by the Project would be visible from some limited locations in Temecula, where it would be seen at distances ranging from 3.5 to over 6 miles. A representative location within the Temecula Valley from which the Project could be visible, located approximately 6 miles northeast of the site near Highway 79 and Anza Road, would not be substantially altered by the Project. Therefore, the EIR determined that there would be no substantial alteration of the existing character of the view. The EIR did provide that a small area of the distant ridgeline would appear slightly reduced, but the visual quality of the view would remain average.



1 The EIR's lighting visibility analyses prepared in conducting the lighting
2 impact assessment establish that none of the Project lighting, including lighting
3 associated with the Project access road, would be visible from Temecula.
4 Therefore, the EIR concluded that the Project would have little to no effect on
5 views with project design measures and mitigation, and no light would be
6 visible from Temecula.

- 7 • *The Community of De Luz.* De Luz is located north of the SMER, which
8 borders the site on its north and west boundary. In this area, the Project would
9 have little to no effect on views seen by any substantial numbers of viewers.
10 Areas of potential visibility in De Luz are 3.5 or more miles from the site on
11 higher elevation areas where viewers are also few. The EIR provided that the
12 views toward lighting associated with the proposed quarry from nighttime
13 viewers in De Luz would be very limited. Because the new light sources would
14 be small limited areas of illumination seen at a distance of more than 3 miles,
15 the overall effect on the views from these areas would be low.
- 16 • *The Community of Rainbow.* The unincorporated Community of Rainbow is
17 located approximately 0.5 mile southeast of the site in San Diego County. Most
18 locations within Rainbow have unobstructed views of the prominent peaks and
19 ridges on the southeast portion of the site. These peaks and ridges would not be
20 developed as part of the Project, and would block views of the quarry and
21 plants from some points in the Rainbow Landscape Unit. The proposed access
22 road would be visible in unobstructed views from Rainbow Valley Boulevard
23 and from many locations in Rainbow depending on line of site.

24 Two typical vantage points within Rainbow, approximately 1.5 miles south of
25 the site, were included in the EIR to represent relatively unobstructed views of
26 the site. The existing character of this view is that of a somewhat intensively
27 developed rural residential setting, and the overall visual quality is average. The
28 views from these locations show the effects of the access road cuts on the
distant hills. Although clearly visible from this location, the EIR determined
that the presence of these cuts would not substantially alter the character of the
view from this developed rural residential setting.

According to the EIR, none of the lights in the quarry's operational areas would
be visible from the portion of Rainbow located on the valley floor, and the only
lighting that would have the potential to be seen would be the roadway lights
and vehicle lights associated with the Project's access road. At many locations
in Rainbow, views toward the access road are blocked to some degree by
structures and vegetation. The EIR provided that since these lights would be
small, distant features in the landscape and would be seen in the context of
views that include lighting associated with residences and other land uses in the
foreground, the change in the overall visual character and quality of the
nighttime view would be low.

From the area of low density and highly dispersed rural residential development
located in the hills that border Rainbow to the east, more of the proposed



1 quarry's lighting would be visible than from the valley floor. According to the
2 EIR, the lighting at the quarry's working face would be visible from some
3 locations at the higher elevations, as well as the lighting at the maintenance and
4 employee facilities, the aggregate processing area, the asphalt plant, and the
5 roadway lighting and vehicle lights along the quarry's access road. From these
6 areas, the lighting associated with the Project access road would have a limited
7 effect on the visual character and quality of the view because it would be 1.7
8 miles or more in the distance and would be seen in the context of the similar
9 light fixtures and vehicle lights at the Rainbow Valley Boulevard weigh station,
10 which are already visible in these views. The EIR determined that the Project
11 would have a less than significant effect on views with mitigation, and the
12 effects of lighting would be moderated by other visible existing freeway and
13 community lighting as well as by project design measures.

- 14 • *The Community of Fallbrook.* Fallbrook is an unincorporated community in
15 San Diego County that is located approximately 3 to 6 miles to the southwest of
16 the site. The EIR provided that the Project would have relatively little effect on
17 views in Fallbrook, because in many areas, views toward the site are screened
18 by intervening structures and vegetation. Changes associated with the Project
19 (such as alterations of ridgelines or permanently visible cut slopes) that are
20 visible from the Fallbrook area (viewing distances range from 3 to 8 miles)
21 would appear as small and distant elements in the view. Although Project-
22 related changes might be detectable in some views from Fallbrook, they have
23 little potential to be visually dominant elements that would substantially alter
24 the character or quality of the view. Furthermore, the Reduced Quarry Footprint
25 Alternative would eliminate the settling pond from the southwest portion of the
26 Quarry Area, eliminating this potential visual impact.

27 Consequently, although the Project could result in minor impact to some views
28 from Fallbrook, the EIR determined that these impacts would not be substantial.
The lighting visibility analyses prepared in conducting the lighting impact
assessment indicate that for the most part, the lighting proposed at the site
would not be visible from Fallbrook. The only exception is that in a small area
of Fallbrook located 5.5 miles and farther from the site, lighting associated with
the aggregate processing and loading area and the asphalt plant has the potential
to be visible. Because of the great distance of this lighting in the view, its
potential to be screened by structures and trees in the foreground, and because it
would be seen in the context of lighting at residences and other land uses in the
foreground, this lighting has little potential to have a substantial effect on the
overall character and quality of nighttime views from these areas of Fallbrook.
Because the new light sources would be small, limited areas of illumination
seen at a distance of more than 3 to 8 miles, the overall effect on the views from
these areas would be low.

29 b. Public Testimony

30 During the public hearings, many speakers testified to concerns related to aesthetics,
31 light and the potential impacts to biology. These concerns are further discussed in
32 Section D.3.b. herein.



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3. Acoustics and Light Emissions 1.1.1.4 by the Planning Commission:

- 1) **Based on public testimony, the Project's light emissions would cause the visibility of construction and ground surface lighting to be in excess of what is necessary to provide the operating area to be illuminated at all times.**
- 2) **Additionally, during potential construction, the noise generated by the use of equipment by the use of trucks using the road and other noise would be visible at all hours of the day and night from the surrounding communities.**
- 3) **The public's testimony also indicated that the Project's light would affect the air medium creating a light glow that would be visible and disturbingly detrimental to the surrounding communities.**
- 4) **Acoustic impacts of an open pit quarry would remain even with project termination.**
- 5) **In light of the public's testimony, the Project would result in significant noise and light impacts to the surrounding communities. These impacts are not mitigated by the Project's benefits. Therefore, these cumulative environmental effects are not acceptable.**

3. Biology

a. EIR Information

Biology EIR Background

Biological resources generally include vegetation and habitat, wildlife, and biological connectivity. Potential impacts to biological resources mainly occur when a project has a substantial adverse effect on candidate, sensitive, or special-status species; has a substantial adverse effect on sensitive habitat, including federally protected wetlands; interferes substantially with the movement of migratory fish or wildlife; conflicts with any local policies or ordinances protecting biological resources; or conflicts with the provisions of an approved conservation plan.

Section 3.3 of the EIR summarized Project specific research including, a Biological Technical Report (Appendix D), a Summary of Supplemental Biological Services (Appendix D-1), a Determination of Biologically Equivalent or Superior Preservation (Appendix D-2), and an MSHCP Consistency Analysis (Appendix E). Criteria for determining both the construction and operation impacts associated with biology have been developed in accordance with Appendix G of the CEQA Guidelines.

Summary of Biological Impact Evaluation

Upon review of potential impacts to biological resources, in particular to sensitive species not covered in the Western Riverside County MSHCP, the EIR determined that there would be less than significant impacts after mitigation.

Summary of the EIR Evaluation of the MSHCP

The EIR determined that the Project was consistent with the Multi Species Habitat Conservation Plan ("MSHCP") and was not in any criteria cells. The Project is within



1 a Special Linkage Area (SLA). The EIR explains that designation of the SLA within
2 the Western Riverside County MSHCP was facilitated by the County in response to
3 comments received on the draft MSHCP related to the Santa Ana-Palomar Mountain
4 (SAPM) Linkage plan, which was released during the preparation of the MSHCP. The
5 EIR provided that the SLA does not stand alone and, instead, is intended to contribute
6 to the much larger Santa Ana-Palomar Mountains Linkage (SAPM) Linkage Area.
7 This SLA will contribute to the assembly of a portion of the SAPM for the benefit of
8 Covered Species. The SLA includes an approximately four (4) square mile area and is
9 bisected by Interstate 15 and Old US 395. Uses within the SLA currently include,
10 commercial, residential and light industrial uses particularly along the Old US 395
11 corridor. The EIR provided that, although proposed projects in the SLA are required
12 to undergo environmental review pursuant to CEQA, the SLA does not preclude
13 development from occurring provided that the appropriate environmental studies are
14 completed and mitigation measures are applied, if necessary and feasible.

15 Mitigation Measures

16 The EIR included numerous mitigation measures for the Project to further reduce
17 impacts, including the application of one of the project alternatives which suggested a
18 reduced footprint for the site that would provide additional open space. A full list of
19 mitigation measures is provided in Table ES-1 of the FEIR.

20 Significant and Unavoidable Biological Impacts

21 However, even with the reduced footprint and mitigation measures taken into account,
22 the EIR determined that the Project would have the following cumulative significant
23 and unavoidable impact to biology:

24 Cumulative biological impacts were assessed in Section 5.4.3 in the DEIR. The
25 biological function of the SAPM linkage area and the Pechanga Corridor is
26 currently substantially impaired by the eight-lane I-15, existing urban
27 development in north San Diego County (Community of Rainbow, Old US 395,
28 and CHP truck weigh station) and in southwest Riverside County (Border Patrol
checkpoint, CHP truck weigh Station, Temecula, and surrounding development).
Despite implementation of the MSHCP and recommended mitigation measures,
the projects in the cumulative list shown in DEIR/FEIR Table 5-1 would
contribute to cumulative effects to wildlife movement in the vicinity of the
Project. As no additional, feasible mitigation measures are available, the
Project's cumulative effects on wildlife movement remain significant and
unavoidable.

29 Impacts to Surrounding Communities

30 The EIR also analyzed the Biological impacts to surrounding communities. The EIR
31 did not find any potential biological impacts to surrounding residential communities,
32 only potential impacts to the neighboring SMER.

33 Regarding biological impacts specifically related to the SMER, the EIR explained
34 that the Project is immediately adjacent to open space lands that are dedicated to
35 long-term habitat conservation (i.e., SMER located to the north and west margins of
36 the site). Biological research projects identified through questionnaire responses
37 totaled over 44 and represent the prime resource area studied within the SMER.
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1 According to the EIR, Project activities have the potential to result in adverse impacts
2 to the SMER research area and projects in several ways, as discussed below pursuant
3 to the MSHCP Urban/Wildlands Interface Guidelines.

4 *Drainage.* Drainage water would not be discharged to the MSHCP Conservation
5 Area. Drainage water would be collected and treated on site at the southern end of the
6 Plant Area and near the bottom of the access road. Drainage water would not be
7 allowed to enter into the watershed of the drainage feature located at the western
8 portion of the site, which is tributary to the Santa Margarita River, or into the
9 watersheds of any other off site drainages. As required under state and federal water
10 quality control laws, the applicant would prepare Storm Water Pollution Prevention
11 Plans (SWPPP) to demonstrate the collection and treatment of site drainage water.
12 With the implementation of the SWPPPs, the EIR determined that the Project would
13 not affect research projects related to the watershed downstream of the project within
14 the SMER. Therefore, impacts would be less than significant.

15 *Wildlife Movement Corridor.* In total, the disturbed area from the Project is estimated
16 to be about 164 acres, or about 6 percent of the 2,560-acre SLA identified in the
17 MSHCP. Even after application of mitigation measures including increasing the
18 distance between the quarry area and the known crossings north of the site,
19 establishment of 250 acres of conservation easements and providing a 400-ft buffer
20 to the north any incremental increase in impacts would be a cumulatively
21 considerable impact that cannot be mitigated to a less than significant level.

22 *Toxics.* The EIR provided that the mining operation would transport petroleum
23 products and asphalt oil on public roads, and use and store asphalt oil, petroleum
24 products, and used oils within the developed quarry area. These products would be
25 stored and used well away from the MSHCP Conservation Area and in accordance
26 with applicable Riverside County regulations. The drainage measures approved in the
27 SWPPP would also prevent accidental spills within the quarry area and elsewhere on
28 the site from draining potentially toxic materials onto the MSHCP Conservation
Area. With the appropriate design features and implementation of the SWPPPs, the
EIR concluded that impacts to the research projects within the SMER would be less
than significant.

Lighting. The EIR provided that night lighting shall be directed away from the
MSHCP Conservation Area to protect species within the conservation area from
direct night lighting. By compliance with County ordinances, the EIR determined
that impacts to biological resources at the SMER would be less than significant. Also
see Section D.2. of this document.

Noise. The EIR included mitigation measures to ensure the Project's operational
noise levels within the SMER comply with the Riverside County residential noise
standards. Such mitigation measures include that all mining operations would be
setback at least 400 feet from the north site boundary; mining activities would be
restricted between Riverside County-defined noise nighttime hours of 10 p.m. and 7
a.m., and the concrete truck filling operations associated with the concrete plant
would be enclosed by placing those operations in a tunnel-like structure so that the
sides of the truck and its engine are shielded by the walls of the tunnel.



1 *Invasives.* The EIR provided that Riverside County and State Mining and Geology
2 Board approval of landscape maintenance and revegetation plans would ensure that
3 the Project would avoid the use of potentially invasive species adjacent to the
4 MSHCP Conservation Area. For this reason, the EIR concluded that impacts would
5 be less than significant.

6 *Barriers.* The applicant is proposing to manage the site as an active mining project,
7 with access strictly limited by gates and fencing surrounding the developed area.
8 According to the EIR, with special signage installed, the Project would minimize
9 unwanted access to the SMER. For this reason, the EIR determined that impacts
10 would be less than significant.

11 *Grading.* The Project is designed such that earthwork on the site shall not affect or
12 extend off site. Grading, grubbing, and earthwork in general would only be
13 conducted within the approved mining area. Berms constructed to reduce project-
14 related visual and noise effects would be located on applicant-owned property and
15 the minimum 400-foot setback from Project boundaries with the SMER would ensure
16 no earthworks (e.g., slopes) extend onto adjacent MSHCP Conservation Area lands.
17 According to the EIR, with these features, the Project would meet the requirements
18 of the MSHCP and avoid grading impacts to the adjacent SMER. For these reasons,
19 the EIR determined that the impacts would be less than significant.

20 According to the EIR, with implementation of recommended mitigation measures,
21 direct and indirect project specific impacts to biological resources and research
22 projects within the SMER and wildlife corridors can be reduced to levels less than
23 significant.

24 b. Public Testimony

25 During the public hearings many speakers raised concerns regarding biological
26 impacts. Many were experts from, or representing, SDSU, the City of Temecula, and
27 Pechanga.

- 28 • Dr. Matt Rahn, Director for Development and Research with the San Diego State University Field Stations Program, testified in opposition regarding the Project's impact to the SMER. He explained that the SMER is used by researchers today because of its low noise levels and pristine conditions.
- Dr. Rahn indicated that mining activities can and will impact the level of research and researchers willing to use the SMER in the future based on impacts from the mine.
- Dr. Rahn indicated there are large volumes of study on vibration and noise impacts on biology. These impacts include behavioral impacts that result from stress levels impairing an animal's ability to find food, sleep, communicate and reproduce. Additionally, Dr. Rahn explained that any amount of light will impact and impede wildlife movement
- Dr. Rahn also provided that that an urban presence of species is not an indication of an animal's ability to adapt to urban environments. Often such animals are those with already significantly impacted behaviors



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- Dr. Rahn also explained that Least Bell's Vireo, which was studied in the EIR, is not the best threshold candidate to test vibration impacts to biology near the SMER, because it can be urban associated.
 - Mr. Ruben Ramirez, a speaker who indicated he had 17 years of expertise on radio tracking species, and Dr. Rahn indicated that the Project will impact many species through light, noise and other stressors; not just mountain lions.

5 **c. Biology Conclusions Made by the Planning Commission-**

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1. Based on public testimony, the Project's activities would detrimentally impact the research conducted on the SMER, on nearby properties, and the biology's habitation, reproduction and migration patterns.
 2. Additionally, the Project's biological impacts would reduce the number of researchers and research projects willing to use the SMER because researchers may perceive the operating mine as an impediment to their research.
 3. Based on information presented during the hearings, the SMER, and biological habitation, reproduction and migration patterns would also be impacted by the glow created by the Project's light refracting in the air's moisture.
 4. Furthermore, based on the public's comments, the crushing of granite/ concrete and heavy plant traffic, would produce noise, light and vibrations that would negatively affect wildlife using the linkage. This incremental loss to the already impaired habitat linkage is not acceptable.
 5. In light of the public's testimony, and the impacts listed above, the Project would result in unavoidable adverse impacts on biology. These impacts are not outweighed by the Project's benefits; therefore, the impacts are not acceptable.

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4. Cultural Resources

a. EIR Information-

Cultural Resources EIR Background

According to the EIR, cultural resources as defined by State and Federal regulations include tangible buildings, sites, structures, objects and manuscripts, each of which might have historical, architectural, archaeological, cultural, or scientific importance. Cultural resources can also be argued to include traditional places deemed significant by a living group's perspective or cultural history. It is possible that such places may not have tangible culturally modified remains or artifacts present. Evidence for such cultural resources is often found in oral history passed down from generation to generation. According to National Register Bulletin 38, published by the National Park Service, one kind of cultural significance a property may possess, and that may make it eligible for inclusion in the National Register of Historic Places, is traditional cultural significance. "Traditional" in this context refers to those beliefs, customs, and practices of a living community of people that have been passed down through the generations, usually orally or through practices. The traditional cultural significance of a historic property, then, is significance derived from the role the property plays in a community's historically rooted beliefs, customs, and practices.



1 Section 3.4 of the EIR discusses the impacts for cultural resources as a result of
2 implementing the Project. The EIR summarizes the cultural resources investigations
3 which included a Phase I Cultural Resources Assessment (Appendix F), a Phase I
4 Archaeological Assessment (Appendix F-1), and a Cultural Resources Technical
5 Report (Appendix F-2). Note that these appendices are confidential and are not for
6 public review; they are on file with the County. Criteria for determining both the
7 construction and operation impacts associated with cultural resources have been
8 developed in accordance with Appendix G of the CEQA Guidelines.

9 Additionally, a supplemental ethnographic study was prepared by Stephen O'Neal to
10 specifically address potential Pechanga traditional cultural properties (TCPs) in the
11 vicinity of the Project site. Mr. O'Neil noted that TCPs were generally defined in
12 relation to the National Park Services (NPS) Bulletin 38, Guidelines for Evaluating
13 and Documenting Traditional Cultural Properties. Mr. O'Neal's report generally
14 includes geographic areas that are eligible for inclusion in the National Register
15 because of the area's association with cultural practices or beliefs of a living
16 community. Such practices are rooted in that community's history, and are important
17 in maintaining the continuing cultural identity of the community.

18 Tribal Communications

19 The County initiated communications with Pechanga in 2005 and continued
20 communications, which included field surveys by Pechanga Tribal monitors, through
21 2010 in an effort to identify and address potential cultural resource impacts associated
22 with the Project. The EIR identified a total of seven (7) potential TCPs in the region
23 surrounding the Project. Of those potential traditional cultural properties, however, the
24 EIR determined only two properties were in proximity such that they could be
25 potentially impacted by the Project's implementation. These potential impacts to the
26 two potential traditional cultural properties, identified as Wexewxi Pu'eska and
27 Rainbow Canyon Camp (also called the 1870s Diaspora Settlement), were analyzed in
28 Impact Section 3.4 of the DEIR.

29 Summary of Cultural Resources Impact Evaluation

30 The EIR's analysis of potential impacts to Tribal cultural resources proceeded under
31 the assumption that both the Wexewxi Pu'eska and the Rainbow Canyon Camp (also
32 called the 1870s Diaspora Settlement) were eligible for listing under both the
33 California and National Registers of Historic Places as TCPs.

34 According to the EIR, these potential TCPs will not be directly impacted by the
35 Project. The EIR, however, did identify the potential for the Project to result in
36 indirect impacts to these resources as a result of adjacent project operations and
37 identified mitigation measures to reduce those potential indirect impacts to a less than
38 significant level. The EIR includes a total of four mitigation measures to reduce the
39 Project's potential indirect impacts to Pechanga's identified potential TCPs.

40 As such, the EIR concluded that the Project would have no impact to tribal
41 archeological resources and determined that the Project would have a less than
42 significant impact to archeological resources. The EIR further concluded that the
43 Project would not have any direct impacts to the two identified potential TCPs.
44 Indirect impacts, however, were determined to be potentially significant due to the



1 Project's construction and operational activities (i.e. visual intrusion, noise, light, and
2 vibration), as well as the Project's potential to increase unwanted access to the TCPs.

3 b.Public Testimony

4 During the public hearings many speakers raised specific concerns with cultural
5 resources, specifically the Pechanga Tribe.

- 6 • Mr. Paul Macarro, the cultural representative of the Pechanga Tribe, explained
7 that Wuyoot, the Luiseno Chief and Father of the first ancestral group, the
8 Kaamalam, died near the Project site. Mr. Macarro explained this was the first
9 death and introduced the Kaamalam to death.
- 10 • Mr. Paul Macarro also explained that Kaamalam Pum'ki', home to the original
11 Luiseño, is larger than the applicant or the studies in the EIR suggested. He
12 indicated it comprises a larger area including the entire hill that includes the
13 Project site.
- 14 • Mr. Paul Macarro further testified that place names indicate areas that were
15 used by the Tribe in the past. He further explained that place names are
16 different from the locations related to the creation story and are not the same as
17 TCP's.
- 18 • Ms. Laura Miranda, legal counsel and member of Pechanga, explained that not
19 all place names are classifiable as sacred.
- 20 • Ms. Miranda testified that Pechanga gave the County information on the
21 Project's impacts to specific ancestral places, including some within the Project
22 site, in the form of comment letters and Mr. Macarro's ethnography.
- 23 • Ms. Miranda also provided that Pechanga has never developed on "sacred"
24 property. The developed area near Pechanga's casino may have impacted a
25 Pechanga place name, a gathering place, but not a location from the creation
26 story, or a sacred site.
- 27 • Mr. Peter Thorson, attorney for the City of Temecula and Ms. Courtney Coyle,
28 outside Counsel for Pechanga, indicated that the LAFCO Staff Report for the
2009 City of Temecula Annexation explained that minimal development was
possible on the Project site regardless of the General Plan and Zoning
designations proposed by the annexation. They indicated the City was
proposing designations that would have permitted the same number of
residential units currently permitted by the County. The City's designations,
however, would not have permitted a quarry.
- Ms. Coyle also testified that the land use intensity of 81 residential units would
be far less than that proposed by the Project.
- Dr. Thomas King, testified in opposition to the Project, explaining aspects of
Bulletin 38, which he authored for the National Historic Register. The Bulletin,
he argued, explains that only tribes should indicate what is important to a tribe.
Further, archeological evidence should not be required to determine if an area is
significant to a tribe, which the Tribe determines is a TCP.
- Dr. King testified that a smaller potential TCP can be within another larger
TCP.
- Dr. King also explained that tribes generally attempt various forms of
protection, regarding sites, when sites are specifically threatened.



- Dr. Lisa Woodward, archivist with Pechanga, presented a number of maps including John P. Harrington's map which was created about 100 years ago showing place name locations and other location specific information, and maps showing TCP boundaries over portions of the Project site.
- Dr. Woodward, read from a letter by Steven O'Neal indicating that many potential TCP's in the vicinity of the Project site could be included in a potential TCP district.

Cultural Considerations EIR by the Planning Commission.

1. Although there were no archaeological items found on the Project site, public testimony has demonstrated that the Project site is a site of potentiality for several significant archaeological and historical sites.
2. Additionally, in light of Pechanga's testimony, the Project site has shown to be Pechanga's traditional story and may be eligible as a TCP or a TCP District. As a result, the Project would adversely impact Pechanga's heritage and nearby lands.
3. Furthermore, an open pit mine would further destroy the Project site, including its potential, and geologically sensitive landscape. This potential hazard would not result from a less intensive land use such as a large lot single family home development.
4. Therefore, based on the public's testimony, the Project would result in unavoidable adverse impacts to cultural resources that are not outweighed by the Project's benefits. As a result, these environmental impacts are not acceptable.
5. As outlined above, these impacts are detrimental to the public's health, safety and general welfare.

5. Geology and Hydrogeology

a. EIR Information-

Geology and Hydrogeology EIR Background

Section 3.5 of the EIR studied Geology and Section 3.7 studied Hydrology (and Hydrogeology). The information below from the EIR is specific to the groundwater and the connection of underground throughout the site. Because this topic is covered in both sections, the information below comes from both sections of the EIR and in part from the response to comments for the Final EIR.

Information contained within the EIR, specifically related to groundwater on the site has been largely obtained from the Geologic and Hydrologic Evaluation Proposed Liberty Quarry, Riverside County, California (see Appendix H) and Responses to Frequent Questions, Proposed Liberty Quarry, Riverside County, California (see Appendix H-1), which evaluated geologic and hydrogeologic conditions for the Project. The Response to County of Riverside Review Comments, County Geologic Report No. 1902, Geotechnical Report, Proposed Liberty Quarry, Riverside County, California clarifies comments from Riverside County's review. Criteria for determining both the construction and operation impacts associated with geology and



1 hydrogeology have been developed in accordance with Appendix G of the CEQA
2 Guidelines.

3 Summary of Geology and Hydrogeology Impact Evaluation

4 According to the EIR, the site is located in rugged mountainous bedrock terrain, and
5 the massive crystalline bedrock underlying the site is considered nonwater bearing
6 (California Department of Water Resources [DWR], 1956 and 2003). Groundwater
7 also occurs to a much lesser extent locally in the crystalline bedrock, but is primarily
8 limited to fracture and joint systems and in deeply weathered areas overlain by
9 saturated Quaternary or Tertiary deposits. The EIR also provides that lowland
10 groundwater basins are not hydrologically connected with the site. Two seasonal
11 surface seeps are located on the site and appear to be related to localized fractures
12 draining under the influence of gravity. A hydrologic evaluation of the site was
13 conducted.

14 During the investigation for the EIR's analysis, groundwater was encountered in three
15 deep, vertical borings drilled into the underlying granitic bedrock. The EIR's
16 evaluation found that groundwater, where observed at the site, is limited to joints and
17 fractures because of the massive igneous bedrock underlying the site, which is
18 considered nonwater bearing by DWR. Additionally, the EIR provided that limited
19 hydraulic connection exists between groundwater encountered in bedrock fractures
20 and joints at the site.

21 Based on a review of published literature, geologic and hydrogeologic assessment
22 activities performed at the site, and subsequent data analysis and evaluation performed
23 to date, the EIR determined that the site appears to be topographically, structurally,
24 and hydraulically isolated from near-by, off site intermontane valleys and topographic
25 lowlands. As a result, the EIR determined that the Project's operations are not
26 anticipated to adversely affect local or regional groundwater supplies for residents in
27 the surrounding area, or Temecula or Rainbow Valleys.

28 EIR Summary of Groundwater

The EIR does not state or suggest that groundwater will not be encountered at the site.
The EIR found generally a low volume of groundwater in the boreholes. According to
the EIR, in well MW-2 no flowing water into the borehole was noted above 200 feet
depth, also despite the presence of joints and fractures. The EIR provided that
groundwater occurs in the bedrock at the proposed quarry site; however, it's
occurrence is in very low volume and highly dependent on the hydraulic connectivity
of joints and fractures in the bedrock, which is low. According to the EIR, there is no
aquifer beneath the site.

The EIR also provided that hydraulic isolation of the proposed quarry location is well
supported by various lines of evidence. Additionally, the EIR indicated that the poor
performance of pumping tests described above and the lack of response at observation
wells during the tests, the high seasonality of flow in local seeps, springs, and streams
suggests low connectivity with groundwater, since a good connection with a system of
high capacity should supply a more perennial flow to these features. According to the
EIR, stream flow and springs in the area exhibit seasonal flow, derived primarily from



1 recent precipitation via surface flow and/or local joints and fractures that drain to
2 ground surface rather than transmitting water through the bedrock.

3 Mitigation Measures

4 The EIR included numerous mitigation measures were applied to the Project to further
5 reduce impacts, a full list of mitigation is provided in Table ES-1 of the FEIR.

6 Impacts to Surrounding Communities

7 The EIR also specifically addressed the impacts specific to the SMER. The EIR
8 provided that groundwater is limited to joints and fractures in the massive crystalline
9 bedrock and is considered non-water bearing. Hydrogeologic testing found little, if
10 any, groundwater intercommunication on or off of the property. Therefore, the EIR
11 determined that potential impacts to groundwater off site or to groundwater seeping
12 into rivers or creeks off site are not expected.

13 b. Public Testimony

14 During the public hearings many speakers raised specific concerns regarding geology
15 and hydrogeology.

- 16 • Mr. Kerry Cato, Geologist at Cato Geoscience, Inc. provided opposition testimony,
17 contending that vertical wells are not optimal if attempting to intersect fractures.
- 18 • Mr. Cato indicated that proper testing of wells require additional pumping after the
19 first test because water recharges wells over a longer period of time. He indicated
20 the EIR only did one test in mid-summer 2006 over a two-week period.
- 21 • Mr. Cato indicated that proper testing requires drilling in lineaments. He further
22 indicated that one of the test sites was drilled about sixty-three feet from a
23 lineament. He indicated that none were drilled directly into lineaments.
- 24 • Mr. Cato testified that testing for water was not done on all thirteen wells drilled
25 on site, only three.
- 26 • Mr. Cato and Dr. Roy Shlemon, geology expert from Roy Shlemon and
27 Associates, Inc., provided opposition testimony, indicating there are unclassified
28 faults on the Project site. They indicated that faults can create pathways for water
that are different from fracture flows.
- Mr. Howard Omdahl, a local resident of the area, showed several images depicting
flora and fauna. He testified that the images indicate year round water sources
exist.
- Mr. Omdahl indicated that there are several oak trees on the site that have survived
seven year droughts which indicates connectivity of the underground water
sources, based on conversations he has had with oak tree experts.
- Chairman Mark Macarro of Pechanga indicated that rocks on the east side of the
mountain have been seeping water for over one hundred years.
- Dr. Shlemon suggested fault studies should be done for mining project
applications.
- Dr. Shlemon suggested that balanced rock studies should be done for mining
projects on sites like the Project site.
- Dr. Matt Rahn explained that a significant volume of water is contributed to the
Santa Margareta River from the groundwater within the mountain.



- Dr. Rahn further testified that during a summer test in 2010 major upstream flows within the River were shut off, yet flowing water was still being contributed to the River from groundwater within the adjacent mountain.

Hydrology and Hydrogeology Considerations Made by the Planning Commission

1. The information presented by several public agencies, including information of the River and Great Bend on the site, demonstrates the importance of the hydrological hydrology which would be significantly impacted by the Project.
2. Additionally, based on the public's testimony, the potential impacts of the Project that would result from the Project's discharge into the river is significant to the river, and these impacts are significant.
3. Additional information provided by the public, regarding the site of the project, have been reviewed and are for the river. Such information and a previously reported underground water source within the mountain.
4. Furthermore, after considering the public's testimony, the Project will have a significant impact on the river which will impact the riparian habitat, a naturally occurring resource.
5. Therefore, in light of the above, the Project would result in significant environmental impacts to hydrology and hydrogeology that are not outweighed by the Project's benefits. As a result, these environmental impacts are the Project.
6. As indicated by the above, these impacts are detrimental to the public's health, safety and general welfare.

6. Jobs

a. EIR/Fiscal Impact Report Study Information

Jobs Analysis Background

The EIR did not specifically analyze jobs as such analysis are not required by CEQA. A Fiscal Impact Report entitled Economic Impact on Riverside County and its Southeastern Area by John Husing of Economics and Politics, Inc. dated February 13, 2007 was done to determine the fiscal impacts the Project would have on the County. This study was not a part of the CEQA analysis. As the EIR explained in the response to comments, CEQA does not require a DEIR to address the potential impacts associated with an actuarial or financial analysis of a Project. CEQA Article 9, "Contents of Environmental Impact Reports", Section 15131(a) provides that economic or social effects of a project shall not be treated as significant effects on the environment.

Jobs Analysis Summary

The Fiscal Impact Report explained, within the Temecula-Murrieta area, a key concern has been the availability of good paying local jobs. The need for local job creation was underscored because the region has just 0.86 jobs for each occupied dwelling, compared to the 1.25 average for Southern California. According to the Fiscal Impact Report, this means that the area has 31% fewer jobs for each family than is required in the Southland for a sub-market to have a self-sustained labor market. This results in a



1 large number of commuters. The Fiscal Impact Report indicated that the Project
2 would help add 287 jobs, primarily in southwestern Riverside County.

3 Because jobs and economic factors are not generally under the purview of CEQA, no
4 significance determination was made pertaining to this category.

5 **b. Public Testimony**

6 During the public hearings many speakers raised specific concerns regarding jobs and
7 fiscal issues in general.

- 8 • Dr. Gary Smith, representing the Rose Institute, provided opposition testimony
9 indicating that total aggregate production in Riverside County will not change with
10 the Project. It will simply shift the production south. He also explained that the
11 production jobs will simply shift within the County but the total job count would
12 stay consistent. He indicated that the County cannot have a reduction in truck trips
13 and an increase in jobs. He further explained that as truck trip reduction is applied,
14 the total truck distance in miles traveled will fall, which means less truck driving
15 jobs. By his account, the total jobs will actually fall within the County.
- 16 • Dr. Smith also contended that sales taxes generated from the production of
17 aggregate at the site is not as simple as the Fiscal Impact Report indicates.
- 18 • Dr. Smith discussed a study by Ms. Diane Height that studied the impacts on home
19 prices and mines. The study used hedonic home pricing models and multiple
20 regression to show homes are worth less when close to mines. He argued that
21 hedonic home pricing models and multiple regression are critical to any study that
22 analyzes home prices and their relationship to mines.

23 **c. Jobs Conclusions Made by the Planning Commission-**

- 24 1. Although the Project would create approximately 100 jobs, these jobs would be
25 generated in the future at a time when all improving sectors would also show
26 increasing job needs. Jobs are needed now in the County.
- 27 2. Many of the jobs that would result from the Project would be truck driving
28 positions that would be transplanted jobs, not newly created jobs. This would
result in a less net increase of jobs within Riverside County.
3. As a result, based on the public's testimony, the increase in jobs is relatively
small and does not help justify or offset the Project's unavoidable adverse
environmental impacts.



1 7. Noise

2 a. EIR information-

3 Noise EIR Background

4 Noise impacts generally occur when project noise levels exceed applicable standards
5 in the General Plan and noise ordinances. According to the EIR, anticipated noise
6 levels associated with the Project were evaluated at 17 noise-sensitive land uses. The
7 receptor locations, which are generally within approximately 4.5 miles of Liberty
8 Quarry include locations in the SMER, Temecula, Rainbow, and Fallbrook.

9 The EIR analysis is based on a noise study included in Appendix I. Criteria for
10 determining the significant impacts associated with noise have been developed in
11 accordance with Appendix G of the CEQA Guidelines, noise Ordinance requirements
12 of San Diego County, Riverside County and City of Temecula and CEQA thresholds
13 used by the California Energy Commission (CEC) (CCR Title 20, Article 6, Appendix
14 B(g))[4][A].

15 Design Features that Assist in Mitigation

16 The Project design for the operation of the quarry includes the implementation of
17 design features that assist in mitigating the noise impacts and were considered by the
18 Commission. The design features are the following:

- 19 • The excavations and Plant Area locations are designed to use the surrounding
20 ridgelines and on-site setbacks to limit noise from mining activities and the
21 processing plants.
- 22 • The processing plants would be constructed on an excavated building pad of
23 1,670 to 1,700 feet above mean sea level to lower the profile of the plants and
24 limit off site noise.
- 25 • A landscaped berm, a minimum of 25 feet high, would be constructed on the
26 southwest side of the Plant Area to limit off site noise.
- 27 • Crushers and screens at the aggregate processing, concrete batch, and recycling
28 plants would be enclosed (presumed required to satisfy air quality
requirements; noise reductions from standard enclosures were taken into
account).
- Concrete truck loading operations would be partially shielded by the reclaim
tunnel structure under the concrete batch plant.
- The asphalt plant exhaust fans would be fitted with effective silencing,
anticipated to be 5 feet long.
- Engine generator sets and heavy mobile equipment would be fitted with
appropriate mufflers and enclosures so that modeled levels are realized.
- Mining activities would be set back at least 400 feet from the north site
boundary. (This setback is identified as mitigation in the biology section and is
included in the noise assessment modeling.)



1 Mitigation Measures

2 In addition to the design features listed above, the EIR included numerous mitigation
3 measures that were applied to the Project to further reduce impacts, a full list of
4 mitigation is provided in Table ES-1 of the FEIR. According to the EIR, ambient,
5 construction, operational, and ground borne noise would be less than significant with
6 mitigation incorporated.

7 Impacts to Surrounding Communities

8 The EIR also specifically analyzed the impacts to surrounding communities.

- 9 • *The SMER.* As shown in Table 4-1 of the EIR, within the SMER (Receptors
10 14, 15, 16, 36, and 37) noise levels with the Project and mitigation measures
11 comply with the Riverside County residential noise standard. Therefore,
12 potential noise impacts within the SMER would be less than significant.

13 Based on questionnaires, twelve SMER research projects were potentially
14 affected by noise; however, EIR concluded no impacts to noise are expected.
15 Noise levels will increase only slightly or will not be affected throughout the
16 SMER due to distance from the Project's noise sources, intervening terrain,
17 project design, and required mitigation measures as discussed above. The EIR
18 concluded that it is not expected that noise produced by the Project would
19 substantially impact any SMER research projects.

- 20 • *The City of Temecula.* As shown in Table 4-2 of the EIR, within Temecula at
21 Receptors 10, 20, 21, and 35, the Project would result in no significant change
22 in noise levels. The project does not result in the city's 65 Ldn standard being
23 exceeded and results in a less than 5 dBA increase in ambient levels.
24 Therefore, the EIR determined that potential noise impacts within Temecula
25 would be less than significant.
- 26 • *The Community of Rainbow.* As shown in Table 4-3 of the EIR, within
27 Rainbow, at Receptors 2, 17 and 18, noise levels from the Project comply with
28 the applicable requirements of San Diego and Riverside County. Therefore,
29 potential noise impacts within Rainbow would be less than significant.
- 30 • *The Community of De Luz* As shown in Table 4-4 of the EIR, within De Luz, at
31 Receptors 7 and 15, noise levels from the Project comply with the applicable
32 requirements of Riverside County. Therefore, potential noise impacts within
33 De Luz would be less than significant.
- 34 • *The Community of Fallbrook.* As shown in Table 4-5 of the EIR, within
35 Fallbrook, at Receptor 12, noise levels from the Project comply with the
36 applicable requirements of San Diego and Riverside County. Therefore,
37 potential noise impacts within Rainbow would be less than significant.

38 b. Public Testimony

39 During the public hearings many speakers raised specific concerns regarding noise.
40 The following outlines the concerns raised by the public during the hearings. Many of
41 the following concerns were also shown in the biological section of these findings in
42 Section B.3.b.

- 43 • Dr. Matt Rahn indicated the SMER is used by researchers because it has low
44 noise levels and that mining activities can and will impact the level of research



1 and researchers willing to use the SMER in the future based on impacts from
2 the mine.

- 3 • Dr. Rahn indicated there are large volumes of study on vibration and noise
4 impacts on biology.
- 5 • These impacts included increased behavioral impacts that result from stress
6 levels which impact animal's ability find food, sleep, communicate and
7 reproduce.
- 8 • Mr. Tom Cole, code enforcement officer for the City of Teencula, explained
9 that the baseline readings for the site should have been measured on site, not
10 simply modeled. Mr. Cole took 6 readings at all times of day and weather
11 conditions over a two month period near the site that were all below 30
12 decibels.
- 13 • Mr. Mike Jurkosky, the closest resident to the Project site, testified that his
14 family would hear all quarry operations and be significantly impacted by the
15 Project.

16 **c.Noise Conclusions Made by the Planning Commission-**

- 17 1. Based on information presented by the public, noise levels on the Project's site,
18 particularly nighttime operations, would be incompatible with the uses of the
19 neighboring SMER property and would impact research on the property.
- 20 2. Additionally, based on the public's testimony, noise impacts from the Project
21 would reduce the number of researchers and research projects willing to use
22 the SMER because researchers may perceive the operating mine, and noise it
23 creates, as an impediment to their research.
- 24 3. In light of the public testimony, the Project would result in unavoidable noise
25 impacts to the SMER and to residential properties close to the Project's site.
26 These unavoidable adverse impacts are not outweighed by the Project's
27 benefits, therefore, they are not acceptable.
- 28 4. Additionally, as outlined above, these impacts from the Project are detrimental
to the public's health, safety and general welfare.

8. Traffic and Truck Trip Reduction

a.EIR Information

Traffic Reduction EIR Background

Traffic and transportation impacts generally occur when a proposed activity would cause an increase in traffic that is substantial in relation to existing capacity; exceed an established LOS standard; result in inadequate parking or inadequate emergency access; alter waterborne, rail, or air traffic; affect maintenance roads or circulation during construction; or conflict with adopted policies, plans, or programs supporting alternative transportation.

Riverside County and Caltrans reviewed and approved the methodology and analysis conducted in support of the traffic and transportation analysis, which was primarily based on the Revised Traffic Impact Analysis (Urban Crossroads, 2008) and the responses to comments. Criteria for determining the significant impacts associated



1 with traffic and transportation have been developed in accordance with Appendix G of
2 the CEQA Guidelines.

3 Truck Trip Reduction EIR Background

4 Section 6.3.1 of the EIR discusses the findings from the Liberty Quarry Truck Traffic
5 Miles-Reduced Evaluation (Appendix K-1). This study analyzed the number of trucks
6 that could be displaced by the Project (i.e., the reduction in the number of trucks
7 needed to transport aggregate from distant sources versus having a local source of
8 aggregate closer to the market area where it would be used). The study found that the
9 Project would reduce aggregate truck travel on I-15 in Riverside County by up to 16.5
10 million vehicle miles.

11 Mitigation Measures

12 The EIR included numerous mitigation measures that were applied to the Project to
13 further reduce impacts, a full list of mitigation is provided in Table ES-1 of the FEIR.

14 Significant and Unavoidable Traffic Impacts

15 Even after mitigation measures were taken into account, the EIR determined that the
16 Project would have the following significant and unavoidable impacts to Traffic in two
17 categories:

18 • Direct Traffic Impacts:

- 19 ○ *Impact T-1a analyzed if, "the Proposed Project could cause an increase in*
20 *traffic that is substantial in relation to the existing traffic load and capacity*
21 *of the street system (i.e., result in reduction of [level of service] LOS at*
22 *intersections)." According to the EIR, the Project has included mitigation*
23 *to pay for and construct intersection improvements that are outside the*
24 *County's jurisdiction. Although this is technically (physically) feasible,*
25 *implementation would require approval of other agencies including*
26 *Caltrans, Temecula, and San Diego County. Because the intersections are*
27 *within the jurisdiction of Caltrans, Temecula, and San Diego County, and*
28 *because no improvement can be made without the approval of these*
jurisdictions, Riverside County cannot ensure that the improvements would
mitigate the impacts of the Project. Therefore, although Riverside County
would undertake all reasonable steps to coordinate with these jurisdictions
to install the improvements, the Project's impacts on these intersections are
significant and unavoidable.
- *Impact T-1b analyzed if, "the Proposed Project could cause an increase in*
traffic that is substantial in relation to the existing traffic load and capacity
of the street system (i.e., result in increased queue lengths)." The EIR
determined that this impact is significant and unavoidable for the same
reason noted above.
- *Impact T-1c analyzed if, "the Proposed Project could cause an increase in*
traffic that is substantial in relation to the existing traffic load and capacity
of the street system (i.e., result in increased traffic volume along roadway
segments)." The EIR concluded that is impact is significant and
unavoidable for the same reason noted above.
- *Impact T-3 analyzed if, "the Proposed Project could exceed, either*
individually or cumulatively, an LOS standard established by the San



1 *Diego County Congestion Management Agency for designated roads or*
2 *highways." The EIR also determined that this impact is significant and*
3 *unavoidable for the same reason noted above.*

4 • **Cumulative Traffic-**

5 Cumulative Traffic impacts were assessed in Section 5.4.3 in the EIR.
6 According to the EIR, potential project-related local, regional, and
7 cumulative traffic impacts were determined to be less than significant with
8 implementation of mitigation measures. The applicant would pay their fair
9 share of cumulative traffic and transportation improvements including
10 participation in the Riverside County Development Impact Fees and
11 Transportation Uniform Mitigation Fee, as well as the San Diego County
12 Traffic Impact Fees for local road improvements. Although improvements
13 to roadways would mitigate impacts to a less than significant level, for the
14 same reasons noted in the transportation section above, the authority to fund
15 and implement those improvements would be outside the jurisdictional
16 authority of Riverside County in its role as the CEQA Lead Agency.
17 Because this analysis cannot assume or rely upon the funding and
18 construction by other entities, the EIR concluded that the impacts remain
19 significant and unavoidable. It is also important to note that the impacts to
20 intersections were determined without using the truck trip reduction concept
21 in an attempt to create the most conservative analysis possible.

22 Impacts to Surrounding Communities

23 The EIR also specifically analyzed the impacts to surrounding communities.

- 24 • *The City of Temecula.* Winchester Road, Rancho California Road, and SR-79
25 South provide access to and from I-15 within Temecula. As evaluated in
26 Section 3.11 of the EIR, the Project would result in these intersections
27 operating at a less than acceptable LOS and would cause an increase in traffic
28 that is substantial in relation to the existing traffic load and capacity of the
street system. Mitigation Measures T-1 and T-2 specify improvements that
would reduce delays and allow these intersections to operate at an acceptable
level of service and for traffic load to not exceed capacity of the street system.
Because the intersections are within the jurisdiction of Caltrans, and Temecula,
, and because no improvement can be made without approval of these
jurisdictions, Riverside County cannot ensure that improvements would
mitigate the impacts of the Project. Therefore, although Riverside County
would undertake all reasonable steps to coordinate with these jurisdictions to
install the improvements, the Project's impacts on these intersections are
significant and unavoidable.
- *The Community of Rainbow.* Rainbow Valley Boulevard provides access to
and from I-15 from Rainbow. As evaluated in Section 3.11 of the EIR, the
Project would result in this intersection operating at a less than acceptable LOS
and would cause an increase in traffic, which is substantial in relation to the
existing traffic load and capacity of the street system. Mitigation Measures T-1
and T-2 specify improvements that would reduce delays and allow this
intersection to operate at an acceptable LOS and for traffic load to not exceed
capacity of the street system. The Project would add vehicle trips to the
southbound offramp at Rainbow Valley Road. The offramp is also used to



1 access a CHP weigh station. The additional vehicle traffic associated with
2 implementation of the Project would result in congestion at this offramp,
3 which could result in delayed access by fire and sheriff vehicles. Mitigation
4 Measure T-11 includes construction of a right turn lane, an additional through
5 lane, and an additional receiving lane at the Rainbow Valley Boulevard
6 southbound offramp and a two to four-lane access road to the quarry. This EIR
7 mitigation measure would reduce this potential impact to less than significant
8 because access to the weigh station would continue to be provided and is
9 considered to fall within acceptable levels. As shown in Table 4-3 of the EIR,
10 the Project would have a less than significant impact to CHP weigh station
11 access at Rainbow Valley Boulevard.

12 b. Public Testimony

13 During the public hearings many speakers raised specific concerns regarding traffic
14 and truck trip reduction.

- 15 • Dr. Gary Smith, representing the Rose Institute, testified that truck trip
16 reduction, if true, would cause the overall truck miles traveled in the County to
17 fall. He further testified that anytime overall truck miles traveled falls, it will
18 result in a decrease of truck driving jobs. Therefore, he contends, the total
19 truck driving jobs will actually fall within the County.
- 20 • Dr. Smith explained that if most of the aggregate production is going south into
21 San Diego County, truck trips would be further reduced if the Project was
22 located in San Diego County.
- 23 • Mr. Gary Gonzales, transportation engineer for the City of Temecula, argued
24 that additional unspecified intersections should have been analyzed for traffic
25 impacts.
- 26 • Mr. Jeff Heald from Fehr and Peers, provided opposition testimony contending
27 that it was not clear how Urban Crossroads ascertained if the counted
28 aggregate trucks were full aggregate trucks or empty aggregate trucks.
- Mr. Heald further argued that a passenger car equivalence of 3.0 should have
been used to be more conservative.
- Mr. Heald testified that not enough data was collected to support the claim of
reduced truck trips and that license plate surveys would have been more
appropriate.

29 c. Traffic and Truck Trip Reductions Distribution Made by the Planning Commission:

- 30 1. Based on the public's testimony, the project will increase truck traffic.
- 31 2. Based on information presented by the public, overall truck trip reductions
32 throughout the County would not be realized if other surface streets are congested
33 with the Project in terms of aggregate traffic.
- 34 3. In light of the public's testimony, the Project would create an immediate
35 adverse traffic impact that is not outweighed by the Project's benefits. As a
36 result, the overall traffic impacts are not acceptable.
- 37 4. Additionally, as outlined above, these traffic impacts are detrimental to the
38 public's health, safety and general welfare.



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9. Water Supply Assessment (WSA)

a. EIR Information-

Water Supply EIR Background

The EIR studied the provision of water in Section 3.12, Utilities and Service Systems. The Project is located within the boundaries of the Western Municipal Water District (WMWD) and, as such, would receive water service as part of WMWD's retail service area. The review of the water supply was not limited to the Water Supply Assessment.

A review of the local utility and service systems and of the commitments of the utility and service system providers that would serve the Project was completed in support of the analysis in the EIR. Criteria for determining both the construction and operation impacts associated with the utility and service systems have been developed in accordance with Appendix G of the CEQA Guidelines.

The Water Supply Assessment (WSA) Background

Consistent with the requirements of California Water Code section 10910 et seq., the County and the Project Applicant contacted WMWD regarding preparation of a Water Supply Assessment (WSA) for the Project.

In reviewing the Project, WMWD staff determined that the project did not meet the threshold requirements for preparation of a WSA. Specifically, WMWD concluded that the portions of the Project associated with industrial and/or processing activities did not exceed the Water Code threshold of 40 acres because the Project's processing facilities would occupy approximately 3.42 acres of the Project site. In addition, based on Western Municipal's average annual residential demand of 0.88 acre feet per unit, it was determined that the project's water usage would have to exceed 440 acre feet per year to trigger the Water Code's 500 dwelling unit equivalency threshold. (2005 Urban Water Management Plan, page 18.) The Project is anticipated to demand 398 acre-feet of water per year. Given the above, WMWD concluded that the Project did not trigger the need for preparation of a WSA. Furthermore, WMWD advised the County that there are sufficient water supplies to serve the Project.

Notwithstanding WMWD's decision that a WSA was not legally required for the Project pursuant to the Water Code, the County independently determined that compliance with CEQA required a full analysis of the Project's potential water supply impacts. (Vineyard Area Citizens v. City of Rancho Cordova (2007) 40 Cal.4th 412.) As such, Section 3.12 of the DEIR provides a detailed discussion of water supply issues and, based on the standards articulated in Water Code Section 10910 et seq., the Section analyzes the Project's water demands under normal, single dry year, and multiple dry year supply scenarios.



1 Summary of Water Supply Analysis from the EIR

2 As a result of this analysis, the County concluded that there are sufficient water
3 supplies available to serve the Project under normal, single dry year and multiple dry
4 year conditions consistent with the information provided by WMWD. However, the
5 responses to comments for the Final EIR explain that since the preparation of the EIR,
6 WMWD has prepared and approved a WSA which indicates a sufficient supply of
7 water for the Project for a 20-year period.

8 Mitigation Measures

9 A host of mitigation measures were applied to the Project to further reduce impacts, a
10 full list of mitigation is provided in Table ES-1 of the FEIR.

11 Significant and Unavoidable Water Supply Impacts

12 However, even after mitigation measures were taken into account, the EIR determined
13 that the Project would have the following significant and unavoidable impact to utility
14 and service systems:

15 *Impact USS-2 analyzed if, "the Proposed Project could have insufficient water*
16 *supplies from existing entitlements and resources, or new or expanded entitlements*
17 *might be needed." WMWD has prepared and approved a Water Supply*
18 *Assessment (WSA) which indicates a sufficient supply of water to serve the Project*
19 *for a 20-year period. Impacts to water supply are determined to be less than*
20 *significant. However, cumulative water supply impacts were assessed in Section*
21 *5.4.12 in the DEIR. Despite implementation of recommended mitigation measures*
22 *to reduce demand to 369 ac ft/yr, the County has conservatively determined that*
23 *given the uncertainties in the ability of the State to provide future water supply, as*
24 *discussed in Sections 3.12 and 5.4.12, the Project's water supply impacts are*
25 *considered cumulatively significant.*

26 **b. Public Information-**

27 During the public hearings many speakers raised general concerns with the water
28 supply. In particular, that the water supply in California is very unpredictable. No
water experts spoke regarding the water supply or the WSA.

c. Water Supply Assessment Conclusions Made by the Planning Commission:

1. The WSA was done correctly, in accordance with applicable state law.
2. However, the uncertainty in the ability of the State to provide future water supply makes any that the County can 20 years for Project is uncertain a 20 year supply unmitigable. Therefore, the cumulative impacts identified by the EIR cannot be mitigated or balanced with any project benefits.

2. Overall Conclusions

1. As outlined by the above, the Project is incompatible with the surrounding area and inconsistent with the neighboring area.
2. The Project would impact much of its aggregate needs in San Diego County however, based on information presented by the public, ample aggregate deposits exist in San Diego County.



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3. While the aggregate from the Project would provide some benefit to San Diego County and Riverside County, the majority of the environmental impacts remain in Riverside County. This represents an environmental injustice to Riverside County.
4. Based on the information contained in the EIR and on evidence presented at the public hearings, the impacts to air quality, aesthetics, traffic, noise, geology/hydrogeology, biological resources and Puchanga's cultural heritage and nearby land are not outweighed by the Project's benefits and would create negative effects for the region.
5. Therefore, the environmental impacts are deemed unacceptable and in accordance with CEQA Guidelines Sections 15002(b)(5) and 15091(a), the Project is denied.
[REDACTED]
7. Additionally, based on the above, the Commission hereby finds that the Project and proposed conditions of approval for Surface Mining Permit No. 213 do not protect the public health, safety or general welfare. The Surface Mining Permit, therefore, does not comply with Ordinance No. 355 and is denied.
8. Additionally, granting the request for Change of Zone No. 7508 and Noise Ordinance Exception No. 2 would foster and facilitate a surface mine, which, as stated above, would not protect the public health safety and welfare and are hereby also denied.
9. The Commission's decision is final unless appealed or the Board of Supervisors assumes jurisdiction by ordering the matter set for public hearing.
10. These findings and conclusions were adopted by the Planning Commission on December 7, 2011.



ATTACHMENT 6



1 {SPELLING OF NAMES IS ‘BEST GUESS’}

2 CHAIR TAVAGLIONE: {GAVEL BANGING} Okay, ladies and gentlemen, if
3 we could ask for you all to have your seats. {PERIOD OF NON-SPEAKING} Oh,
4 you’ve all become very accustomed to, to quieting down very easily, quickly, thank you.
5 That’s a; what a great audience. I hope you feel that way after the end of today.

6 We have a tough decision ahead of us today, so as we go into; before we go into
7 the questions by members of the Board, there will, we’ll continue on questions by
8 members of the Board of staff and the expert witnesses and etcetera. I’d like to ask
9 everyone to please stand for the Pledge of Allegiance, led by our esteemed CEO, Mr.
10 Larry Parrish.

11 {PLEDGE OF ALLIANCE NOT TRANSCRIBED} {OFF MIKE COMMENTS
12 – NOT INTELLIGIBLE}

13 CHAIR TAVAGLIONE: Okay, thank you ladies and gentlemen. Same, same
14 rules as we’ve had in the past. The public hearing, as you know, is closed so there will
15 not be any public comment or testimony. There will be open comment at the end of the
16 Board meeting today as we have at every; as we have at every Board....you can’t hear
17 me? I’m a soft speaker. Is that better? Okay, there will not be any; the public hearing is
18 closed so it will only be dialog between experts and the, and the, and the Board or certain
19 members of the organized opposition; (the) City could have questions, we could have
20 questions for the City or members of the Pechanga Tribe.

21 But at the end of that and after we get through our deliberation and hopefully a
22 decision today, which I think we will, then we will; anyone that is here on a subject not
23 related to Liberty Quarry will have the opportunity, as you do every Board meeting to

24 come up to speak in public comment. So with that I see that the first in the queue is
25 Supervisor Benoit; Supervisor Benoit.

26 SUPERVISOR BENOIT: {NOT INTELLIGIBLE} Thank you very much. This
27 is a very important debate. It's going to be a discussion and I think it's going to take a
28 little time but I think it will get to a resolution.

29 One of the factors that I have heard a good deal about and I'm still somewhat
30 concerned about has to do with air quality. I think that's probably the most strongly felt,
31 frequently cited concern of the people in the vicinity of the proposed project. I'm not
32 sure that we've really heard or seen or had enough discussion about what I've perceived
33 in the, in the EIR to be a lot of work done to protect air quality.

34 And I'd like; I'd like to ask somebody from Granite to talk a little bit about what
35 steps are taken that are unique to this facility with regard to enclosures, bags, you know,
36 the terminology, I don't, but it was amazing to me yesterday or when was it we were
37 here; today's...was it Monday? {OFF MIKE COMMENTS}. Tuesday? To hear that the
38 total increase of ambient dust or pollutant dust from this plant two miles away would rise
39 from a factor of 100 to perhaps 100.2, which is just an incredibly small amount.

40 How, how do you make that happen? I mean, how....help me understand how you
41 can actually achieve that level of (content) containment of the dust on the site.

42 GARY JOHNSON: Sure; Gary Johnson, Granite Construction Company, and I
43 think we've got some slides that we're going to put up. These are photographs,
44 Supervisors, of some of the dust mitigation measures that will be utilized at Liberty
45 Quarry. First, obviously water trucks, enclosed structures and conveyors, which I'll

46 come back to in a little bit, street sweepers, and I think it's important to understand that
47 the access road into the site is paved.

48 The plant area where the processing takes place is paved. Trucks that come into
49 the site and pick up aggregate or asphalt or concrete, they stay on paved roads and those
50 paved roads are swept a couple of times a day.

51 Stockpiles; we use, you know, water to suppress any dust off the stockpiles,
52 although in most cases; you know, the stockpiles are washed, washed rock. Spray bars
53 for aggregate trucks when they leave that they go under which, and, and misters at the
54 transfer points, although at, at Liberty Quarry all the transfer points will be enclosed and
55 we have bag houses on site also. So, is there another... Do I have a clicker?

56 So this is an example of an enclosed bag house. This is relatively new technology
57 for this industry. There's a number of; there's actually one quarry—or two quarries in
58 the Riverside County that are doing this on their crushers. We're doing this on screens
59 and crushers, and the conveyors that move between the processing facilities are also
60 covered. So that only, not only reduces significantly air, air emissions further but it also
61 reduces noise.

62 This is a, a bag house. This is on our asphalt plant at Indio, which pulls 100,000
63 cubic feet per minute off the asphalt plant, runs it through a large filter process to filter
64 the air to reduce NOx and also fine particulate.

65 These are just some of the minimum requirements that are standard that South
66 Coast typically requires on projects and you've seen a lot of these, but you know, it
67 involves no dust, involves street sweeping, clean up of any spills, emission controls at the
68 transfer points; and on, and on, and on, and on.

69 These are additional requirements that South Coast has asked or that our air
70 consultant and the, and the, your County staff, have asked be implemented for the project.
71 All plant equipment is inside the buildings; paved, paving across the entire site except for
72 the mining area; warm mix asphalt, which further reduces NOx when asphalt's produced,
73 idling time restrictions, new off-road road equipment, and then the Clean Truck Program.

74 Which, as you're aware, April 26th last year the South Coast Air District wrote a
75 letter to the County and they indicated that they had reviewed the Analysis in the EIR and
76 found it to be complete and met their standards but they asked for three things. They
77 asked that the program in the EIR, the Clean Truck Program, be modified and replaced
78 with a program that requires every aggregate truck entering the facility to be a new diesel
79 engine. There's no way we can buy out of that; we'd be the only facility that I'm aware
80 of in the state that has that condition, which significantly reduces NOx, significantly
81 reduces health risk.

82 They also asked that we consider putting as much solar power as possible on top
83 of buildings or parking structures. It's, it's actually a small site unlike Indio where some
84 of you've seen we have a lot of solar power, and we agreed to do that here.

85 And then the other things was that they asked to be involved with the Air
86 Monitoring Program that the staff had recommended be implemented, be I think the first
87 quarry in Riverside County that has air quality monitoring. It's similar to another quarry
88 where we've been doing that. It's been very effective and we have agreed to do that and
89 I would recommend that if the, if the Supervisors are going to move to approve this
90 project that they implement all these mitigation measures in the projects.

91 SUPERVISOR BENOIT: Those have been talked about a lot, but as I understand
92 it have not yet been conditioned as approval and if we move to that point, I will make a
93 movement that we require you to do all those things.

94 GARY JOHNSON: Okay, and we're fine with that. We support that.

95 SUPERVISOR BENOIT: Okay, thank you.

96 SUPERVISOR ASHLEY (?): Hey listen, I just want to ask, make clear; yeah,
97 we're monitoring the, you know, the water of all the, you know, the water situations are
98 being monitored with wells. I mean, various ways; anything goes wrong with the water,
99 you're going to know it right away and they shut you down, fix it or whatever.

100 But how about this; how are you going to know; you know, this, this monitoring
101 the air; I mean, they're measuring it? How's this if something, you know, if you get off,
102 get off kilter in your operation out there and you, and there's more dust, how are, how are
103 they measuring? You say they're monitoring; how is this being measured?

104 GARY JOHNSON: Well, there's; it's (a) stationary monitoring system set up
105 around the site that are, are calibrated and then you have people that are specialists in air
106 monitoring that go out; they get the results, they, they put the reports together and they
107 notify the County and Granite and South Coast Air District if there's a problem, and
108 immediately we would be; South Coast or the County; if there was a problem and we
109 certainly don't anticipate one, but they would require us immediately to prepare a plan to
110 reduce emissions. They could shut us down. They could ask us to shut down
111 immediately until we get something fixed.

112 SUPERVISOR ASHLEY (?): Okay, how about the, you know, you know, the,
113 you know, the water; there's measurement there and then you're talking about the air.
114 How about the noise situation there? Is there; is that being measured in some way?

115 GARY JOHNSON: I don't believe there's a requirement in the Draft Conditions
116 of Approval or the Mitigation Monitoring Plan for noise monitoring. There's a
117 requirement for vibration monitoring.

118 SUPERVISOR ASHLEY(?): Uh huh.

119 GARY JOHNSON: But I don't believe, Supervisor, there's a requirement for
120 noise monitoring.

121 SUPERVISOR BENOIT: Okay, I have one other question.

122 SUPERVISOR ASHLEY(?): Okay. Sorry, I'm done, I didn't...

123 CHAIR TAVAGLIONE: Oh, that's okay, don't worry; Supervisor Benoit, then
124 Supervisor Stone, then Supervisor Buster.

125 SUPERVISOR BENOIT: One, one other issue that I wanted clarity on. There
126 was a lot of talk and has been a lot of talk; there's been an awful lot of energy devoted in
127 the EIR to traffic patterns and whether or not Liberty Quarry would improve or worsen
128 traffic patterns. It seems to (be) pretty clear that in the vicinity of the plant you're going
129 to have more trucks coming in and out, but overall on a countywide basis can you
130 describe the impacts of traffic, particularly large aggregate hauling truck traffic?

131 GARY JOHNSON: Sure, but first I do want to touch on in the vicinity of the
132 project.

133 SUPERVISOR BENOIT: Okay, yeah, that's true, please.

134 GARY JOHNSON: Because Rainbow Valley Interchange, which is actually in
135 San Diego County where is the ingress and egress for the project, we would be required
136 before we started the project to do about six or seven million dollars worth of
137 improvements including two new off bound lanes; one south bound, one north bound;
138 three traffic signals, another lane and scale across the southbound weigh station, a camera
139 for CHP to use so they can look back down the road from the weigh station.

140 Those improvements actually improve the level of service according to Caltrans
141 and according to the, your Traffic Study, improve the level of service of that interchange
142 over what it is right now even if we were operating at a maximum capacity. That's on us.
143 We have to make those improvements.

144 SUPERVISOR BENOIT: Okay.

145 GARY JOHNSON: As far as the other; Supervisor, where, again, we are
146 shipping aggregate from distant locations; we have shipped aggregate from our Palm
147 Springs facility through Southwest Riverside County. There's aggregate coming from
148 the Pass, from Rialto, from the Corona area, even from, from Irwindale sometimes and it
149 comes long distances through other counties and then through Riverside County going
150 through and impacting cities as it moves into Southwest Riverside County or even
151 through into San Diego County.

152 So by moving the source south of the City of Temecula on the county line it
153 would remove a lot of that traffic, so we would as citizens in the County, we'd see a
154 reduction in trucks, we'd see a reduction in road maintenance, we'd see a reduction in air
155 emissions, and hopefully a reduction in cost of construction by putting a source closer,
156 almost in the middle of the market. So we eliminate those unnecessary trucks.

157 SUPERVISOR BENOIT: Okay, thank you.

158 GARY JOHNSON: Sure.

159 CHAIR TAVAGLIONE: Supervisor Stone.

160 SUPERVISOR STONE: Thank you Mr. Chairman. Good morning everyone,
161 good morning Mr. Johnson.

162 GARY JOHNSON: Good morning.

163 SUPERVISOR STONE: Getting back to the AQMD letter of April, you
164 mentioned that there were three recommendations; one that there be clean vehicles, and I
165 applaud you. That's a rather important step that could be; you know, very costly for, for
166 truckers that have to comply with the more stringent air quality standards that we are
167 going to have to abide by in the next few years.

168 They also recommended alternative energy on the site. They also recommended
169 air quality monitoring; and in that same letter they said that carcinogenic materials from
170 the quarry will be just less than significant; just less than significant; which means that all
171 we need is just a minor flaw in our methodology, in our studying that could lead to
172 carcinogenic materials being in the air and with the prevailing winds causing (morbidity)
173 and mortality amongst our citizens.

174 Who is going to be hired to monitor your site to make sure that the air quality
175 standards are, are met? Is that going to be hired by Granite; is that going to be hired by
176 the County, is that going to be provided by AQMD? And did AQMD formally endorse
177 your project or are they neutral on your project? What has been their official position
178 other than just giving you what would be an agency's response to the EIR?

179 GARY JOHNSON: I think the... {NOT INTELLIGIBLE}

180 SUPERVISOR BENOIT(?): Mr. Chairman?

181 CHAIR TAVAGLIONE: Yes.

182 SUPERVISOR BENOIT(?): I forgot to mention this earlier, yesterday there was
183 a communication issued by AQMD and as a Board member I will pass it along, and I
184 have copies for my colleagues of a letter that was sent to the City of Temecula and it
185 basically says that AQMD has not taken a formal position. They are neutral on the
186 project; (but) with the; but referring back to the letter of last year.

187 SUPERVISOR STONE: Okay. Also, and (and they just did a follow up to that).
188 Thank you for providing that information, because I, based on the presentations I thought
189 that AQMD was kind of in favor of the project, which is, it's an important factor that
190 needs to be discerned.

191 But also I'm one of maybe some of the Board members that actually watched all
192 the Planning Commission meetings online and I want to complement Roy and our staff
193 for making that internet accessibility available.

194 CHAIR TAVAGLIONE: That's because you're a pharmacist and you have pain
195 medication. {AUDIENCE LAUGHTER}

196 SUPERVISOR STONE: Yes, but I didn't need to use any sedative hypnotics
197 after watching either, so. {AUDIENCE LAUGHTER} But as a; I remember in one of
198 the discussions that the AQMD in Sacramento was doing some reviews to this project
199 and not the Los Angeles ones. I want to clarify if that's the truth and why would we go
200 to Sacramento to evaluate the air quality issues in this basin? A lot of questions; if you
201 want me to repeat them I can.

202 GARY JOHNSON: Sure; I can start with; let me go back, and if I can remember
203 and help me if I can't.

204 SUPERVISOR STONE: Sure.

205 GARY JOHNSON: First you referred to South Coast Air District letter and the
206 health risk, which is a very conservative health risk analysis that was done for this
207 project, and it's not required for all projects, but your County staff asked for it to be done;
208 shows that we are under the threshold of significance, and that's a very low threshold, it's
209 a very conservative threshold; and then with the implementation of the Clean Truck
210 Program it lowers out that health risk (you know) 50%, and that; those calculations were
211 done by Kleinfelder and provided to South Coast Air District and to your staff. What
212 was the next question?

213 Supervisor Beniot addressed, and let me clarify; South Coast Air District has
214 never said they support the project. I don't believe they, they're in the position of doing
215 that. They stay on the technical side of it and...

216 SUPERVISOR STONE: Who's going to monitor?

217 GARY JOHNSON: It would be done by outside consultants that are qualified. I
218 would assume that if this is implemented in the project and approved, Supervisor, that the
219 condition would say that the consulting firm doing it or whoever's doing it would have to
220 be approved by the, by the County. Obviously we all want to have the best consultants
221 on site doing this work, so...

222 SUPERVISOR STONE: Okay. Also, when I had an opportunity to talk to your
223 geologist, Mr. Erbes, I asked him the question, how do you contain blast particulates
224 without placing a tent over the entire blast site and he said, quote, there are no emission

225 controls for blasts. So how do we keep the tons of material going into the air,
226 understanding that we have these prevailing winds coming through the Rainbow Gap;
227 how do we contain that to a level of insignificance?

228 GARY JOHNSON: Well, the blasting, the PM10 emission from blasting are less
229 than; (I'm going to look to Russ), less than about 1% or about a half percent?

230 RUSSELL ERBES {OFF MIKE}: {NOT INTELLIGIBLE}

231 GARY JOHNSON: The impacts are less than 1%, so in blasting, you're blasting
232 solid granite and when you do that you're, you're; all you're doing is fracturing the rock
233 below ground. It doesn't result in huge dust clouds coming up and blowing over the
234 horizon as I have read people have, have alleged. So the blasting emissions from the
235 project are included in the Air Quality Impact Analysis. South Coast has also reviewed
236 those, in the inventory from that; and the impact from that is included.

237 So, actually, it's a very small event. It occurs a maximum once a day; takes about
238 a second and a half, and most of the material that; from the blast is, is sand or rock that
239 goes up; you know, a couple feet and comes back down. We showed; we actually
240 showed a video at the Planning Commission and I think it was rather underwhelming.

241 SUPERVISOR STONE: I saw that; but I also saw the slideshow from somebody
242 that showed the different level of air quality as a result of air; ambient air blowing dust
243 into the cities. I know that we have a lot of competing professionals (in this).

244 GARY JOHNSON: I don't think that dust was coming from, from a quarry, so.

245 SUPERVISOR STONE: Then you said through, through much of the testimony
246 that 70% of the aggregates are going to go to San Diego. In fact, one of the Planning
247 Commissioners said up to 90% might go to San Diego, and you made it very clear that

248 the closer the product is to the destination of that product, the cheaper that product is
249 going to be.

250 Now, if 70% is going to go to San Diego, in your analysis there wasn't one
251 comprehensive site in San Diego that was reviewed. I think it's because you had some
252 very strict parameters, such as accessibility to transportation corridors, quality of granite,
253 etcetera. But if; and also according to SANDAG, they reported that there was significant
254 aggregate reserves in San Diego County.

255 So if it's cheaper to transport it to the source and that most of the source is San
256 Diego, why didn't you strongly consider putting the quarry in San Diego County where
257 it's closer to most of the destinations that you're going to be delivering it to, and then
258 importing it to Riverside County that's only going to use 30%? I mean, I don't want to
259 get into your business models but as; I kind of come to the dais with a business
260 background...

261 GARY JOHNSON: Sure.

262 SUPERVISOR STONE:and it seems to me that that would be the most
263 economical model for you.

264 GARY JOHNSON: In a perfect world, seven miles south of the site would have
265 been the middle of the market. That would; in a perfect world, and we have looked up
266 and down the 15.

267 SUPERVISOR STONE: But that; but that's assuming; you're making the
268 assumption that existing mines in Riverside County, when they expire that they're not
269 going to be applying for any renewal to their permits.

270 Again, that's another flaw, I think, in the analysis. I think that a more appropriate
271 analysis would have been what is the true reserves of aggregate in Riverside County.
272 That would have a direct affect on traffic modeling, on air quality modeling. These are
273 the criticisms that I heard through the Planning Commission, I heard from testimony from
274 the opposition that's come to the dais.

275 GARY JOHNSON: And to; it was either last week or Monday, I, I talked about a
276 study that had been done to look; because the question had come up, what, what if we
277 expanded all the quarries in Riverside County. Now, keep in mind we've got a, we've
278 got a 68% shortfall. We only have 32% of what we need in Riverside County for the
279 next 50 years, so we have a huge shortfall and if we were to double the capacity of all
280 those existing reserve, which, which can't be done and we looked into it and there's some
281 information we put in the record. We'd still have a huge shortfall.

282 The important point, I think, is Liberty Quarry will serve Southwest Riverside
283 County and it will eliminate a large portion of that shortfall, and the benefit to Riverside
284 County is that; plus the reduction in trucks, plus the reduction in air emissions, plus the
285 lower cost, because taking the trucking cost out in Southwest Riverside County.

286 Yes, there will be aggregate that goes to San Diego County. The EIR estimated
287 about 70%. Supervisor, we're still looking and I know our competitors are still looking
288 for other sites both in Riverside County and San Diego County. Liberty Quarry doesn't
289 solve the whole problem for either county; it just addresses a part of it.

290 SUPERVISOR STONE: Thank you, Mr. Johnson.

291 GARY JOHNSON: Sure.

292 CHAIR TAVAGLIONE: Okay, Supervisor Buster followed by Supervisor
293 Benoit again.

294 SUPERVISOR BUSTER: And Gary, let me first say I've been very impressed
295 with your leadership on this issue. It's a real marathon and you really showed you're
296 really an able exponent, not just for your company but for the public good that this
297 essential, essential ingredient to our economy; public and private, aggregate has. You've
298 been (indefatigable) out there and you've been a real gentleman, too, I think, and so I
299 appreciate that. I appreciate yourself, making yourself available. You've shown that in
300 an extemporaneous way without any preparation; you know, that aggregate is in your
301 veins. You're an engineer.

302 GARY JOHNSON: {CHUCKLE} {NOT INTELLIGIBLE}.

303 SUPERVISOR BUSTER: And America; you know, America, Southern
304 California; I mean, look at the, look at the Hoover Dam, look at what, what, what people
305 were able to do. It's; it, as I said earlier, quarries and civilizations go together, so it's not
306 a matter of being against things here. We're trying to; we're trying to optimize things
307 and as California, and Southern California in particular grows, as you know, we have to
308 find these better balances and we have to plan; we have to plan for the long term.

309 So that's one of the things that; that is very difficult for me and I'm sure this
310 Board, to put in place or to consider putting in place a facility that's going to go on, not
311 just for the 75 years, but its effects are going to linger forever.

312 Now, I was very impressed when you took me on a tour of your Indio, Indio
313 facility in a number, in a number of ways. First, it was very well designed. It was
314 unique; unique topography there along San Andreas Earthquake Fault. You can see

315 where the spring water was coming out in every little gully and there palm; nodes of palm
316 trees that were not affected by your quarry. You were working on the other side of the
317 fault and moving in a northwesterly direction there, and all the, you know, all the
318 improvements here for air quality and for safety were all in there.

319 It looks like your company made a tremendous investment that it didn't ordinarily
320 have to make. It may have been; may have been above and beyond current regulatory
321 requirements, and as Supervisor Benoit points out there's really no complaints from any
322 of the neighbors there about your operation.

323 So I was really impressed by it; how efficient it, it is; how few workers could
324 produce (you know) not, not just the production of aggregate but the asphalt batch plant,
325 concrete batch plant. It was; it was amazing to me; I mean, it really carried technology
326 here in this, what is an extractive industry which has all kinds of opportunities for
327 conflict, for all the, you know, impacts we're talking about to, to cause permanent
328 problems and to undermine property values and all the things we've been talking about
329 today.

330 So my comments here are not intended to, to question the need for aggregate and
331 need for mines. I mean, our mines in the, in, in the First District in Temescal Canyon
332 have made a lot of changes to improve compatibility there, even though they were there
333 first, as you know, and development moved in around them.

334 The County; and we were talking about the, the landfill, which is another
335 potential source of conflict and, and adverse impact itself has had a lot of scrutiny and
336 has a lot of conditions attached to it to go very, very long term; and one of the things I've
337 noticed about even that project since it was approved, there have been changes. Changes

338 we did not anticipate; okay, when we put all these, all these conditions in place. Some of
339 them go to the heart of cost and, and the County's having to balance, balance how it does
340 things in its relationship to the private owner-operator; in this case, Waste Management
341 Incorporated.

342 So putting in place the types of conditions that are going to stand up and be
343 flexible enough and have, be balanced, the investment that the company's making along
344 with the ongoing public interest is a, I'd say it's practically (an) impossible task. So you
345 need flexibility in years ahead to make improvements.

346 And, and one key issue that's not addressed anywhere that I've seen, and it's not a
347 requirement of, of...it's (sort of an) implicit requirement of EIRs but it's, it goes to the
348 highest political levels and it deals with effectiveness and monitoring of accountability
349 for it, of, of lack of confusion about who to go to (and what); and it's jurisdictional
350 accountability.

351 We're, we're, we're undergoing that right now as we change our own
352 Supervisorial district lines and we have; we have right now in this interregnum period
353 between the, between the changes in our district lines in the next election, in the next
354 term. We have a gray area that's emerged and it's, it's very vivid right here with the
355 mine.

356 Right now this mine is legally still in the First Supervisorial District that I
357 represent, but is being transferred or they have transferred to the Third Supervisorial
358 District that Supervisor Jeff Stone represents.

359 SUPERVISOR STONE: Thank you, Supervisor.

360 SUPERVISOR BUSTER: Yeah, okay. {AUDIENCE LAUGHTER} And we
361 {CHUCKLE}.

362 MALE SPEAKER: He appreciates that.

363 SUPERVISOR BUSTER: We like these; we like these tradeoffs. We get
364 (comments); if I had to (make compensation, a return). Well, anyway, so, so we worked
365 out a practical arrangement we hope will work if there's conflicts involved; you know,
366 the, the, the successor Supervisor will handle; you know, constituent calls, property
367 owner concerns and the like.

368 But there's still an opportunity for conflict there. There's still an opportunity for
369 conflict. If both Supervisor(s); we haven't really dealt with it; I hope we won't, we
370 usually have collegiality, but if both Supervisor(s) have a (diff), a major difference of
371 opinion on what should be occurring with a particular problem in these, in these
372 changeover areas, we got a problem.

373 Alright, now, here you have a major facility that is bordered not just by two major
374 jurisdictions, but three, where the Pechanga Indian, Indian Reservation; three of them,
375 and the air quality impacts, (we've just been talking about) and the monitoring and all
376 that and people complaining about things, knowing where to go and, and then upgrades to
377 technology that probably; that should be made in the future that we don't anticipate
378 today. It's split; it's split between not one, two, three jurisdictions here.

379 Where is an average person, a business person from Rainbow 15 years from now;
380 how are they going to get the ear of the Riverside County Board of Supervisors? They're
381 not; we're not accountable to them, okay. Where do they go? Do they go to their San
382 Diego County Board of Supervisors way down in the City of San Diego who really hasn't

383 weighed in on this project, and we have a letter from their Planning; Planning Agency
384 here dated February 15th, 2012, a recent letter. I'm sorry, I've got the Air Quality District
385 letter.

386 No, this is August 30th. It's about six, six, six or seven month ago the Department
387 of Planning and Land Use County of San Diego, and they, they just talk about their
388 comments and that the Final EIR did not adequately address all the issues that were
389 raised in our November 21st, 2009 letter on geology and groundwater, aesthetics and
390 grading, biology, traffic and transportation, and they thank you for the opportunity; thank
391 us, everyone, for the opportunity to continue to participate in their, in, in the review. So
392 they're, they're kind of standoffish and neutral. They have some concerns but, but the
393 Rainbow people have to come up here independently, it seems to me, hearing, during
394 this, this.

395 So, isn't there a real problem; it's just fortuitous, with this mine right on the
396 county line and adjacent to the Pechanga Indian Reservation, for lack of accountability,
397 lack of, of follow through on needed changes or improvements that may crop up in the
398 future?

399 GARY JOHNSON: Well, if somebody has a problem they should call Granite
400 {AUDIENCE LAUGHTER} first and if, and I'm serious, and people can laugh all they
401 want, but it's our facility. We're responsible for it and we're responsible for meeting all
402 the permit conditions, the conditions of approval, the Mitigation Monitoring Plan and
403 they should call us first, and that's what, that's why on all our facilities we post signs.
404 There's a phone number if you have a problem, call this. And that's what we do, and we

405 resolve issues when they come up, so it doesn't have to go to you, or it doesn't have to go
406 to Supervisor Stone, or to Supervisor Bill Horn.

407 But the Mitigation Monitoring Plan shows the Planning Department will have
408 oversight and they have responsibility, so the first thing I would do, if somebody has a
409 problem with something we're doing, they should call us, because we're going to fix it.
410 We don't stay in business unless we fix things as they come up and address issues. So
411 that's the first thing.

412 But under your permit, if it's approved, Planning Department would be involved;
413 the County Geologist would be involved, they can call South Coast Air District, and
414 there's any number of people, and we could; we could put together a list of phone
415 numbers and give to the various districts for people to call.

416 We will be in constant communication, Supervisor, not with just people in
417 Riverside County, but also people in San Diego County; either Rainbow Community
418 Planning Group, which we do right now, or (to) the Fallbrook Community Planning
419 Group with our Rosemary's Mountain facility and it's worked out well. It's worked out
420 very well.

421 CHAIR TAVAGLIONE: {NOT INTELLIGIBLE} before Supervisor Buster
422 continues; ladies and gentlemen, no laughing. Everyone deserves respect, both sides,
423 including the man in the red, or in the blue; in the orange hardhat; you know, this kind of
424 stuff, that's disrespectful. We know what it means. Just waive your hat; it's not too
425 heavy. Let's be calm and respectful of each side. Thank you.

426 SUPERVISOR BUSTER: Well, I could say this at the end, but anyway, get the
427 idea out here now. I think, I think the (sent), we've already {NOT INTELLIGIBLE} a

428 lot of testimony and the Planning Commission’s Findings that I read over again last
429 night; they go to 30; 33 and a half single spaced pages, emphasize, reinforce the fact this
430 is a very sensitive area to operate into, and that we can’t foresee what’s going to happen
431 down the road, and I think this whole quarry permit should have revisit periods where
432 there is a public process to look at what’s in place.

433 I mean, if it’s approved, in the, in the current scale and size it should, it should
434 come back for review because what you always deal with is the competitive pressures of
435 a company trying to; you know, particularly if there’s an economic downturn and there’s
436 problems, is they may be losing money and the last thing they want to do; (in fact) you
437 know, with laying off people, the last thing they want to do is have to divert investment
438 over here to fix something up that isn’t working or there’s some new technology that
439 could, that could solve a problem, or a problem, a problem erupts, in particular, like
440 under, underground here you’ve got a lot of issues that we have dueling, dueling
441 testimony from, from the experts.

442 So who knows what’s going to arise; who knows going to happen at (Jarkowski’s)
443 property right next door? They’re the nearest neighbors. Shouldn’t they have; shouldn’t
444 they have this assurance, just like Granite wants a 75 year; they want, you want
445 assurances.

446 But you’re the new guy on the block. You’re making a proposal, so let’s; if
447 there’s, if there’s a majority vote for this, let’s, let’s cut this 75 year thing back and let’s
448 have, let’s have some reviews of this 10, 15 years down the road. It may lead to
449 productive kinds of things and actually public investment.

450 As you know, the public agencies really are more and more partners in, in these
451 mines because it's an essential commodity for all our improvements, as well, and that's
452 really evidenced here by the San Diego's recent study.

453 You know, {NOT INTELLIGIBLE} great detail, but it wasn't just; it was a
454 partnership between the San Diego Area Planning Group, the San Diego Service Bureau,
455 and Caltrans, but on the review panel here, had everybody. I mean, they had, they had
456 Vulcan Materials, Hester's Granite, US EPA representatives, BNSF representatives,
457 cities, Building Industry Association; on, and on, and on, a really; it shows you the
458 importance of, of aggregate, aggregate again and we haven't done that here and it's too
459 bad it's not a precursor to put this proposal in better, in better context.

460 But should this thing return, I mean, and not just for the active life of the mine but
461 going on beyond 75 years what happens? Is there a bond in place or are there some other
462 assurances...

463 GARY JOHNSON: (Now)...

464 SUPERVISOR BUSTER:that 75 years plus and the mine's played out, what's
465 going to happen.

466 GARY JOHNSON: Well, number one, we have to put up (front), like any
467 operator under state law and, and county conditions, we'd have to put up a bond for the
468 reclamation of site.

469 But keep in mind, if something was; if we're doing something wrong out there,
470 the County has the ability to make us stop immediate. South Coast Air District can make
471 you stop immediately. They require annual emissions tests, source tests. Regional Water
472 Board, if there was a water problem they could make us stop immediately.

473 So there's a number of agencies that are overseeing us on a continual basis, and
474 even if we have a permit that's 50 or 60 or 75 years, the agencies; including Riverside
475 County, if we're not adhering to permit conditions they can shut us down absolutely.

476 SUPERVISOR BUSTER: So let me; let me, I mean, as I drive around the
477 Riverside area I look at things that I was a part of approving and the conditions for them
478 back in the early 80s and some of them aren't working out. Some of them aren't being
479 maintained, whatnot.

480 How, how does reclamation period or the period after the mine's shut down, if
481 there's not adequate security; if there's other issues that arrive, what, what legal and
482 financial assurances do we have that are in any way like or commensurate what you have
483 at a landfill where the public agency like with the El Sobrante Landfill requires ongoing
484 monitoring, mitigation dollar amounts that are put into trust, so to speak, to, to take care
485 of any problems out there on these closed up landfills. What, what do we have for this
486 mine that's going to be in place?

487 GARY JOHNSON: Very, very similar conditions under the Reclamation Plan. I
488 mean, there's ongoing monitoring, there can be ongoing site inspections, financial
489 assurances need to stay in place. I mean, that's all in accordance with the Rec Plan
490 Permit.

491 SUPERVISOR BUSTER: Alright, well, I'd like to get little bit more, more info
492 on that as well. I guess that's all for now, thanks a lot.

493 SUPERVISOR STONE: Mr. Chair?

494 CHAIR TAVAGLIONE: Supervisor Stone, do you have more questions?

495 SUPERVISOR STONE: I do for our staff.

496 CHAIR TAVAGLIONE: Okay, Gary, I think we're...

497 GARY JOHNSON: Thank you.

498 CHAIR TAVAGLIONE: ...at least done with you for now.

499 MALE SPEAKER: Don't go home.

500 CHAIR TAVAGLIONE: Yeah, don't leave. I have a few questions of; not you.

501 No, Gary, go ahead, you can sit down, relax. {AUDIENCE LAUGHTER} Supervisor
502 Stone.

503 SUPERVISOR STONE: Thank you, Mr. Chair. What we have before us today is
504 the granting of a surface mining permit and a, and a change of zone, and I took the, the
505 time to review our Surface Mining Permit Ordinance No. 555; I'll be referring to it a few
506 times, I'm sure, during today's presentations.

507 But in one of the areas of the document it says the adverse affects of the surface
508 mining operations will be prevented or minimized and that the mined lands will be
509 reclaimed to a usable condition, which is readily adaptable for alternative use.

510 So my question to staff is, we've got a thousand feet deep mile long pit at the end
511 of 75 years. What truly is the adaptable alternative use excluding zip lining; what can we
512 use the site for and if we're looking at 75 years from now, if my math is right; that's in
513 2087 and when I'm on the Board in 2087 I want to make sure they have the bonding
514 capacity to mitigate the reclamation of this largest landmine pit probably in United States
515 history.

516 Number one; what are we going to do with it, and number two, how much are we
517 going to require the applicant bond in 2012 dollars, extrapolating to 2087 dollars to

518 insure that when we're all gone that this is not going to be some type of an environmental
519 hazard? I think these are reasonable questions.

520 CAROLYN SYMS LUNA: Supervisor Stone; Carolyn Syms Luna, Planning
521 Director for Riverside County. Our project team that worked on this; Matt Straite, and
522 our geologist Dave Jones, are my subject matter experts on this so what I'd like to do is
523 with respect to the bonding and with respect to the reclamation plan, I'd like to go ahead
524 and have both of those gentlemen address that question {NOT INTELLIGIBLE}.

525 DAVE JONES: Supervisors, Dave Jones, County Geologist, and the state law
526 and our County Ordinance No. 555 requires financial assurance cost estimates be updated
527 every year. The amount of monies that are required to be put on security are to cover
528 their disturbance. That's in that year plus the projection for the next year. So those
529 monies are continually updated and the vehicles to secure the finances are updated as
530 necessary on a rolling basis.

531 SUPERVISOR STONE: Okay, well, let me ask you; we've had some mining
532 operations in Riverside County that have not had appropriate reclamation. One that's in
533 my district; I think it's called Owl Mine in Aguanga. The site was abandoned. There's
534 been very little if any reclamation. If we have these laws and rules on the books and the
535 County is supposed to be updating all of this material; where did we go wrong with Owl
536 Rock Mine?

537 DAVE JONES: Supervisor, I have no involvement with that operation.

538 SUPERVISOR (?): I can answer that, Jeff. I've got a couple in my district; and
539 I'm not, I don't mean to interrupt but one specifically was Oak Quarry off the 60
540 Freeway a huge attractive hazard; 60 Freeway and Valley Way.

541 Quite a few people were killed falling off ledges. There was no bonding
542 mechanism in place for whatever reason. Years ago it was never put in place, or at least
543 we didn't; you know, collect on it. The same with two mines along the 15 Freeway in
544 Corona at Cajalco; one on each side of Cajalco, just east of the 15. One is now, and both
545 were a mess; no reclamation plan. They've been basically walked away from. And when
546 I was fairly new people came into my office and said we want to build on these. I said,
547 you've got to be crazy; how do you; how do you convert a quarry into anything?

548 Well, now, Oak Quarry off the 60 Freeway, is a beautiful; at least it was the last
549 time I saw it, a beautiful large golf course. I don't know how they did it, but they did it.
550 The moved a lot of dirt.

551 The Cross Roads at the northwest corner of Cajalco and Temescal, owned by a
552 man named David Murdoch who has plenty of money; a billionaire, but he took that
553 quarry and literally converted it into a major regional shopping center that is doing very
554 well.

555 On the opposite side, Dos Lagos was in the same condition. There, again, that's
556 not succeeding as well, and it all takes money, but it's; they've both been converted or all
557 three of those have been converted and it's, it's just up to us, and those were all without a
558 bonding mechanism.

559 So I think it's just up to us to insure if we do approve any of these in the future
560 and I think now because of the problems that we've had with the past mines, we do have
561 all those bonding mechanisms in place, but we didn't originally, or if we did, we let them
562 lapse, so that, that's just my own personal experience.

563 SUPERVISOR STONE: No, I appreciate that; certainly times have changed, but
564 I'll ask our geologist if today was 2087, using 2012 dollars, what would you require of
565 this applicant to bond for giving them time to do the appropriate reclamation, and what
566 would the site be used for after reclamation, understand that it's very steep; even a four
567 wheel drive is challenging to get to the top of this thing and its going to have a thousand
568 foot drop. I understand it's going to be terraced.

569 But what; and even on the mining ordinance it talks about recreational
570 alternatives. What benefit is this going to provide the county in that, in that final year,
571 and what would you estimate those costs to be to fully reclaimate the site?

572 DAVE JONES(?): Supervisors, the reclamation dollars are put in place in the
573 operating years, so using 2012 dollars it's the amount of disturbance in 2012 plus the
574 anticipated disturbance in (2013).

575 SUPERVISOR STONE: Well, let's assume the hole's there today. We're here;
576 we're discussing about reclaiming the property. What do you guesstimate that it would
577 cost today to fully reclaimate that property in accordance with our standards in the County
578 of Riverside?

579 DAVE JONES(?): I really have no guesstimate on that. The approved
580 reclamation plan or the reclamation plan that was analyzed by staff is for open space
581 habitat. The design of the pit is required to create ramps in and out for wild life. It's
582 required to revegetate these benches and slopes, so the cost of grooming slopes and
583 revegetation; that would be the cost.

584 There is not; based on the, the project that's been analyze, any requirement to
585 backfill this pit. We removed the original applied end use of reservoir from the whole

586 analysis. That was removed from the project because that had other issues and the
587 applicant chose; it wasn't part of his project. He didn't want to do that anymore.

588 SUPERVISOR STONE: The bottom line is you don't know what it would cost in
589 today dollars to....

590 MALE SPEAKER: No, sir, I am not a...

591 SUPERVISOR STONE: Okay, but I would say that it's more than a million
592 dollars, would you agree with that?

593 DAVE JONES(?): Very probably, yes.

594 SUPERVISOR STONE: Thanks.

595 KATHERINE LIND: Can I say something?

596 CHAIR TAVAGLIONE: Yes, Katherine, counsel.

597 KATHERINE LIND: Just so the record's clear, at the time of reclamation, the
598 cost will reflect the inflation factors of that time. Is that correct, staff? It will be in the
599 dollars of that day. It will be in 2087 dollars.

600 DAVE JONES(?): That is correct.

601 SUPERVISOR STONE: Well, I was just curious what 2012 dollars would look
602 like; are we looking at 300 million dollars in today dollars; are we looking at a billion
603 dollars in today dollars? This is a thousand feet deep, a mile long; again, one of the
604 largest manmade craters, probably, in the United States and I don't think any,
605 inexpensive endeavor to try to reclaim that site, but you don't have the answer and I
606 appreciate that.

607 CHAIR TAVAGLIONE: Okay, Supervisor Benoit followed by Supervisor
608 Ashley, followed by Supervisor Buster, and then I'm going to chime in one of these days,
609 okay, Supervisor Benoit.

610 SUPERVISOR BENOIT: Thank you, Mr. Chairman. You know, I (don't) know
611 how long we intend to go around this mulberry bush or pit. We have obviously had a lot
612 of time and discussion already on it; (but) I don't...

613 It's been extremely instructive to me. I've learned a lot over the last month and
614 then reviewing the Planning Commission hearings also. But I think that there is a logical
615 point to begin moving towards finding out if we have consensus on this Board.

616 To Supervisor Buster's very good concern; I have an idea that I'm going to insert
617 if I'm allowed to make a motion that would include a public oversight board, because I
618 believe that he has a point with the numerous different governmental entities that are
619 involved that, that something a little closer to home; something involving people from the
620 tribe, from the SMER, from the...each of the Supervisorial districts nearby; Camp
621 Pendleton, Caltrans, CHP.

622 I think that there's a very good reason to require the applicant to organize a(n)
623 advisory board that would offer another path for complaints and concerns and offer a
624 place for review of whatever monitoring systems we put in place for either air quality or
625 noise or, or water independent of Granite and as a(n) advisory body backed up of course
626 by the governmental bodies that they would have access to and understand how to access
627 better than perhaps an average citizen on his own.

628 I would include that as, in my motion and a, as a condition, and I have several
629 others that I would like to; so I, I would just tell the Chair that I am prepared to move a

630 motion to see if we can have consensus on this Board when you deem it's appropriate to
631 approve the project and see where, where we're at as far as the Board goes.

632 CHAIR TAVAGLIONE: Okay, we do have a motion. Obviously, there's more
633 discussion that needs to take place. Is there a second for that motion at this point?

634 SUPERVISOR BENOIT: And if we're going to move to the motion, I'd like to
635 make a statement and then read the motion before...

636 CHAIR TAVAGLIONE: Okay...

637 SUPERVISOR ASHLEY(?): I'd like to; I'd like to ask the staff some questions
638 first. That won't take long, and then defer back to you...

639 CHAIR TAVAGLIONE: Okay...

640 SUPERVISOR ASHLEY(?): ...at that point.

641 CHAIR TAVAGLIONE: Alright, so we're somewhat out of order here.
642 Supervisor Buster, did you want to speak again before Supervisor Ashley?

643 SUPERVISOR BUSTER: Well, I had some more questions, and maybe I keep
644 asking questions and I keep getting more, more changes to, to help things, so I've got a
645 few more questions, as (you may), there may be some other things that I can come up
646 with here.

647 CHAIR TAVAGLIONE: Let's, let's take a little more time to, to ask more
648 questions first, if you could Supervisor Benoit, I think. I know I have some and
649 Supervisor Ashley, I'm sure has some, so let's, let's do that. Let's go with Supervisor
650 Ashley first.

651 SUPERVISOR ASHLEY: Okay, thank you, right, it's okay to go, to go now.

652 SUPERVISOR BUSTER(?): Oh, I just, I mentioned this a little bit the other day,
653 but when we're talking about, (and, and) John Husing (drew a, I) think a good, good
654 comparison between cities and cities spend a lot of time trying to enhance, protect,
655 change their image. {NOT INTELLIGIBLE} branding, they hire consultants, they get
656 slogans.

657 Here in the City of Riverside we've got a lot of slogans, you know, and lot of, a
658 lot of stuff; and I mean, they do it for a good reason, too. I mean, there, obviously
659 financial is key; jobs are key, try to you know, build on what you've got; try to keep the
660 sales; you know, buy local; buy, buy within the County, buy within your city so that get
661 return on the sales tax.

662 You've seen all this, (a lot of people) have seen all that. Well, this is key here to
663 this community. We've seen it all around, across the county is image, reputation,
664 perceptions, particularly outsiders don't know the turf, perception of an area is key, I
665 mean, and we've changed a lot of, a lot of perceptions around here for the better.

666 I'm; I don't want to mention locations, but in an area in my city, county, area in
667 my district when I came on in 93; man they had; that area had a bad rap. I mean, they
668 had a high crime rate; lots of drug use, schools were bad. Well, in the last 10 or 15 years
669 there's been a lot of investment, a lot of coordination between public-private, private
670 enterprise to change things around.

671 So were on a new trajectory here, and Riverside County has long been concerned
672 in the last ten or fifteen years about being the utility basement for the rest of Southern
673 California. I mean, why should we take all the bio solid stuff? Why should we; we've
674 already got enough high transmission lines running through our midsections down our

675 prime land hence; you know, the Temecula Valley and not; the whole valley there, not
676 just the city, erupted against the Valley Rainbow line here some years back.

677 The line didn't go in. They were successful. I haven't heard of any, any
678 argument now that there's not enough electricity transmission lines and that this one
679 really caused any vulnerability to the San Diego areas or wherever it was trying to serve.

680 So residents, mostly, whether it's air quality, whether it's this image; they all
681 banded in as the county matures to look around them to see that quality of life amenities
682 really make life worth living and help keep high property values and ultimately and for a
683 community like Temecula; tourism; all its, all its forms; people coming to Pechanga,
684 people; you know, the, the old Temecula Creek Inn is going through an expansion and
685 they; their, their, their folks must have felt, well, if things, things are going to be better
686 here. So all that's very key and it's not just in the Temecula area concerned about it.

687 I mean, we saw this very recently when the County proposed a new massive jail at
688 the I-10 Freeway just before you get to the Palm Springs turnoff on the north side of the
689 I-10 Freeway; the Hub Jail; bought land, we put in over 20 mill; like 20 million dollars,
690 you know, and so far we sunk.

691 It's not going ahead right now, kind of, for the financial reasons, but the whole
692 Palm Springs area and further south; particularly their business people that depend on
693 tourism, and there's a lot of business that depend on people to that area. They erupted
694 that was going to get, even though it was a long way; I say, what the heck are they
695 concerned about, John? It's a long way off up there.

696 It was perception, mainly, and maybe there are some (impact)... We didn't get
697 into all the nitty-gritty, but that resonated with me that I; and for that matter, the Eagle

698 Mountain Landfill. We spent a lot of hearings; maybe not as long as these hearings, but
699 we had thousands of people appear on that over time for a project that never materialized
700 because there were other ways to handle the problem, other locations now that are going
701 to go into; in fact, they're not even, they were going to rail haul the trash.

702 I mean, this just shows you a lot, a lot of the claims that are made; a lot of the
703 arguments that are made for these big projects; you look at it ten years later and you say,
704 well, that was all hogwash, didn't really need the darn thing. {CHUCKLE}

705 Look at the Eagle Mountain Landfill. You don't need it. {NOT
706 INTELLIGIBLE} not because there's Mesquite Landfill down there that competes with
707 it, and not because Burrtec, Burrtec Waste is going to expand their landfill in the, in the
708 west side of the, of the, of the, (I knew what it) well, near as you go down to the Borrego
709 Springs area and then on the west side of Imperial County. But because our own
710 landfills here are not filling up as rapidly. They thought that the; the La Puente Landfill,
711 which is the biggest one in the United States, would be closed down by now and they'd,
712 they'd have all this pressure, and Riverside County thought we'll start getting a lot more
713 imports into the El Sobrante Landfill because that's closed down.

714 It hasn't happened. Everything's retarded by or changed, as well, for the future.
715 So you take all this stuff with a grain of salt if you've sat around here long enough. But
716 one of the things that I don't take with a grain of salt is when a community is as
717 organized and unified not just; not just Temecula area, not, and the surrounding county
718 areas, but the, the added importance of and synergy, between the Pechanga Indian Nation
719 and their economic future.

720 There were plenty opportunities for clashes and conflicts between what Pechanga
721 was doing; huge road impacts, you know, night, 24-7 operations. It's not a mine but, but
722 it is, it is a fulltime ongoing deal and it can expand even further. Plenty of opportunity
723 for clashes, but the community and Pechanga worked those out, and this was not an elite
724 community in Temecula; and that's the underlying...

725 I heard this sort of underlying implication for the last four or five years now that
726 Temecula is holding itself above; aloof of the rest of the county and they need to share,
727 because they use aggregate; they need in this and have this mine there; okay, that's the
728 implication.

729 Yet Temecula's been very far from trying to prevent blue collar jobs and they're
730 going to have a lot of them there when they fix the, widen the freeway here very shortly
731 and a lot of interruptions. I mean, that was Trafficula. They had to get Highway
732 Patrolmen out there before they had; to monitor the traffic before they could get traffic
733 signals on the freeway interchanges.

734 Temecula has had its share of impacts, but has done a masterful job in doing its
735 planning and adhering to, adhering to its vision, and that vision would be severely
736 compromised, I think, and the perception of outsiders by an ongoing, not just a smaller
737 mining (operation), but a huge mining operation, a huge mining operation.

738 So where is the mitigation? Where is the mitigation in the streams, the new river
739 that's being formed is a river of crushed rock that's going to be flowing out in two
740 directions; 70% of it forever, 75 years, like 75 years a new river is being formed. Where
741 is the; and the trucks are coming down and this key visual point here that's already
742 Rainbow Canyon; where is the ongoing mitigation; cents per ton, dollars per ton; I don't

743 know what it is, for this compromise to the successful economic, social and, and...quality
744 of life vision that's been successful in the Southwest County and particularly as
745 Temecula is the keystone along with the Pechanga Indian Nation?

746 There are two really keystones of that vision. They carry the custodianship of that
747 vision and they're here today, unified, and that's what really strikes me about this project.
748 We have never had such a big project where we have such unified local position on this
749 thing, and it, and it rang with our Planning Commission.

750 Here we have; so I said last week, we've got 74, 64, whatever it is; over sixty
751 years of experience of a veteran council, city council of the City of Temecula. You have
752 an equally even more...tenure on the Riverside County Planning Commission. Our
753 Planning Commissioners have served a total of almost 75 years, and they had a four to
754 one vote. We never expected that, and they made detailed findings here, and I'll read
755 from the conclusion.

756 One, *Overall Conclusions*; as evidenced by the above the project is incompatible
757 with the surrounding area and inconsistent with the neighboring uses.

758 Two, the project the project would export, export most of its aggregate south to
759 San Diego County. However, based on the information presented by the public, ample
760 aggregate deposits exist in San Diego County.

761 Now, it's not just public testimony. We have the very up to date SANDAG
762 Report that tells us this, too. {CHUCKLE} That they have enough options closer in with
763 less, less adverse impacts and actually more jobs because the quarries will be smaller, so
764 they're not as efficient as this one, but they get more jobs per ton, okay, more flexibility.
765 If one doesn't work out you close it up. Easier to reclaim; they're smaller, okay.

766 MALE SPEAKER: Yeah.

767 SUPERVISOR BUSTER: That's what this considered, very deliberate study said
768 and they, and they mentioned; as I said, and let me, let me read what they said about
769 Liberty Quarry. Here it is, page ES-5.

770 MALE SPEAKER: {NOT INTELLIGIBLE}

771 SUPERVISOR BUSTER: Yep. I know I'm going on a little long but I just....

772 CHAIR TAVAGLIONE: Supervisor Stone is asking if this a time for statements
773 or there a question you're going to ask?

774 SUPERVISOR BUSTER: Well, I'm getting here; and the question, and I'm
775 getting my question about mitigation and that's what I'm working on now, so (I won't),
776 but this is all background on mitigation; page 3-6 of the report.

777 The areas that San Diego Region imports from will eventually experience
778 shortages; limiting; limiting future access. Future potential supplies include material
779 from Liberty Quarry, a proposed crushed rocks quarry in Southwestern Riverside County.
780 The permitting process for this project has begun and if approved the quarry could
781 provide up to four and a half million tons annually, which is about half of San Diego's
782 average annual use of 9.2 million tons over the last 10 or 15 years, by the way, so.

783 So this, this would be a quarry; provide half their, half their demand down there.
784 Okay, you'd think they'd, they'd say well, we, we need this, we want it, alright. In
785 addition, Eagle Rock Aggregates anticipates extending its shipments of sand and gravel
786 from Vancouver Island, British Columbia, to San Diego. They currently import to the
787 Port of Richmond, San Francisco and Redwood City.

788 The view they had of Granite was like a distant, a distant potential, even though it
789 had a lot of granite. They do not advocate it. What they advocate is, is local quarries
790 because of the obvious reduced impact to their citizenry, to adjacent property owners, to
791 their roads, less miles traveled. That's what they're advocating there. They're not
792 calling out for, for this quarry for at least 70% of this quarry.

793 So if this quarry is allowed to be so big, why, I mean, why should it be so big, (if
794 it's) not cut back in size. Then why shouldn't the impacts that this additional 70% that's
795 added on there to get into the San Diego market to be able to run trucks much farther,
796 double the distances and more, occupying a lot of space and, you know, all the
797 congestion and hazards on I-15 Freeway, causing interference, causing this visual, visual
798 blight of all these trucks coming out on the haul road and getting on and off the freeway
799 up there at the; up there at the, off at the Rainbow Road. If that's the model, then San
800 Diego doesn't want it.

801 If that's the model that Riverside County is going to put on San Diego County by
802 approving this extra 70% and on the surrounding areas, the Pechanga, the Rainbow
803 people, the Temecula area; if that's the model that we want to put in place here this
804 morning, and I don't see how it's justified, why shouldn't there be specific increased
805 mitigation to deal with that damage to the, not just the, the real damage but the
806 perception, which is key to a lot of the economic future of the Southwest County, the
807 perception of its beauty, its ruralness, its (quiet attitude). It's all of the values that we've
808 heard expressed.

809 Why should there; why is there missing from all, all the mitigation any, any kind
810 of direct payment to the Southwest County, or for that matter the County of Riverside...

811 CHAIR TAVAGLIONE: Supervisor, can I ask you....

812 SUPERVISOR BUSTER: ...for helping San Diego County that doesn't even

813 want to be helped? So, there's another...

814 MALE SPEAKER: I was hoping; who do you want to address that to?

815 SUPERVISOR BUSTER: Well, you talked about, you talked about how much,
816 how much is put down for the, for the reclamation. I'm asking how much is put down for
817 the; our Planning Commission, four to one vote, specifically said it would provide more
818 benefit to San Diego (County) than to Riverside. The majority of environmental impacts
819 remain in Riverside. This represents an environmental injustice to Riverside County. I
820 mean, that's fundamental here and there's nothing to mitigate it; there's nothing at all,
821 and yet there are huge dollars flowing to Granite and flowing out of this county forever
822 here on this project.

823 So why isn't this recognized? Because you wanted to recognize it in the
824 Coachella Valley, Supervisor Benoit, from the Hub Jail, the County recognized it. Why
825 isn't it being represented here?

826 CHAIR TAVAGLIONE: Okay, Supervisor Stone and then Supervisor Ashley.

827 SUPERVISOR STONE: Thank you again, Mr. Chair. I want to transition to
828 traffic studies and Juan Perez. I appreciate you as one of the premiere staff members in
829 this county. I respect your opinion. You've always been objective, you've always been
830 fair; you've always been honest.

831 This traffic study is five years old. It was done, I believe, in 2007 at the peak of
832 when you would expect to see a significant volume of truck traffic on the I-15 Freeway.

833 It's my understanding that through testimony that I'll refer to in my closing
834 statements from the Planning Commission, from the opponents, is that the traffic studies
835 were flawed in that there was no license plate identification which would typically tell
836 you where the trucks are coming from, where the trucks are going. There was no
837 discrimination as to even what the trucks were carrying.

838 I also heard concerns that east-west corridors were not strongly considered, just
839 north-south corridors, knowing that this aggregate is proposed to go to eastern parts of
840 the county as well.

841 Also, mitigation; Granite's going to be paying upwards of a million and a half,
842 two million dollars for three improvements in the City of Temecula at the interchanges. I
843 question that mitigation fee when you consider that 67 trucks per hour, 24 hours a day,
844 are going to be potentially going in and out of the quarry site impacting roads.

845 Liberty Quarry also, in their testimony, said that one gravel traveling truck is
846 equivalent to the damage created by seven thousand cars. So, I'm kind of piggybacking
847 on Supervisor Buster's comments that if this Board approves this project, would it not be
848 appropriate that there should be a tipping fee that would be utilized by the unincorporated
849 area of Southwest Riverside County, the City of Temecula, the City of Murrieta, and
850 maybe even the City of Menifee?

851 If you added three dollars a ton over the life of this project that would deliver a
852 billion dollars for road maintenance and here we're having trouble not only building
853 roads, but maintaining our crumbling infrastructure that is going to be significantly
854 impacted by this voluminous number of heavy gravel traveling trucks. So it's a number
855 of questions; I'll be happy to repeat them if you'd like.

856 JUAN PEREZ: Thank you, first of all; thanks for your kind comments,
857 Supervisor. I'll try to do this by memory and you can help me as we go along. So, I
858 think the first question you had was regarding the age of the traffic counts and the traffic
859 study. I think that's, that's a very valid question given the project has been in process for
860 a number of years.

861 We do; I did; and it's a question I had as well, and I did; so the Board is aware; I
862 did ask Urban Crossroads, the engineer for the project that did the traffic studies to do
863 some research on the historical data and what's, what's happened out there traffic wise
864 over the last several years.

865 So Mr. Kain is here; I may not ask him to come up just yet, just in the interest of
866 trying to cover the questions, but I would like to submit for the record the study that he
867 has prepared. Thank you, Keesha. And I'll maybe summarize for the Board what, what
868 we asked them to do, and I did want to state that I did have our staff do some independent
869 verification of this also, minus some, I think, differences in the actual; the callout of
870 where the count location is, I think the data is basically found to be reliable from our
871 perspective.

872 What they did is an analysis of different count locations in the Southwest County,
873 and historically if you go back to 2005 for example, and I'll just pick one specific
874 location, because I think it's the most representative along the 15 Freeway in the vicinity
875 of this project.

876 The average daily traffic count at the time, 2005, was about 136,000 vehicles per
877 day, and those counts are traffic counts done by Caltrans, and you see the same 136,000
878 number in 06, you see it in 07, also. You see a drop off in 08, starts going down to

879 129,000; 08, 09, 129,000; in 2010 it bumps up again, up a little bit to 134,000. So
880 there's, there's a little bit of a variance there. It's a little bit more pronounced in some of
881 the other locations that were looked at. Generally I would say the variances are in the
882 range of one to five percent or so. So...

883 SUPERVISOR STONE: But you're, you're counting all vehicles.

884 JUAN PEREZ: Yes, and I did want to clarify that. This, this; again, this is raw
885 data, if you will. This is Caltrans data based on their traffic counts they conduct out
886 there. It does not differentiate for vehicle types.

887 I don't have; you know, actual hard and fast vehicle type data to share with the
888 Board. I think we all would, would expect given what we've seen in the local economy,
889 with the drop off in the construction industry, building permit activity reduced; you
890 know, better bid prices which I think are indicative of less demand for construction
891 activity.

892 My, my opinion would be that it's probably more of a pronounced difference if
893 you just look at aggregate trucks (in) 07 versus now and I believe some of the data that
894 Temecula introduced kind of verified that, so, so I think there has been a reduction. On
895 the other hand, in the aggregate truck numbers. On the other hand, I think this also does
896 show, though, that the, the traffic study numbers, which I think some of them date back to
897 06 and 07, as far as total vehicles are, are still applicable today and probably, you know, a
898 little bit conservative if anything else. I gave you such a long answer I forgot your
899 second question, so my apologies.

900 SUPERVISOR STONE: Yeah, the contribution to interchange improvements
901 which are going to be impacted significantly. They've only identified three interchanges

902 and if, if Granite's projection of their ability to sell this in Riverside County without any
903 competition comes to fruition, there's going to be a significant impact to more than just
904 the three interchanges; but of the three interchanges, I think there's approximately one
905 and a half, two million dollars in mitigation.

906 Is that a true nexus of responsibility and should there be more interchanges
907 throughout Southwest Riverside County included?

908 JUAN PEREZ: Hopefully I can get this exhibit up, and what I wanted to show
909 the Board, the information that went into developing those estimates. I mentioned more
910 at length at the last hearing that the three interchanges that were studied and there were
911 also three, counting Rainbow Canyon in, in San Diego County.

912 I think we're having some problems here. And in order to arrive at that number,
913 great, thank you. Maybe the gentleman can help me blow that up so the audience can see
914 that a little bit better. That's, that's good, thank you.

915 In order to arrive at that number what we used was an estimate of 140 million
916 dollars for total construction cost for the I-15 Interchange at Winchester, approximately
917 36 million dollars each for the interchanges at Rancho California Road and 79 South.
918 Now, this information may be a little bit dated but, but I think it's, you know, still fairly
919 reliable.

920 And what was done is to take a look at the total cumulative new traffic that would
921 be added and determine the percentage of, the percentage of what Granite would
922 contribute to that and those are the numbers that you see there as far as the .66%; 1%,
923 etcetera, and those add up to 1.7 million, and I believe the San Diego figure was 1.3
924 million, although I should clarify for the record that figure was computed independently

925 between San Diego County and the applicant; the County of Riverside was not involved
926 in that.

927 So I think that's, you know, certainly the issue before you today. We; they, they
928 did prepare a traffic study in accordance with our requirements. These were the
929 interchanges that; you know, were in proximity of the project that we felt would be
930 appropriate to review. Whether or not you feel it's appropriate, I think that's the issue
931 before the Board, if, if you should have additional mitigation beyond that.

932 SUPERVISOR STONE(?): Juan, can I ask; do you mind if I step in? Juan,
933 you're very familiar with Etiwanda and Van Buren and the rebuild of the interchange we
934 had to go through there last year as a result of so many trucks coming out of the
935 distribution warehouses, but in Riverside and San Bernardino County. That; we had not
936 mitigation for, for that interchange; we had to do it on our own dime, all concrete. I think
937 it was shut down for, what, six weeks. What did that cost us?

938 JUAN PEREZ: My recollection, Supervisor, of that project; now, that also did
939 include paving of Etiwanda north to the county line was roughly about three and a half,
940 four million dollars construction.

941 SUPERVISOR STONE: Okay, and that's just for the interchange, and we have
942 no mitigation anywhere near Agua Mansa for the Transfer Station and also anywhere
943 along Etiwanda or Van Buren as a result of all these trucks, so is that included in this
944 other than we know they're going to construct the road up to the landfill, anything else?

945 JUAN PEREZ: What, one thing I did want to clarify and I think this gets to one
946 of your questions, Supervisor Stone, is the maintenance component of it. And I think the
947 figure you brought up at the last hearing; (and tried to do) a little bit of independent

948 review and, you know, the experts differ as we know, but did find some, some reference
949 that; you know, the average truck has approximately the impact of about six thousand
950 vehicles. Interestingly enough, buses actually have a greater impact. They're about 10
951 thousand just because it's less axels to spread the load over. It's really axels that
952 determine pavement impacts.

953 But to, to get to your question; these numbers that you see here are really just
954 based on capacity expansion. They're not based on any sort of maintenance component
955 or a retrofit component of any of the roadways.

956 SUPERVISOR STONE: Okay, thank you, Juan, for that clarification. You
957 know, this has been proposed as a significant regional purveyor of aggregate so to say
958 that there's not going to be any impact to east-west corridors within the County such as
959 Murrieta Hot Springs Road that takes you to Winchester, or Newport Road that takes you
960 to the Hemet Valley, that Clinton Keith Road; we just acquired a very expensive piece of
961 property, as you know, so we can do this new east-west corridor, those are going to be
962 impacted roads and interchanges and how will those; how (were) those not addressed as
963 at least studied for potential impacts and mitigation?

964 JUAN PEREZ: Supervisor, I think at some point as with any traffic study the
965 challenge becomes how far do you go, and that's, that's something that reasonable people
966 and even traffic engineers can disagree over.

967 What...I know that part of the thought process also is that if there's; for example,
968 if there's demand for a project, we'll say in Hemet, construction activity in Hemet; that
969 demand is being met today by trucks perhaps using Dominigoni Parkway or Ramona
970 Expressway or Newport Road. So as you get further out from the project, it becomes

971 more of a displacement issue of, you know, how that traffic got there. Is it really new
972 traffic or is it replacing it from another quarry that's going to serve it and that's, so that
973 really gets very difficult to do. That's why the focus was more particularly on the
974 interchanges in close proximity to the project.

975 SUPERVISOR STONE: Well, as we; you know, the traffic analysis of this
976 project is very important because it has demonstrable impact on what the air quality
977 issues are and this study is five years old; it only addresses three intersections. Have you
978 seen an environmental impact review that, that studies are stale and that they need to be
979 updated so that the public has an appropriate measure of what the true impacts of a
980 contemporary project would be if it were to be approved today?

981 Is that not something that would be responsible that the County should require;
982 that this and maybe out of your expertise some other studies may need to be updated so
983 that we can truly understand what the impacts are on this project; on the, on the
984 constituents that we all represent?

985 JUAN PEREZ: Well, again, I think that's, that's the hard question before you
986 today for each of you to determine what's an appropriate level of study and whether more
987 should be done.

988 SUPERVISOR STONE: But in your professional judgment over the years; when
989 you look at EIRs, in Juan Perez's mind, what is the threshold that makes a traffic study
990 insignificant or not as significant because of the age of the report?

991 JUAN PEREZ: In my opinion that number varies based on traffic conditions. If
992 you were to have asked me this question in 2006 or 07 when traffic was just really
993 increasing significantly; if you were to ask me, you know, looking out five years or, you

994 know, is that; or at something done five years ago, is that representative, I would have
995 said no at the time.

996 I think today, however, and it is kind of borne out by what you see here; there
997 hasn't been that growth. There has not been that level of traffic increase over the last five
998 years. If anything, there's been a slight decrease overall.

999 So I think given that, I don't know that, that in my opinion I would say that
1000 conditions have changed to that point; but again, that would depend on the span of time
1001 that you look at things.

1002 SUPERVISOR STONE: Juan, you are the one responsible to insure that the roads
1003 in Riverside County are safe and that we're ahead of the developmental process and
1004 delivering new roads. Our revenues are down; the state took our Prop 42, although they
1005 give us gas taxes.

1006 In our rubbish areas we charge tipping fees to, to mitigate habitat, as an example,
1007 and other impacts to the County. Would it not be appropriate to have a tipping fee on a
1008 project of this size and this magnitude with the specific nexus for that fee to go towards
1009 maintaining our infrastructure?

1010 And again, I mentioned that if it was just three dollars a ton based on the tonnage
1011 that's going to come out of this project over 75 years, in 2012 dollars it represents one
1012 billion dollars, one billion dollars. That would go a long way to taking away the
1013 uncertainty that we're not going to have the money to repair the significant damage that
1014 could result from these very heavy trucks, irrespective of them not being buses, and I
1015 appreciate that, that education from you.

1016 JUAN PEREZ: Supervisor, from the, taking off the traffic impact hat and putting
1017 on my traffic or transportation project delivery hat; certainly we welcome any revenue
1018 stream that, that can help us do that and we're always behind the, behind the curve and
1019 behind the times, and I'm not familiar with the, the history of the other projects I think
1020 Supervisor Buster mentioned to, you know, how that got there.

1021 I understand that particular is not for traffic mitigation. But again, that's
1022 something I think for, for the Board to determine. But I, I certainly welcome any funding
1023 stream that helps deliver projects, and I think that's up to the Board to determine what's
1024 appropriate and what would the use be of transportation versus some other, you know,
1025 open space or some other, some other usage for that.

1026 SUPERVISOR STONE: Thank you, and just one final comment not related to
1027 transportation, Juan, thank you, is that Supervisor Benoit brought up the idea of having
1028 an advisory body, and I think that that is a great idea. I think, though, picking citizens to,
1029 to do that in only an advisory capacity without any teeth will give the citizens, I think, a
1030 false sense of security.

1031 Now, if you want to include in that advisory board a member from the San Diego
1032 Quality of Water Board, the AQMD, our Transportation Director, our Planning Director,
1033 I think that by placing people that have some teeth associated with their positions that can
1034 effectuate the progression or the interruption of the project in the event that certain
1035 milestones are not maintained, I think that would give more comfort to, to the citizens.

1036 SUPERVISOR BENOIT(?): Good, good suggestion.

1037 CHAIR TAVAGLIONE: Our counsel has a comment and then we're going to go
1038 to Supervisor Buster for a quick question of Juan.

1039 KATHERINE LIND: Yes, I'm not sure the record's clear. You submitted this
1040 report from Urban Crossroads, Mr. Perez. It specifically was to address the issue of the
1041 allegedly dated traffic study analysis, is that correct?

1042 JUAN PEREZ: I would concur with that, counsel.

1043 KATHERINE LIND: And the conclusion is that use of newer traffic counts
1044 would have resulted in a lower baseline? Is that what this report concludes?

1045 MALE SPEAKER: {NOT INTELLIGIBLE}

1046 JUAN PEREZ: The, I would characterize the conclusions being that traffic has
1047 not increased over the span of time from when the counts were done with the traffic
1048 study. In fact, they've decreased somewhat and the study, I should clarify, did not get
1049 into the, the aggregate issue that I spoke to with Supervisor Stone, so that's more of my
1050 personal observation.

1051 KATHERINE LIND: Okay, one other item. The issue's come up several times
1052 now with respect to imposing a fee or a tipping fee on this project. I want to advise the
1053 Board there are significant restrictions related to imposing fees on development projects
1054 and the fees that you are mentioning today would probably best be accomplished through
1055 a development agreement, which does not have similar restrictions.

1056 CHAIR TAVAGLIONE: Thank you, Katherine. Supervisor Buster real quick,
1057 and we're going to go to Supervisor Ashley, who's been waiting patiently.

1058 SUPERVISOR BUSTER: Juan, there'll be all kinds of heavy trucks coming out
1059 of this facility and we generally see the kinds on there. Is there, is there a higher accident
1060 rate or problem with the; with the hopper trucks that have a truck plus a trailer back there

1061 that {NOT INTELLIGIBLE}. Or are they; are there any really significant differences
1062 that you've seen in your experience?

1063 JUAN PEREZ: Supervisor, I can't think of any particular studies that I've seen to
1064 identify one more than other. You know, anecdotally I would say that obviously, the
1065 (you know), the larger the load the more difficult it is to maneuver, but I can't, I can't
1066 really point to anything specific as far as accident rates on one type of truck versus
1067 another off hand. I'd have to research that.

1068 SUPERVISOR BUSTER: (And they're), they're all limited to a certain amount
1069 of weight per axel, is that right?

1070 JUAN PEREZ: The state has a; the state vehicle code has limitations on weight
1071 per axel, total weight, and total length of vehicles as well.

1072 MALE SPEAKER: {NOT INTELLIGIBLE}

1073 SUPERVISOR BUSTER: And the right hand lane, at least, is, is heavier on the
1074 freeways to account for all that; is that correct? They've taken that into account?

1075 JUAN PEREZ: I...

1076 SUPERVISOR BUSTER: Thicker?

1077 JUAN PEREZ: I would suspect so. Since we don't do the direct freeway design
1078 on things I can't attest to that, but that would be my, my observation.

1079 SUPERVISOR BUSTER: Right.

1080 CHAIR TAVAGLIONE: Okay, Supervisor Ashley.

1081 SUPERVISOR ASHLEY: Thank you. And I can appreciate the chance to ask
1082 some questions. Now, we've heard all the testimony and, and all the experts and the
1083 public and all kinds of varying opinions. I'd like to hear more from our County staff

1084 that's responsible for processing the application for this project and it acted as the lead
1085 agency for the EIR. So I'd like Carolyn, would you kindly answer or have your staff
1086 answer my questions, okay?

1087 My first question; this is Carolyn Syms Luna, our Planning Director, Carolyn,
1088 number one; why did you recommend approval of this project?

1089 CAROLYN SYMS LUNA: Well, Supervisor Ashley and members of the Board,
1090 as you know this project has been here about seven years. We've reviewed the project.
1091 Actually, I'm the third Planning Director on this project.

1092 The staff, after reviewing the studies that were provided, determined that it's
1093 consistent with all the zoning standards; the General Plan requirements, as well as
1094 policies that we have in our General Plan, and it's consistent with all other applicable
1095 ordinances; except, of course, our noise ordinance which they're asking for an exception.

1096 Additionally, the EIR that's been completed and prepared was done in accordance
1097 and consistent with all CEQA requirements in that the data within the EIR reasonably
1098 supports the conclusions found in the EIR.

1099 Additionally, we did request a reduced footprint in order to mitigate for cultural
1100 and biological impacts, and we felt that that was superior to the no project alternative.

1101 SUPERVISOR ASHLEY: Okay, my second; next question is how long has this
1102 land been zoned for mining.

1103 CAROLYN SYMS LUNA: Dave, I'd like to defer to our geologist; quite a
1104 number of years.

1105 DAVE JONES: Supervisors, Dave Jones, County Geologist. The zoning of this
1106 area has been in place that would allow mining with a mining permit since about the
1107 1980s, (okay).

1108 SUPERVISOR ASHLEY: Okay. Okay, and, and the next one is after hearing all
1109 the experts and the public testimony; and, you know, they talked about the noise, the air
1110 quality, the traffic, the water and the biological, and the cultural; do you still think that
1111 the conditions and the mitigation measures put in are adequate that you recommended?

1112 CAROLYN SYMS LUNA: Well, as you know, or counsel can remind you;
1113 CEQA does allow opposition testimony, other opinions. In fact, this is exactly; I'm sure
1114 this is going to be used as a lot of model in a lot of CEQA classes. This is the model for
1115 how CEQA should operate, so all of the testimony that you have been hearing; CEQA in
1116 a sense encourages that.

1117 Based on the information that was provided, provided I don't believe our staff, as
1118 well as myself, have found any reason to redo, to change our recommendation, our
1119 original recommendation, in that we find that the, the conclusions that we arrived at in
1120 the EIR still stand.

1121 We do have, Supervisor, if you'd like to discuss some of the, the issues. I know
1122 we have a real good table that summarizes them if you'd like staff to go further into
1123 noise, air, impacts.

1124 SUPERVISOR ASHLEY: Okay, my next question; has this process deviated
1125 from our normal process, and, and how are the mitigation measures implemented and
1126 how do we make sure they're followed? There's a lot of concern about that.

1127 CAROLYN SYMS LUNA: It's; it's my understanding that this process has been
1128 in place a number of years. At one time the Board was considering reevaluating the
1129 process. I think Supervisor Buster, you're familiar with that. I wasn't in the Planning
1130 Department at the time. So the process that we have, as far as our consultant selection
1131 process, is one that we've used for many EIRs and we haven't deviated from that process
1132 at all.

1133 We have over 240 conditions of approval. In my career here, this is probably the
1134 most conditioned project that I have ever seen, and I was around at Eagle Mountain, also,
1135 but that, that does not suggest that should this Board based on testimony and other
1136 concerns that they may have; that we can amend, modify any of the conditions of
1137 approval to your satisfaction.

1138 SUPERVISOR ASHLEY: Okay, next question. I want to make sure that the
1139 County's on strong legal ground here regarding cultural issues, and I understand the, you
1140 know, report says that there were no features found on the site; and I want to know if
1141 that's correct and is still correct in light of the testimony as to the Creation Site given in
1142 the hearings; you know, by the Pechanga Band of Luiseño Indians and others.

1143 CAROLYN SYMS LUNA: Okay, with respect to our EIR analysis and the
1144 information studies that were submitted to us, I think we feel that we've reasonably
1145 analyzed and come up with the conclusions that we have come up, especially with respect
1146 to state law, CEQA and federal law...

1147 SUPERVISOR ASHLEY: Uh huh.

1148 CAROLYN SYMS LUNA: And as you know, we've had a lot of legal discussion
1149 on that and I certainly am not the subject matter expert on that, nor is my staff; so I would

1150 have to defer to legal counsel as far as what we should have analyzed, (what we shouldn't
1151 have) analyzed. We had counsel with us at our side when we reviewed our conclusions
1152 and our findings in the Staff Report, so I'm extremely comfortable in our assertion that
1153 we have met all of the standards under CEQA, state and federal law.

1154 SUPERVISOR ASHLEY: Okay, the next question is there's been discussion
1155 about, on both sides, about the need for this project. After what you've heard, (hearing)
1156 both sides, do, is the staff and you still feel that there's; that this county has really
1157 experienced a shortage of aggregate?

1158 CAROLYN SYMS LUNA: You know, under CEQA, Supervisor, we, we
1159 eventually have to draw a snapshot and a start and an end date. So that's what we've
1160 analyzed under our EIR and upon listening to the additional testimony in Planning
1161 Commission, I think staff continues to support our original approval recommendation and
1162 that we still feel that the data does reasonably support the conclusions that we did find in
1163 the EIR, especially with respect to our reduced to our reduced footprint.

1164 SUPERVISOR ASHLEY: Okay, my, my last question. (You know), Carolyn,
1165 you sat through 55 hours of public hearings from the Planning Commission and about 25
1166 hours or more from the Board. I've read your Staff Report, the Findings of Denial from
1167 Planning Commission, most of the EIR, letters from the public and several responses to
1168 those comment letters, and I want to know based on what you've heard at all the
1169 hearings, would you change your recommendation based on what you heard in your
1170 opinion, and do, would you think this EIR, because of testimony we've heard, would be
1171 required to be re-circulated?

1172 CAROLYN SYMS LUNA: Supervisor Ashley, I haven't heard any information
1173 that we haven't addressed in our EIR Response to Comments. People are entitled to
1174 different interpretations of the data. That's what the CEQA process encourages.
1175 However, in my opinion we have not; have new evidence that I think would change our
1176 opinion.

1177 SUPERVISOR ASHLEY: Okay, I think a couple of these questions that I've
1178 asked you, I probably should have asked counsel, but then maybe counsel will address
1179 some of these later, but that's, that's all my questions of you, thank you.

1180 CHAIR TAVAGLIONE: Alright, I'm going to go ahead and ask a few; first for
1181 Mr. Johnson, followed by Mr. Husing. Gary, the; you know, it's been stated that we need
1182 the aggregate. I have no doubt we need aggregate well into the future. But when you
1183 look at the aggregate that's available today...

1184 GARY JOHNSON: Uh huh.

1185 CHAIR TAVAGLIONE: Granted, it's not being tapped into as much as it was
1186 2006 and a few years past that because of the economy. But what is our; remind me what
1187 our current source gives us and how many years.

1188 GARY JOHNSON: Supervisor, in Western Riverside County according to
1189 Department of Conservation and reinforced by John Parrish, our state geologist's letter
1190 last week, Western Riverside County has about 32% of the reserves necessary for the
1191 next 50 years and if, if you assumed an equal production per year going out, it would be
1192 about 15 to 16 years of permitted reserves left in Western Riverside County.

1193 CHAIR TAVAGLIONE: Permitted. So those existing mines that are operated
1194 today, we either have to get extensions on their permits; not to say it's not there. They'd
1195 have to get extensions?

1196 GARY JOHNSON: Well, they would or we'd have to start importing aggregate...

1197 CHAIR TAVAGLIONE: Yeah.

1198 GARY JOHNSON: ...to make up for that lost...

1199 CHAIR TAVAGLIONE: Okay.

1200 GARY JOHNSON: ...that lost tonnage.

1201 CHAIR TAVAGLIONE: And I know you've indicated that you've looked at
1202 other sites. Tell me about them; why, why this site versus the others?

1203 GARY JOHNSON: Well, the site; again, is in the middle of a market that serves;
1204 that has a deficit of aggregate quarries and when the Draft EIR came out there were four
1205 operating quarries in this market; three of them in San Diego, one of them in, in
1206 Riverside. Two of those in San Diego have, have since closed; exhausted their reserves.
1207 One of them is our Rosemary's Mountain Quarry, which will be; the permit is up in 2022
1208 and there's no possibility of expansion there.

1209 The site has direct access to I-15. It's hidden from view. You don't have a lot of
1210 residents around it. It's very high quality rock.

1211 CHAIR TAVAGLIONE: Okay, in terms; is your geologist here or, excuse me,
1212 not, not your geologist, your ethnologist, eth...

1213 GARY JOHNSON: Ethnographer?

1214 CHAIR TAVAGLIONE: Yeah.

1215 GARY JOHNSON: No, he is not; I'm sorry.

1216 CHAIR TAVAGLIONE: Okay, you know, I, I'm concerned about the disputes,
1217 if you will, between the Pechanga and, and your, your company. I'm most concerned
1218 that; you know, this is an entire mountain range, and I'm going to ask Chairman Macarro
1219 to come up in a moment, but I'm most concerned about this is an entire mountain range.
1220 We can't be expected to, to preserve all our mountain ranges because there's history
1221 throughout them.

1222 You've had; you've had discussions with them, with Chairman Macarro and the
1223 Pechangas, and I'll ask him the same thing. Why haven't those discussions led to some
1224 level of, of compromise or cooperation and, you know, I'll ask him and I'm sure opinion
1225 is that you just haven't gotten there. Is it, is it because; is it purely a business issue?

1226 GARY JOHNSON: I don't think...

1227 CHAIR TAVAGLIONE: (Do you) think it's differences of opinion?

1228 GARY JOHNSON: I don't think it's a business issue and certainly understand
1229 and we respect their culture, and we started off talking to them, Supervisor, in 2005 and
1230 we were not told at that time that; of the, their feelings for this property. We have since
1231 purchased the property. We own it. It's zoned to allow mining. The state has classified
1232 it as an important mineral resource.

1233 They have shown that development in culturally sensitive areas or areas that are
1234 important to them can be done. They've done it in very close proximity to features.
1235 There are no features on our site. We have asked; you know, tell us what else we need to
1236 do in the way of mitigation or conditions or modifying the project or making it smaller,
1237 or whatever, because we want to work with you just like we've worked with CHP and
1238 Caltrans and Camp Pendleton and, and others.

1239 And they have made it clear that they do not think that operating a quarry on this
1240 site is appropriate. They have, they have stated there may be other uses, other
1241 development on this site might be appropriate, which I have a hard time getting my arms
1242 around, but that's certainly their opinion and I respect that.

1243 But I think from a CEQA standpoint, from a legal standpoint, the County has
1244 done everything they need to do to address that, and even if this Board was to approve
1245 this project today, we would continue to reach out to them and other stakeholders to try to
1246 resolve issues.

1247 CHAIR TAVAGLIONE: Your ethnographer identified an area of critical
1248 environmental concern by the BLM and that 90% of the quarry site is in that area. Is that
1249 correct?

1250 GARY JOHNSON: I don't believe that's stated exactly that way, but if you're
1251 talking about landscapes and as I may have Mark Harrison come up and address that
1252 issue. But the landscapes seem to have moved around. The important thing is; there's no
1253 features on the site and if there were features, you know, we would have to do mitigation
1254 for that.

1255 CHAIR TAVAGLIONE: I guess that's where my concern is. There's, there's a
1256 very clear difference of opinions between what appears to be your ethnographer and their
1257 ethnographer and as we deal with this all the time, who are we to believe, because I do
1258 see their point.

1259 GARY JOHNSON: Mark, do you want to come up and address this?

1260 CHAIR TAVAGLIONE: And then I'm going to ask Chairman Macarro to come
1261 up...

1262 GARY JOHNSON: Sure.

1263 CHAIR TAVAGLIONE: ...and respond to that as well. The differences of
1264 opinions between the consultants and the attorneys reminded me of the democrats and the
1265 republicans.

1266 MARK HARRISON: Yeah.

1267 MALE SPEAKER: Get used to it; yeah, you want to be there. {AUDIENCE
1268 LAUGHTER} So...

1269 MARK HARRISON: Chairman, in this case interestingly enough, one of the
1270 things that isn't really in dispute is the ethnography of the site and what the
1271 ethnographers found. They all found that this; the landscape as a whole is culturally rich
1272 to the Pechanga, and no one's disputed that. The County certainly didn't dispute that.

1273 The issue has to do; it's really a purely legal issue; is, does the law allow kind of a
1274 no development zone to be blanketed over landscapes; is that the approach it takes? And
1275 I read you the quote directly from the 9th Circuit case, which is the leading case, and it
1276 says it doesn't. You identify features and you protect those.

1277 And one of the things that I think is most consistent throughout this contentious
1278 issue concerning cultural values is on our property or on Granite's property, there's never
1279 been (a) significant feature identified that's going to be impacted. There was a statement
1280 that the Weeping Rocks were on it, but I think I clarified that for, for the Board.

1281 And (s) to respects, the statements about the Federal Land Use Plan; that's a plan
1282 that the BLM has to control federal lands, and in the most recent update; I think it's on
1283 page 1-4 of that plan, as you might expect, it makes it clear that it doesn't have any
1284 application to private lands.

1285 CHAIR TAVAGLIONE: Okay, thank you.

1286 SUPERVISOR STONE(?): Mr. Chair?

1287 CHAIR TAVAGLIONE: Yes.

1288 SUPERVISOR (STONE?): Just one quick comment and then we'll go (to) Mr.
1289 Macarro. I'm just going to say that I agree with the attorney for, for Granite. He's not
1290 the ethnographer. He's the attorney, and says that the County cannot put a no
1291 development zone around any portion of this property. I agree wholeheartedly, but that
1292 does not take away the discretionary power of this Board to take that into consideration
1293 for a mining permit.

1294 CHAIR TAVAGLIONE: Yeah; Chairman Macarro, I'd, I'd really appreciate
1295 your opinions on this. You know, there is a clear difference of opinion. I value both of
1296 your opinions and respect both of you. In the end, though, I want to get to a clear
1297 decision in my own mind what is, what is the right way to go here.

1298 PECHANGA CHAIRMAN MACARRO: Miiyuyam, {POLOVO MU ECHNI,
1299 LO-VU-CUM} I'm here.

1300 CHAIR TAVAGLIONE: There's, there's...it's been stated that there are no
1301 cultural features on this, on the footprint itself by their attorney; their, their ethnographer.
1302 There appears to be a dispute between your ethnographer and their ethnographer, and I'd
1303 like you to kind of give your thoughts on that as the Chairman of, of the Pechangas.

1304 PECHANGA CHAIRMAN MACARRO: Okay, and bear in mind that our world
1305 view here; the Pechanga world view, is also the world view of all Luiseño People, okay.
1306 It involves every Luiseño Indian that; that is part of the greater Luiseño Nation of People,

1307 and most of the tribes are down in San Diego County, with the exception being us and
1308 Soboba.

1309 The mountain is the feature. It's, it's a Traditional Cultural Landscape; it's a
1310 Traditional Cultural Place. It encompasses a number of features on it, in and around the
1311 whole mountain, and it's, it's fundamentally important to understand that.

1312 It's been completely disingenuous for Granite and their folks to; not their
1313 ethnographers, but their lawyer and others to point out; in fact, I'll even say intellectually
1314 dishonest to say, okay, there are no archeological features on the mountain; therefore, it's
1315 not a sacred and important site.

1316 That's essentially what they've been saying and, and it's been very difficult to
1317 continually; hearing after hearing, have to listen to that because, in fact, their own
1318 ethnographers acknowledged, essentially, the core of what we're saying.

1319 You could draw a Venn diagram, a substantial Venn diagram between what we,
1320 the tribe have been saying, what their initial ethnographer was saying, and what their
1321 second ethnographer was saying. There is agreement that the landscape and the mountain
1322 is substantially important in and of itself, and not just because there's one site on the
1323 north end of the mountain or site on the west side of the mountain or whatever. So it's a
1324 red herring that they've been trying to use and, and we think it's utterly disrespectful.

1325 We are anti annihilation of the mine; of the mountain by the mine, let me say that.
1326 This; it's not about the size of the hole; you know, mitigation this or a thought of
1327 mitigating the impacts to us and our beliefs by making the mine size smaller doesn't
1328 accomplish the goal of protection that is important to us.

1329 I think in the previous hearing two weeks; two days ago, it was, it was mentioned
1330 that, you know, once the material is, is eviscerated from the mountain; once it's removed
1331 from the mountain, it's gone. We don't get it back.

1332 Their claim to most of the community thus far; Granite's claim has been, well, it
1333 will look the same 75 years from now from most of the vantage points, therefore, it's a
1334 pretty good project to have. Visually, it will look the same. We're preserving the
1335 ridgeline and all that.

1336 But it will be a (core); a shell of its former self 75 years from now. That is not;
1337 that is not how we, we treat something that we religiously revere, and we think the claims
1338 of trying to make us into hypocrites because we developed our own land, and they
1339 continually put up a chart that says; that shows the casino in the background and a little
1340 hill in front of it, which was important to us because it has a place name and it was a
1341 landmark, and that's why we kept it and developed around it.

1342 You know, the land that we have today that our casino sits on; we didn't get to
1343 pick that land; you know. It was not our choice to be on that land. We got, we got
1344 forcibly removed. Our, our ancestors; my great grandfather, got forcibly removed out of
1345 the Temecula Valley by a sheriff of San Diego County actually, because it was before
1346 Riverside County was, was formed. It was in the 1840s; actually, it was in the 1870s, I'm
1347 sorry, and we were dumped where, where Temecula Creek Golf Course is today, and
1348 seven years; you know, we were left to kind of wander the hills there. Certain spring and
1349 an old village site supported our livelihood.

1350 However, in 1882 Chester Arthur signed the executive order that created the
1351 Pechanga Indian Reservation in 1882. It was on land that nobody else wanted. It was on

1352 land that was considered worthless, because all the well watered land was taken up by all
1353 the new comers. So, let me be clear; the land we're on; it was not our choice to be there.
1354 We've tried to make the best of it.

1355 CHAIR TAVAGLIONE: And I respect that, Chairman Macarro. I, I just want to
1356 get to the concern that I have; and again, I, I definitely see your side. I see the, the
1357 appellant's side. The tribes have their sovereign lands in which you have complete
1358 control and, and no one, even County's, even though through agreements we have the
1359 ability to; we work together.

1360 But there's also on the private side where Granite and others have private
1361 property rights and I value those private property rights; so, I'm; I guess I'm wondering,
1362 because, you know, there's; I'm sure there are many, many others, many other areas
1363 throughout Riverside County, San Diego County; and all along the 15 Freeway that have,
1364 you know, tribal artifacts; but that doesn't mean that there will be no development on
1365 them.

1366 PECHANGA CHAIRMAN MACARRO: (That's right.)

1367 CHAIR TAVAGLIONE:and so I'm, I'm trying to struggle in my own mind
1368 how the Pechangas are expecting us to preserve all of this without; you know, it seemed
1369 to me it was; and I'm, I'm not saying it's not important. I'm sure it's very important to
1370 you. It would be important to me if I were in shoes, but at what, at what cost?

1371 Have you had any discussions, I mean, to even purchase this site from; not that
1372 I'm suggesting that, but if, if; you know, it's a tough thing for me to decide between
1373 private property rights and sovereign rights.

1374 PECHANGA CHAIRMAN MACARRO: We've; the question; since the
1375 question, since the question has been brought up, we have discussed the possibility of, of
1376 purchasing something; some piece of land up there.

1377 And let me be clear, we're aware that Granite's purchases and landholdings up
1378 there amount to 10% of the project site. The rest of the property up there are lease
1379 options. They own five; no, it's four, five acre parcels, a total of 20 acres, up on top of
1380 that mountain.

1381 You know, if we; if it was required of us to, in order to protect all our Sacred
1382 Sites; if the requirement was for us at Pechanga to purchase every Sacred Site in both San
1383 Diego and Riverside County, that's quite a slippery slope.

1384 CHAIR TAVAGLIONE: Yeah.

1385 PECHANGA CHAIRMAN MACARRO: All we would be doing is buying land,
1386 and we; let me be clear, now, too, we do not have the kind of resources to be doing that.
1387 It's an expensive proposition.

1388 We recognize that as a government; a sovereign government, that we have to
1389 work with other jurisdictions in order to accomplish those goals. We've; I think over the
1390 last 20 years have demonstrated a pretty good working relationship with the County of
1391 Riverside to mitigate the destruction of, of cultural sites that are important.

1392 What it fundamentally comes down to, because basically you're pitting private
1393 property rights against cultural and religious beliefs and, and there's no place in law
1394 where they intersect in a beneficial way; in a win-win for everybody. It comes down to
1395 working together and trying to get all sides...

1396 CHAIR TAVAGLIONE: I agree.

1397 PECHANGA CHAIRMAN MACARRO: ...to do that; and, and we can point to
1398 several examples in the City of Temecula where that has been the case where, essentially,
1399 after making the case to the City, to the planners, and ultimately the property owner, the
1400 developer; the developer has in the end agreed to modify a section or a piece of their
1401 parcel or part of their project so that it accommodates it.

1402 But we only have one Creation site; only one. Once it's destroyed, once it's
1403 eviscerated by a mine, once those materials are gone, they're gone. We don't get to put it
1404 back and at 76 years from now it's no longer the Creation site that we inherited as a
1405 People, and that we share with the community and the County and the rest of the State of
1406 California. It's gone.

1407 CHAIR TAVAGLIONE: Okay, I think you....

1408 PECHANGA CHAIRMAN MACARRO: So, as far as the discussions, you
1409 know, let me just say in short; the discussion have never went; they've never gone in that
1410 direction with Granite.

1411 We've had some discussions with their CEO. The Granite Team came in front of
1412 our entire tribal membership, several hundred people; and they, they made their pitch for
1413 the mine and there weren't other project alternatives, for instance, discussed. It's like
1414 they're all in for this mountain and, and they were soundly rejected; the project was
1415 soundly rejected. But to that end; you know, I think longer ago had discussions been
1416 initiated, perhaps things might have taken a different tack.

1417 I read Section Six, the Project Alternatives of the Final Environmental Impact
1418 Report. I'm not an expert on it. I read, I read it so I have a cursory familiarity with it;
1419 and I'll tell you that their number two site; one of the buttes at Double Butte is, has a

1420 similar hands off quality about it regarding our religion, but as you go down their list (of)
1421 14 or 21 possible other project alternatives, there are some sites in there that perhaps
1422 might have been more suitable and certainly could have been the product of some
1423 discussion that, that I don't think... I think; let me say this, they would have been tenable
1424 to us in regards to our religion and culture.

1425 So discussions never went in that way. It was a bird in the, two; a bird in the hand
1426 versus two in the bush kind of thing and that I was very intrigued by the discussion
1427 earlier about, you know, smaller project sites because that, that is appealing.

1428 But fundamentally, this mountain and the scale of this project; the, the nature of
1429 this project; you know, it makes it something different.

1430 CHAIR TAVAGLIONE: I think you've answered the question, Chairman
1431 Macarro.

1432 PECHANGA CHAIRMAN MACARRO: Thank you.

1433 CHAIR TAVAGLIONE: Thank you very much; I appreciate your, your
1434 comments. I don't see any further questions by members of the Board, so I'm going to
1435 call up Mr. Husing on another question I have.

1436 PECHANGA CHAIRMAN MACARRO: Sir?

1437 CHAIR TAVAGLIONE: Yes sir.

1438 PECHANGA CHAIRMAN MACARRO: Can I; just one last thing.

1439 CHAIR TAVAGLIONE: Sure.

1440 PECHANGA CHAIRMAN MACARRO: There was a mischaracterization just
1441 before I got up here that, that there was some development project or some kind of
1442 development that we actually would favor on top of that mountain.

1443 There are no developments that, that we would favor, or that we would back; you
1444 know. The LAFCO process; I think, if you read what LAFCO said about the City's
1445 proposal; there's a statement in there where LAFCO says, actually, there are no projects
1446 really intended for that site and it's physically nearly impossible to put anything on there.
1447 One of the reasons why we thought nothing would ever be developed up there.

1448 CHAIR TAVAGLIONE: Yeah, I think there was an application at one time for
1449 80 homes...

1450 PECHANGA CHAIRMAN MACARRO: Yeah.

1451 CHAIR TAVAGLIONE: I don't know who that application was from. That's
1452 probably....

1453 PECHANGA CHAIRMAN MACARRO: Thank you, I'm here if you have any
1454 more questions.

1455 CHAIR TAVAGLIONE: Alright, thank you very much. Mr. Husing, you know,
1456 a big point of discussion here, which we're all; every, everyone on this Board is, is; it's
1457 very important to and that's jobs. We have less green shirts than we had in (the) prior
1458 two to three hearings, but they're probably as worn out as the rest of us.

1459 This mine, once it's, once it is underway and operating; is, is... I keep hearing
1460 different numbers. Is it 99 jobs; is it 120 jobs; what it is from...?

1461 DR. JOHN HUSING: (Well, at the) time 99.

1462 CHAIR TAVAGLIONE: 99.

1463 DR. JOHN HUSING: And the secondary impact takes it; that up to the high
1464 twos.

1465 CHAIR TAVAGLIONE: Okay...

1466 DR. JOHN HUSING: But at the facility itself, 99.

1467 CHAIR TAVAGLIONE: And construction; I think it was either 645 or 945.

1468 DR. JOHN HUSING: It was 945 divided by how many years it takes to build it,
1469 so if it's one year it's 945; if it's two years, divide by two, in terms of annualized jobs.

1470 CHAIR TAVAGLIONE: So, you may know, perhaps Mr. Johnson knows, the; is
1471 this a two year project to build, is this a one year project, Gary, to build? Every job's
1472 important, but...

1473 GARY JOHNSON: I'm sorry, sir.

1474 CHAIR TAVAGLIONE: How many, 940....99 permanent jobs, once this project
1475 is completed.

1476 GARY JOHNSON: That would be operational jobs for the operations onsite.
1477 There would be a tremendous number of construction jobs over a two year period for the
1478 upgrades...

1479 CHAIR TAVAGLIONE: Two years; okay.

1480 GARY JOHNSON: ...to the interchange and all the onsite improvements.

1481 CHAIR TAVAGLIONE: Alright. Now, I, I completely; there's nothing more
1482 important today than jobs. However, 99 jobs here and...for a mine that will provide this
1483 type of impact to the communities that have some concerns; how many jobs... You've
1484 kept will versed on this Board of Supervisors, John. It's easy to say that we have; we
1485 were the fastest growing county in the nation or second fastest in the nation, the fastest in
1486 the state. So in up tick in the economy, because of actions by this Board, not just on
1487 development projects within our respective districts, but our advocacy and support of, of

1488 major infrastructure projects; 91 Freeway, 215, the 60, 15 Interchange; hundreds of
1489 thousands of jobs; well, thousands of jobs, tens of thousands of jobs.

1490 DR. JOHN HUSING: On an annualized basis at the peak we had the construction
1491 sector, was the third largest; excuse me, the second largest of the blue collar sectors.
1492 Manufacturing was first, logistics was third, but there; we've subsequently lost 56% of
1493 our construction jobs. If you look at it in terms of permit valuations, it's down 90
1494 something percent.

1495 CHAIR TAVAGLIONE: Right.

1496 DR. JOHN HUSING: And really, the reason we're in a recession with the level
1497 of unemployment we've got is because that sector is just not a player.

1498 CHAIR TAVAGLIONE: By no fault of anyone's other than Wall Street.

1499 DR. JOHN HUSING: We can blame somebody else for this one, yes.

1500 CHAIR TAVAGLIONE: Oh yeah, but we won't go there. Then I guess the one
1501 final question is regarded, is regarding to taxes. There's going some; it's probably for
1502 Gary. Sales taxes are going to be produced from this site. Are they going to Riverside
1503 County or are they going to San Diego County, and what is that amount?

1504 DR. JOHN HUSING: Would you like to answer it?

1505 CHAIR TAVAGLIONE: Whoever wants to answer it; I don't care.

1506 DR. JOHN HUSING: I, I can answer that. If you look; there's two forms of
1507 taxation that come off the project; one is the property tax and the differential between
1508 what's being paid today and what will be in the future; and that's about 660 thousand
1509 dollars annually.

1510 The second is the, the sales tax. When an operation of this type is operating, sales
1511 taxes are on sales to end users; they, regardless of where they are from the site where it
1512 is. There's also taxes if it's sold to another operation who reuses it. Within Riverside
1513 County there would be a tax on that. If it sold to a facility that is using it in San Diego
1514 County (for) create another product, there would not be a sales tax to Riverside County.

1515 In doing the estimates, I deducted 35% from the retail sales level before I
1516 calculated what would be going to Riverside County, and the, the 1% share that you get.
1517 (But there) also would be if Granite was to sell to one of their own firms, which would be
1518 to be to use it; that was also included and why the 35% was deducted; using that you end
1519 up with, in round figures, a million dollars annually for the County; roughly a half a
1520 million dollars for RCTC because of the half cent sales tax.

1521 CHAIR TAVAGLIONE: How much to San Diego?

1522 DR. JOHN HUSING: That I don't know because I wasn't really interested in
1523 what they would... {AUDIENCE LAUGHTER}

1524 CHAIR TAVAGLIONE: Sixty percent; 60% of the aggregate is going to San
1525 Diego?

1526 DR. JOHN HUSING: But the sales taxes on that go to; if it's sold to Riverside
1527 County to a company there that say takes it and makes another product like cement...

1528 CHAIR TAVAGLIONE: Okay.

1529 DR. JOHN HUSING: So it would be relatively insignificant compared to the
1530 number that we're talking about.

1531 CHAIR TAVAGLIONE: {NOT INTELLIGIBLE} you answered my question
1532 then, thank you. Gary did you have more?

1533 GARY JOHNSON: Mr. Chairman, I just want to clarify, we own in fee 252 of
1534 the 414 acres on the site; not, not 20.

1535 CHAIR TAVAGLIONE: Alright, thank you. Alright, Supervisor Stone followed
1536 by Supervisor Benoit.

1537 SUPERVISOR STONE: Mr. Chair...

1538 CHAIR TAVAGLIONE: I'd like to try to get to a...

1539 SUPERVISOR STONE: I'm ready to start deliberating, so I have no more
1540 questions, but I'd like to begin deliberating first if nobody else has any questions.

1541 KATHERINE LIND: I need to say something.

1542 MALE SPEAKER: Supervisor Benoit, did you have questions?

1543 SUPERVISOR BENOIT: No, I'm ready to make a motion, but I'll be happy
1544 to... deliberation.

1545 {OFF MIKE CONVERSATION} CHAIR TAVAGLIONE: {NOT
1546 INTELLIGIBLE} county counsel.

1547 KATHERINE LIND: Yes, Mr. Chair, members of the Board; sorry...

1548 CHAIR TAVAGLIONE: No, that's okay.

1549 KATHERINE LIND: I...I thought that was for me.

1550 CHAIR TAVAGLIONE: No, (it) wasn't for you.

1551 KATHERINE LIND: I need to advise you of things you need to keep in mind
1552 during the deliberative process; and this is in the nature of almost jury instructions to you
1553 as you are the decision makers.

1554 The Board, the Board has decision making authority over this project as a result
1555 of an appeal of the Planning Commission's denial. The hearing, however, is de novo,

1556 meaning that you are considering the project anew, and you are not limited to reviewing
1557 the propriety of the Planning Commission's decision.

1558 There was testimony presented at the last meeting suggesting that you had this
1559 limited role and that is not the case. In considering the project anew you may assign the
1560 Planning Commission's decision whatever weight you believe it merits.

1561 Project applicant seeks, among other things, the approval of a Surface Mining
1562 Permit. (The) Surface Mining Permit may be issued according to Ordinance 555 if it is
1563 determined that the permit is expressly subject to such conditions as are necessary to
1564 protect the health, safety, or general welfare of the community. As the project decision
1565 maker you will need to determine whether this standard has been met.

1566 Pursuant to the California Environmental Quality Act the County has prepared an
1567 EIR for the project. As the project decision maker you will need to determine the
1568 adequacy of the EIR.

1569 The applicant has presented the reasons that it believes that it believes the EIR is
1570 adequate. Opponents have presented the reasons they believe the EIR is inadequate. To
1571 be adequate the EIR must have been prepared with a sufficient degree of analysis to
1572 provide you with the information you need to make a decision which intelligently takes
1573 account of the project's potentially significant environmental effects.

1574 Evaluation of potentially significant environmental effects need not be exhaustive.
1575 It need not include all information that is available on the issue. The discussion of each
1576 effect need only provide sufficient information and analysis to show you and the public
1577 the basis for the conclusion in the EIR.

1578 The data used in the EIR need not be exact. The EIR may rely on reasonable
1579 assumptions and on the informed judgment of experts. Disagreement among experts
1580 does not make an EIR inadequate. You must decide what weight to give to the testimony
1581 of each expert.

1582 CEQA Guidelines Section 15-151 expressly provides that courts have not looked
1583 for perfection in the EIR preparation process but for completeness and a good faith effort
1584 at full disclosure.

1585 All of this is reflected in the highly differential standard of review that courts use
1586 when an EIR is legally challenged. The inquiry in such a challenge is, is there substantial
1587 evidence to support the agency’s decision, and substantial evidence means enough
1588 relevant information and reasonable inferences from this information that a fair argument
1589 can be made to support the public agency’s conclusion even though other conclusions
1590 might also be reached.

1591 Allegations have been made that the EIR is fundamentally inadequate. To give
1592 you an idea of what courts have determined fundamental inadequacy to be; I offer the
1593 following examples; example one, in a case entitled *Mountain Lion Coalition versus Fish*
1594 *and Game Commission*, the Fish and Game Commission, after being ordered by a court
1595 to assess the impacts of adopting mountain lion hunting regulations returned one month
1596 later with a four page environmental impact document. The court held that the four page
1597 document was fundamentally inadequate.

1598 Example two; in a case entitled *Save Our Peninsula Committee versus County of*
1599 *Monterey* the County of Monterey after a court found its first EIR did not address water
1600 conditions, certified a new EIR that contained no documentation concerning its baseline

1601 water usage assumptions and invited the public to select a water usage baseline without
1602 public input. The court held that the new EIR was fundamentally inadequate.

1603 What both these and other cases like them have in common is that the document
1604 produced was so conclusory in nature that meaningful public review and comment would
1605 be precluded.

1606 If you find that the EIR passes the fundamental adequacy test, you will then need
1607 to determine using the principles identified that the EIR does each of the following:
1608 contains an accurate project description and environmental setting, discusses the
1609 significant environmental effects of the project, discusses the feasible measures which
1610 could minimize the significant effects, discusses those significant effects that cannot be
1611 reduced to a level of insignificance, discusses the growth inducing impact of the project,
1612 and discusses a reasonable range of feasible project alternatives.

1613 If you find that the EIR passes this more specific adequacy test, you will need to
1614 determine whether the opponents have presented evidence that necessitates a
1615 recirculation of the EIR before you can take action on the project. Recirculation is
1616 required when significant new information is presented that shows either a new
1617 significant environmental impact would result from the project or the severity of an
1618 already identified environmental impact would be substantially increased.

1619 If you find that recirculation is not required, then in determining whether to
1620 approve the project, you will need to balance the benefits of the project against its
1621 unavoidable environmental risks. The unavoidable environmental risks of the project are
1622 those effects that the EIR has identified cannot be avoided or mitigated to a level of
1623 insignificance.

1624 Economic or social effects may be considered in balancing the environmental
1625 effects of the project against the environmental risks, but economic effects in and of
1626 themselves are not treated as significant effects on the environment.

1627 So, in a nutshell; to act on this today, to approve the project today, you would
1628 need to find the EIR adequate, you'd need to find no circulation is required, and you need
1629 to find that the benefits outweigh the environmental risks.

1630 CHAIR TAVAGLIONE: Alright, thank you, Ms. Lind. Supervisor Benoit
1631 followed by Supervisor Buster.

1632 SUPERVISOR STONE: Mr. Chair?

1633 CHAIR TAVAGLIONE: Yes, Supervisor...what's your name, Stone.

1634 SUPERVISOR STONE: Stone. {AUDIENCE LAUGHTER}

1635 KATHERINE LIND: Mr. Chair, before you start, I have one additional thing;
1636 I'm sorry. If, if you find there are inadequacies; sorry, inadequacies in the document that
1637 is not a basis to deny but a basis to send it back for revision.

1638 SUPERVISOR STONE: May I?

1639 CHAIR TAVAGLIONE: Yes, please.

1640 SUPERVISOR STONE: Thank you Mr. Chair, my fellow colleagues, staff and
1641 fellow constituents and Granite project managers and staff. I usually like to speak from
1642 the heart; articulate my, my viewpoints. I regret that I was up 'til four o'clock in the
1643 morning with a very sick wife and who has been chronically ill now for a couple of years.
1644 So I have put my comments down in writing and I'm going to read them and elaborate,
1645 and I hope you will indulge me.

1646 This has been a seven year process. There's been a lot of information, a lot of
1647 testimony. I'll try to keep my remarks under 30 minutes if I can, but I've got 17 pages of
1648 notes that I need to talk about.

1649 First, I would like to say that I appreciate the opportunity that the Third District
1650 citizens have given me over the past seven years {SPEAKER CUTTING IN AND OUT}
1651 to represent what I feel are their best interests. I've always tried to be professional to
1652 support or be critical of issues of importance to my constituents and strive for excellency
1653 for the 2.3 million people we collectively represent.

1654 Before I begin my comments I'd like to say a few words to everyone. To the
1655 proponents of the project; you have always treated me with dignity and respect up until
1656 the Planning Commission meeting conclusions. I've always made the time to meet with
1657 you to learn about the proposed project. I have listened to your presentations about the
1658 merits of this project and took a tour of the site right after being elected in 2005.

1659 I shall treat you with the same dignity and respect even though we may come to
1660 different conclusions about the project. My comments will relate strictly to the proposed
1661 project and the studies relating to its alleged benefits and its alleged impacts.

1662 It has been a long seven year process; not an inexpensive endeavor for you.
1663 Whatever the vote, I will always be respectful of the outcome and an agreement to
1664 disagree.

1665 To the opponents of the project, you spent significant time and resources to
1666 critique a project which has been more comprehensively reviewed than any project I have
1667 ever witnessed in all my years of public service. There are some that may feel your
1668 strong attendance and passion have been intimidating. I, however, find your involvement

1669 in local government democracy, no matter what side of the issue you're on, impressive
1670 and enlightening.

1671 Many of you here today live in my district, and for those of you that have
1672 witnessed my decision making in the past, they have never been by a litmus test. I weigh
1673 the facts and render my decision even if I believe it does not represent the feeling of a
1674 majority of my constituents who may not have all the information and resources that I do
1675 when analyzing an issue, and I will back this up with an example in a minute.

1676 To our staff, this has been a very tough project with the limited resources we have
1677 in our Planning Department. I believe you all did the best that you could to cover CEQA
1678 and give an objective evaluation of the project with the studies that were delivered to you.
1679 While I may not agree with your findings, I appreciate all of your efforts.

1680 I believe a flaw in Riverside County's permitting process is that we allow
1681 proponents of a project to pick their consultants to do their studies. This is in conflict
1682 with the way many cities and counties in the State of California operate. I've been in this
1683 business long enough to know that you can hire a consultant to give you any result that
1684 you want. I will bring forward a form 11 to this Board that is going to change that policy,
1685 that is going to allow reputable firms to be reputable contractors with the County of
1686 Riverside and when projects come through, in line, those contractors will be allocated so
1687 that we control the EIR process and not the applicants.

1688 We have to all remember that these are all studies. All the Planning
1689 Commissioners, Commissioners, struggled with the competing respectable consultants on
1690 both sides of the issue. Our Fourth District Commissioner Porras said; I quote, I keep
1691 going back and forth. I have dreams and nightmares and wake up in cold sweats over this

1692 project; very tough. If he lives in the Coachella Valley, can you imagine how the 40,000
1693 people that signed petitions feel and sleep every night? Even though he supported the
1694 project, I respect him and I respect his viewpoints.

1695 Studies don't always end up as planned. Japan is known for their extensive
1696 studying of earthquakes and tsunamis, yet their studies could not predict the aftermath of
1697 the recent earthquake and tsunamis' devastation as they studied the potential impacts of
1698 the nuclear power plant on their northeasterly coast.

1699 The Stringfellow Acid Pits has been mentioned in some of our hearings. Of
1700 course this happened before my friend and colleague Chairman John Tavaglione was
1701 elected to this Board; however, if we were to have been the Board reviewing this project
1702 and witnessed strong support for a project like we have today in allowing this private
1703 company to make money, which I believe in; I believe in capitalism. And if water quality
1704 issues were articulated as potentially harmful by the opposition, I believe that Supervisor
1705 Tavaglione would have considered denying the project and I would have supported his
1706 decision.

1707 I'd like to begin by a quote by former President John F. Kennedy from his book,
1708 *Profiles in Courage*. The voters selected us in short because they had confidence in our
1709 judgment, in our ability to exercise that judgment from a position where we could
1710 determine what were their own best interests as part of a nation's interest. This may
1711 mean on occasion; lead, inform, correct, and sometimes even ignore constituent opinion
1712 if we are to fully; if we are to exercise fully that judgment for which we were elected.

1713 This is a very bold statement that has inspired my decision making over the past
1714 20 years. For example, when the Santa Rosa Academy School application came before

1715 this Board earlier last year; a project that was fast tracked by our Planning Department to
1716 deliver a home for a charter school under some very strict deadlines for funding. This
1717 auditorium was packed then as it is now, with very emotional and angry people when
1718 they learned I had concerns about the school's location and in all likelihood would not
1719 support it.

1720 Even though the room was packed with school supporters including their children,
1721 I made it clear that I could not support the school because of its proximity to three high
1722 pressure gas lines. I could not, in good conscience, take any chance even as remote as the
1723 chance may be that if one of those lines were to rupture that 15 hundred people would be
1724 instantaneously killed. I appreciated that the Board supported me on this tough issue.
1725 Many of the parents were not aware of the high pressure gas lines and sent me many
1726 emails of thanks and my position on that issue.

1727 Today, we (will) realize this issue will be a tough one; a tough vote, but this is the
1728 reason why the voters of this county elected one of us to be honored to sit at this dais and
1729 make sound decisions. I take my role very seriously and will now explain in detail my
1730 position on the proposed Liberty Quarry.

1731 First, I would like to read some excerpts from our Mining Permit Ordinance No.
1732 555, which is a(n) implementation of California Surface Mining and Reclamation Act of
1733 1975. Section one: The Board of Supervisors hereby finds and declares that the
1734 extraction of minerals is essential to the economic well-being of the County of Riverside
1735 and that it is the purpose and intent of this ordinance to regulate all surface mining
1736 operations in the unincorporated area of the County as authorized by the California
1737 Surface Mining and Reclamation Act of 1975 to ensure: (A) The reclamation of mines

1738 will be carried out in such a way that the continued mining of minerals will be permitted;
1739 and (B) the adverse effects of surface mining operations will be prevented or minimized
1740 and that mined lands will be reclaimed to a useable condition which is readily adaptable
1741 for alternative use. (C) The production and conservation of minerals will be encouraged
1742 while giving values related to recreation, watershed, wildlife range and forage, esthetic
1743 enjoyment and probably one of the most important points to the discussions today; and
1744 the residual hazards to the public health and safety will be eliminated. Not may be
1745 eliminated; shall be eliminated.

1746 Section 6 (G): Show that the proposed site in its final form shall be, to the extent
1747 reasonably practical, re-vegetated for soil stabilization, free from drainage or erosion
1748 problems, coordinated with represent and anticipated future land use in compatibility
1749 with the topography and general environment of surrounding property.

1750 Section 7 (B): Application for a permit shall not, shall not be granted unless that
1751 permit is expressly subject to the conditions as are necessary to protect the health, safety
1752 and general welfare of the community. This is in our ordinance.

1753 Section 10 (C): Any operator who fails to comply with an order issued by the
1754 Planning Director after order's effective date, or who fails to submit a report to the
1755 Director of the Department of Conservation shall be subject to an order by the Planning
1756 Director imposing an administrative penalty of not more than five thousand dollars a day.
1757 If you're making a hundred and fifty thousand dollars a day, what is a five thousand
1758 dollar penalty going to do?

1759 My friends and colleagues I will demonstrate that the approval of the Liberty
1760 Quarry Mining Permit will be in conflict with our adopted Ordinance 555.

1761 Let's go back to residual hazards to the public and safety will be eliminated. The
1762 biggest risk, health risk to this project is air quality. However, this risk has been
1763 effectively masked through an ill constructed EIR with incorrect aggregate reserves in the
1764 county, a flawed traffic analysis over exaggerating trips by the proposed project.

1765 Our county counsel advises us that the subject quality of the EIR is not an issue;
1766 just whether the benefits of the EIR outweigh the hazards or vice versa. So it raises
1767 questions. Why has over 160 local physicians opposed the project? Why did the
1768 Fallbrook Hospital District oppose the project?

1769 Why did all the physicians interviewed for the project by Granite on their video
1770 not specialize in pulmonary disease? They may have learned the definition of silicosis in
1771 medical school as I did in pharmacy school, but did not have any depth pathological
1772 education about this deadly pulmonary disease.

1773 Why were most of the physicians interviewed by the applicant out of the area and
1774 obviously not aware of the existence of our unique prevailing winds coming through the
1775 Rainbow Gap? Why was a proponent's epidemiologist for the project from Canada, the
1776 expert of choice, and to my knowledge never even visited the proposed site?

1777 When I asked the proponent's geologist, Mr. Erbes just the other day about how
1778 to contain the blast particulates without placing a tent over the entire blast site he said,
1779 quote, there are emission controls for blasts. Let me say that again. There are no
1780 emission controls for blasts. In other words, particles that would contain, contain silica
1781 dust would be injected into the atmosphere. The prevailing winds through the Rainbow
1782 Gap would theoretically carry that dust to vastly populated areas of Rainbow, Temecula

1783 and Murrieta and therein lies the largest risk to our citizens. Unless the applicant can
1784 contain this blast dust our ordinance does not allow a mining permit to be issued.

1785 Of all the issues that were addressed in the 57 plus hours by our Planning
1786 Commission(er), where each Planning Commissioner is chosen by each respective
1787 Supervisor from each respective district, air quality concerns were the largest.

1788 Third District Planning Commissioner Petty, quote, the experts Granite used did
1789 not use the proper baseline standards to determine air quality. He continued to say a bad
1790 traffic study produces a bad air quality study.

1791 Our Fourth District Commissioner Porrás, quote, air quality is not perfect. Mr.
1792 Porrás went on to say if the air quality declines the project will be stopped. I'd like to
1793 know who will be monitoring this and who will stop it.

1794 Fifth District Commissioner Zuppardo said, quote, I am not convinced air quality
1795 will not be impaired. I am not convinced we are going to be able to overcome air quality
1796 issues.

1797 First District Supervisor, Planning Commissioner Roth said, quote, a small
1798 amount of silica over 75 years can create problems.

1799 My friends, four out of our five Planning Commissioners recognized the dangers
1800 of reduced air quality with this project. These are our appointed Planning
1801 Commissioners. They really get into the details of the project.

1802 Looking at reduced air emissions from trucks; first we have to understand the
1803 amount of aggregate that exists in our County and in San Diego County. The applicant
1804 has stated that there is a real shortage of aggregate and the 70% of the aggregate from this
1805 quarry will be transported to San Diego. They correctly use the argument that that will

1806 shorten distances that trucks presently travel, which will reduce truck trips. The
1807 proponents identified eight existing quarries in Riverside County that are even larger than
1808 Liberty Quarry. Does that not translate into a large amount of aggregate? They also
1809 identified 24 sites in Southern California, including many in San Diego County where
1810 70% of this aggregate will be transported to.

1811 According to Commissioner Roth SANDAG has issued a report that there is no
1812 shortage of aggregate in San Diego County to meet San Diego's needs. What the
1813 SANDAG Study did not detail is the potential political unwillingness by their county to
1814 permit any new mines.

1815 Dr. Husing even pointed out that Temecula needs to bear some of the
1816 responsibility of employing blue collar workers. Is this really environmental justice,
1817 because we may not be in Southwest Riverside County as affluent as our neighbors to the
1818 south that need our aggregate? We get all the impacts of the product—of the project,
1819 Granite gets all the profits, and San Diego gets most of the aggregate it needs at the
1820 expense of our cherished quality of life for the next 75 years.

1821 Supervisor Benoit, would La Quinta or Indian Wells allow their surrounding
1822 mountains to be excavated for granite? I don't think so. Is it appropriate to force blue
1823 collar jobs on your affluent communities? I don't think so. Why should Temecula be
1824 any different?

1825 As pointed out by Dr. Husing, your constituents in Palm Springs applied political
1826 pressure when we needed to place a new detention center with blue collar jobs ten miles
1827 from the city on a piece of whitewater property that we invested 20 million dollars of
1828 taxpayer funds on. I assume that you agreed with them that it was bad for tourism.

1829 People in Temecula share the same concerns about this quality of, of tourism if the quarry
1830 is approved.

1831 The proponents were correct to criticize Granite's analysis of aggregate reserves,
1832 pointing out that they never anticipated that any Riverside County mine would apply for
1833 an extension after their permit expired, which we know is common practice. They never
1834 investigated potential sites that may in fact apply for new mining permits.

1835 In their EIR they place such rigid requirements on the qualifications of an
1836 alternative site that not one comprehensive site was evaluated in San Diego County.
1837 This, my friends, is a flaw in the Environmental Impact Report. They chose their desired
1838 site and they worked backwards.

1839 If Granite's argument is correct, the shorter the distance the trucks will travel, the
1840 less expensive the granite is for the end user, and if 70% of the aggregate from the
1841 Liberty Quarry is going to San Diego, why not build a quarry there and then let's import
1842 the granite for Southwest Riverside County's needs from San Diego County?

1843 Granite assumes that they will be the only game in town and base their traffic
1844 studies accordingly, that's why 16 million, 500 thousand trips per year was proposed by
1845 Granite to be eliminated and hence the air quality would improve.

1846 The bottom line is this: Riverside County has plenty of aggregate countywide.
1847 San Diego has plenty of aggregate countywide. The number of trips has been over
1848 exaggerated by Granite as a result of the traffic studies that were also flawed because the
1849 license plates of trucks counted were not recorded, hence we don't know where the trucks
1850 that were counted were coming from, where they were going, or even what they were
1851 transporting.

1852 Both Mr. Petty and Mr. Roth criticized the methodology of the traffic studies not
1853 tracking the license plates of the trucks or knowing where they started from, where they
1854 were going, or what they were carrying. Ms. Zuppardo said the traffic study was less
1855 than scientific. Mr. Porras said the traffic study was not perfect. There will be some
1856 impacts; and he voted for the project.

1857 The traffic study was done in 2007 at the peak of the building boom, over
1858 exaggerated the trips that would be saved by the proposed project; the traffic study is
1859 outdated, does not represent contemporary traffic patterns and thus needs updating to
1860 comply with CEQA.

1861 The adverse effects from of the; I'm quoting now Ordinance 555. The adverse
1862 effects of surface mining operations will be prevented or minimized and that the mine's
1863 land will be reclaimed to a useable condition which is readily adaptable for alternative
1864 use.

1865 We heard a lot of discussions about dewatering. Mr. Erbes confirmed; this is
1866 Granite's geologist, that through 13 borings of the site that there was no lateral
1867 connectivity of the water system. In other words, the mountain is just one big rock of
1868 granite.

1869 When I asked Dr. (Shemet), the opponent's geologist; he criticized the number of
1870 borings on such a large site and the inappropriate lack of depth of the boring yielding
1871 potentially wrong conclusions. In fact, Dr. (Shemet) confirmed that one of the borings
1872 that was emptied of water was contained to have water in it after periods of having no
1873 rain. That proves that the excavation of this mountain will interrupt a complex maze of

1874 lateral connectivity severing the lifeblood of the mountain, its water supply, and possibly
1875 other geographical areas that are connected.

1876 Planning Commissioners Petty and Zuppardo expressed dewatering concerns.

1877 Mr. Roth was concerned about water availability in the future and even Mr. Porras;

1878 Supervisor Benoit's Planning Commissioner, claimed that not enough borings were done.

1879 Commissioner (Snell) was very concerned and said there was a lack of critical analysis.

1880 The loss of groundwater is potentially significant.

1881 All five Commissioners in summary were concerned about the flawed

1882 hydrological studies of this project, which leads me to the question; will we have a dead

1883 mountain? How can a true reclamation project be successful without a true water supply?

1884 What is the alternative use for this one thousand foot deep mile long hole, enough to fill

1885 three hundred Rose Bowls, as the ordinance calls for? Maybe a landfill for San Diego

1886 County in the year 2087; more blue collar jobs for Riverside County, Dr. Husing?

1887 California State University of San Diego property is adjacent to the quarry site.

1888 This is one of the largest if not the largest outdoor biological laboratory in the world. My

1889 undergraduate studies were in biology, so this hits home with me. They will be

1890 celebrating their 50th year at that site, at their site, next year.

1891 Researchers from all over the world dial into cameras to view wildlife to better

1892 understand our ecology, animal behaviors and climate issues. The quarry with its daily

1893 blasts, 24 hour lights, significant noise coming from preventative sirens before blasts, the

1894 many beeping noises 24 hours a day of trucks and tractors going backwards can logically

1895 have a dramatic effect on animals.

1896 These studies were done on animals, were primarily focused on feline species to
1897 the exclusion of many other animals that exist and maybe threatened, including the Bald
1898 Eagle. Why were the important studies done by Cal State San Diego ignored by the
1899 applicant?

1900 Mr. Petty and Mr. Snell expressed their concerns that just the mountain lion was
1901 studies as well as the light, vibration, and noise on nocturnal animals. Mr. Roth, Mr.
1902 Petty, and Ms. Zuppardo were concerned about noise, light, vibration and their effect on
1903 linkages. Four of five Commissioners were concerned about the narrow scope of the
1904 wildlife studies. More studies are needed to comply with CEQA.

1905 The proponent to the project raises a great issue as a benefit of the project; jobs.
1906 How can anybody on this dais not want more jobs in one of the counties in the United
1907 States that has one of the most high unemployment rates in an economy that we've seen
1908 nothing like since the Great Depression?

1909 The proponent's claim and Dr. Husing confirmed that 99 new jobs will be
1910 created. I believe that this can be analytically challenged. Mr. Petty stated that Granite
1911 claimed 40 of these jobs would be trucking jobs.

1912 If you take the 16 million 500 thousand trips that would be truly reduced by this
1913 project as Granite reports and if we assume that a truck driver drives 55 miles an hour 24
1914 hours a day, 365 days a year, that truck driver will drive 481,800 lane miles which
1915 equates to 34 truck drivers at a minimum that will lose their jobs. So, six new truck
1916 driving jobs will be created with no guarantee that they will even go to a Riverside
1917 County resident. That leaves 66 jobs.

1918 I believe that the other competing mines will not just shut down because Granite's
1919 quarry has entered the market, and hence I believe that one will just see a redistribution
1920 of those jobs. Commissioners Zuppardo, Roth and Petty questioned the reality of the 99
1921 jobs and concluded more studies should have been done.

1922 Sales tax: That's an important number for cities and the County as we struggle to
1923 balance our budgets. Because the supply of granite is more infinite than finite throughout
1924 Riverside County than reported in what I believe to be a flawed EIR, one may see sales
1925 tax generated by Granite, but at the expense of sales not collected at other Riverside
1926 County quarry sites. Of course, the 35% of materials that Granite may be using for their
1927 own project would yield no sales tax to the County, and of course we'll see significant
1928 bleeding of sales tax to San Diego County.

1929 Just briefly I want to mention seismic issues; you know, how in depth were
1930 seismic studies done knowing that we have significant fault lines adjacent to the site? I
1931 raise the question, could the cumulative effects of blasting and the removal of up to 375
1932 million tons over the next 75 years not create stresses or weaknesses along fault lines?
1933 Commissioner Petty expressed concerns after hearing the opponent's geologist.

1934 And lastly I'd like to address the cultural issues; Pechanga. For centuries
1935 Pechanga Temecula People lived in peace with one another. Despite occasional
1936 differences they've always struggled and survived as a unified community. Under the
1937 leadership of Chief Pablo Apis and others their common ancestors literally fought and
1938 died for the land, which was set aside by Executive Orders in 1882, in 1893, for the use
1939 and benefit of the Temecula Band or Village of Mission Indians.

1940 The tribe's goals have always been towards self sufficiency. After years of
1941 poverty they built the Pechanga Casino, which is the largest casino in the State of
1942 California. I am proud to call my Native Americans constituents, employer to over four
1943 thousand of our citizens, if you want to talk about jobs, my friends.

1944 After centuries of being tormented, evicted from their properties, and heinous
1945 crimes inflicted on their people, one can certainly understand their culture of distrust of
1946 anyone that's not Native American. It has taken years working with the tribe to earn their
1947 trust.

1948 We must remember that Native Americans were America's first citizens. Their
1949 abuse was recognized by Congress that set up reservations throughout the United States
1950 to compensate them for the abuses they incurred. Were they given choice properties;
1951 Beverly Hills, Brentwood? No, many reservations were placed years ago in areas that
1952 were very remote, had very little value like Temecula in the 1800s.

1953 Almost the entire Temecula Valley was owned by the Pechanga Band, including
1954 the site they consider sacred, where maps that span over two centuries depict the
1955 proposed quarry site as their Garden of Eden.

1956 Religion is often a private issue. We see that in the presidential campaign. We
1957 saw it during John F. Kennedy's campaign. Do we understand the pilgrim; pilgrimages
1958 that had led millions of people over years to Mecca, Saudi Arabia annually? Would
1959 Egypt allow an excavation of Mt. Sinai considering the belief of Moses and the Ten
1960 Commandments at that site? Of course not.

1961 Pechanga can be accused of only one thing; they can be accused of not quickly
1962 identifying the proposed quarry site as their Sacred Site, but when they recognized that
1963 this projected project was getting legs in 2007 they made their concerns known.

1964 Granite has known for five years about the sacrosanct of this religious site to
1965 Pechanga Tribe. Instead of trying to mitigate or negotiate, Granite has chosen to hire not
1966 a cultural expert but an attorney to incorrectly and with great disrespect to the Pechanga
1967 People redefine their culture and their religious beliefs.

1968 The Pechanga Band of Luiseño Indians has proven to be one of the most
1969 sophisticated tribes that even makes Las Vegas nervous. {AUDIENCE LAUGHTER}
1970 They shower millions of dollars to our non profits, partner with us on infrastructure, and
1971 employ a tremendous number of taxpayers.

1972 Why would they not support more jobs, more new citizens to the area to patronize
1973 their beautiful resort with this quarry project? Because this site cuts to the soul of our
1974 Native American friends that purposefully have chosen to keep their religious customs
1975 and sites private, as many religions do.

1976 Haven't our Native American friends suffered enough over the decades and
1977 centuries? Taking away their most treasured religious site forever is unconscionable and
1978 reverse(s) all the progress of trust that we've achieved over the years with all tribes.

1979 In summary, our Planning Commission did an excellent job of scrutinizing this
1980 complex project. They are appointed by us and dug into the very technical nature of the
1981 project, getting into details this Board will never see.

1982 Two of the Planning Commissioners are engineers and thus are very well
1983 qualified to evaluate this project. Our Commissioners have the luxury of deciding the

1984 fate of a project purely on the merits of or the lack of, with no political influence. They
1985 don't have to run for, run for office which liberates them to do the right thing. The
1986 Commission voted four to deny this project. It wasn't even close. This is after almost 57
1987 hours of intense testimony and presentations.

1988 To my colleagues, please support your Planning Commissioners that spent a lot of
1989 time and placed a lot of serious thought into this project. Please support the 10 public
1990 officials from the City of Murrieta and Temecula that oppose this project. Please support
1991 Cal State San Diego that has invested 50 years into their site adjacent to the quarry site.
1992 Please support the elected officials representing the Pechanga Band of Luiseño Indians
1993 that opposes the project. Please support the Temecula Chamber of Commerce with over
1994 one thousand businesses. It's their job to see more jobs come to our valley. Please
1995 support the people of Rainbow and Fallbrook that have no voice in this process and will
1996 have to live with this monstrosity for 75 years, and please support the Supervisor that
1997 opposes this project in his district.

1998 Now, in quick summary, one more minute and I'm done. {AUDIENCE
1999 LAUGHTER} While we are told that we must consider certifying the EIR, which I
2000 believe is flawed, but is alleged to comply with CEQA per our staff, I believe the risk to
2001 the health and safety of our residents outweighs the alleged challengeable and highly
2002 questionable benefits of the project it promises to deliver. I will support our Planning
2003 Commission's denial of the project, including the proposed zone change and mining
2004 permit. I would like to thank my fellow Board members and the audience for the
2005 indulgence in granting me so much time to reflect my viewpoints on this very challenging
2006 project.

2007 CHAIR TAVAGLIONE: Alright, thank you Supervisor Stone. We are now
2008 going to go to Supervisor Benoit, followed by Supervisor Buster and then I'll have some
2009 comments, and probably Supervisor Ashley, I would suspect. Supervisor Benoit.

2010 SUPERVISOR BENOIT: Thank you and the passion displayed by my friend and
2011 colleague Supervisor Stone is understandable and, and appreciated; and, and I wanted to
2012 start by saying thank you to everyone involved in this very difficult process. (As) our
2013 County staff, you know that, you know, we've undertook to put these hearings together
2014 and two days in remote locations, huge obstacles well overcome, a nearly flawless
2015 presentation of a great deal of, of comment and democracy in action, and Chairman
2016 Tavaglione, you've done an outstanding job of running four days of hearings and I
2017 appreciate your, your solid and orderly process that you've overseen. And particularly I
2018 appreciate the passion demonstrated by the people of Temecula and the surrounding
2019 areas.

2020 You know, in this very, very important decision; I'm guided by a basic premise
2021 that has; you know, been part of my outlook for a long time. That is that absent clear and
2022 factual finding of a very serious and unmitigatable harm to the people nearby; private
2023 development on private property that conforms with existing zoning should not be barred.

2024 Any land or property owner; anybody, has the right to use their property for its
2025 best and highest use absent an overriding finding of impact that can't be mitigated on
2026 those nearby.

2027 With this in mind I have focused my personal review on the possible adverse
2028 effects of this quarry when balanced against the need for aggregate and the affects of not
2029 having this kind of resource in our Southwest County.

2030 Now, I have reviewed the material provided by the opponents, lots of it, as well as
2031 the material provided by the proponents. At the request of the opponents I spent a full
2032 day of traveling to visit the nearby preserve and later toured the quarry site. I'd like to
2033 thank all of those who took the time to show me around. It was a good day and very
2034 instructive.

2035 As a result of all that, I have come to the following conclusions; specifically with
2036 regard to the demand to aggregate. I don't think there's any question after weighing all
2037 of the testimony and reviewing the literature and asking a lot of questions of our staff, of
2038 the state staff, I'm convinced that there is or will be a serious demand for aggregate in
2039 excess of that available in our region unless additional resources are found and licensed.

2040 Adequate and local sources of aggregate do reduce the cost of infrastructure
2041 projects, particularly highway projects, but all sorts of projects. Homes require
2042 aggregate; sewer lines require aggregate; water lines require aggregate. It is the base of
2043 just about everything we do. We need aggregate, aggregate sources nearby.

2044 With regard to noise pollution; I am convinced that only a handful of the closest
2045 residents will hear noise from the quarry's construction or operation. Some of those most
2046 directly impacted received offers to purchase their land from the proponent. If this
2047 quarry is approved, I hope those negotiations will be renewed and that equitable solutions
2048 will be negotiated.

2049 I do believe that the efforts on the part of the proponent to limit the noise;
2050 particularly that of explosions, which are limited to once a day at very low volume, and
2051 are pale compared to the, the noise I heard while standing on the site from the nearby

2052 military base; multiple large explosions just coincidental to my visit to the site. I do
2053 believe noise pollution issues have been addressed adequately in the EIR.

2054 With regard to air pollution, the proponent's most compelling arguments are
2055 based on the premise that large amounts of silica dust will be generated by the mine and
2056 inhaled by the children in the area. This is a very serious concern.

2057 After carefully reviewing in detail the relevant portions of the EIR and studying
2058 the specific dust capturing designs of the equipment to be used this site, I conclude that
2059 very little dust will actually leave the quarry site. However, I will propose that a detailed
2060 monitoring system be installed in the conditions that I intend to propose in a few minutes.

2061 On the other hand; I am very moved by, pleased by, convinced by the fact that 10s
2062 of thousands of diesel mile, diesel truck travel miles will be eliminated from our freeways
2063 throughout the region and with that, while it could not be utilized in the EIR as an offset
2064 of any kind, that is very, very important to 10s of thousands of children throughout the
2065 region and, and all of us.

2066 Not only will there be a very large reduction in the total diesel truck miles
2067 traveled because aggregate used in and around Temecula and of course even points
2068 further south in San Diego County will no longer be trucked from Corona or other sites,
2069 including the Coachella Valley, through our entire county to complete those projects, and
2070 the trucks that are on the road as a result of a compromise reached between the
2071 proponents and the AQMD; suggested by them, argued by me, accepted by the
2072 proponents, the trucks that service this facility will be much, much cleaner; 50% cleaner
2073 than anything else on the road; than the majority of the vehicles on the road today.

2074 That change will not affect just this quarry or our region but probably the entire
2075 Southern California Region with a very, very notable improvement in air quality because
2076 the trucks meeting the 2007 standards specified by AQMD; the last standard was the two;
2077 the 1991 standard, so this is a huge leap forward in technology, are that much cleaner
2078 than the trucks on average being used in quarries today.

2079 Both as a former Highway Patrolman who dealt with all these sorts of traffic
2080 issues and as a current AQMD Board member, I find these factors to be extremely
2081 compelling for the general benefit of the Inland Empire, and particularly most of
2082 Riverside County. As a result, I am convinced that regional air quality will be vastly
2083 improved and our highways will be much safer if this project is improved.

2084 With regard to traffic impacts; clearly there will be a significant increase in truck
2085 traffic in the immediate vicinity of the quarry. If the quarry's approved the proponent
2086 will be required to fund major improvements to the nearby freeway infrastructure,
2087 including improving and signaling the onramps and off ramps where this traffic will be
2088 focused and doubling the capacity of nearby truck inspection facility operated by the
2089 CHP. These improvements will provide far more additional capacity than that necessary
2090 to handle the additional truck traffic generated by the operation.

2091 One concern I heard raised by the opponents; which I believe has not been
2092 adequately addressed, had to do with the possibility of a heavily loaded truck having
2093 brake fade or failure on the downhill grade leaving the quarry. If this project's approved
2094 I would as a condition of approval that the proponents be required to engineer and install
2095 a runaway truck safety area similar to those some of you may have seen on I-5 in the
2096 Grapevine area at or near the bottom of the grade leaving the plant.

2097 With regard to other passionately held and (off) stated concerns raised by
2098 opponents; while I respect and appreciate their obviously strong felt (feelings), on
2099 balance I believe the proponents have offered or have been required to provide
2100 appropriate mitigation and or I will address these concerns further with additional
2101 conditions.

2102 Perhaps in all this I'm somewhat swayed by our experience in the Coachella
2103 Valley, as was mentioned by my colleague Mr. Stone, we don't have quarries in every
2104 city, but we have a huge quarry run by Granite. It's in North Indio. It's visible from my
2105 neighborhood, and while perhaps it's a bit more than three miles from my home, it is
2106 within one mile of hundreds or perhaps thousands—or perhaps a thousand new homes
2107 that have been built over the past decade while the quarry was in operation in North
2108 Indio.

2109 I have had friends who owned and lived in one of the closest homes to the Indio
2110 quarry. I have visited in their home. I visited in several other friends' homes in the same
2111 general vicinity. I've stood in their backyards, shopped in nearby shopping centers, even
2112 played golf as badly as I do that at the Indio Golf Club, which is very close to the quarry.

2113 Never have I experienced nor have I heard any complaint of noise or air quality
2114 issues related to that quarry, and the Indio facility is about 20 years old. It's located on a
2115 hillside that we can look up and see everyday. It's completely visible from the valley.
2116 It's located in a valley which, even more so than the Temecula Valley, although you may
2117 change that Supervisor Stone, is currently operating under tourism.

2118 We have 115 golf courses, multiple huge, major hotels and is; we are considered
2119 a...major league resort community. Never have I heard any concern from the resort

2120 community about the quarry, although the earth moving operations in the Indio quarry are
2121 open; most all. I guess hearing the testimony today there may be some pieces that have
2122 been updated, but for the most part you can see the dirt moving on the, on the track.
2123 They are not in covered conveyances or buildings as the design of the Liberty Quarry, if
2124 approved, requires for the movement of dirt on that site, and even so I have never seen,
2125 nor have I ever heard of a complaint regarding dust or air quality emanating from this
2126 plant.

2127 I was interested to see a resident; I think he referred to himself as a, as a Fox
2128 Homes HOA representative echo that same sentiment here at our podium. I'm not sure
2129 why or how he got to be here, but it exactly fits with my personal interaction with these
2130 many people who live in that area.

2131 This is a {NOT INTELLIGIBLE} a very important and difficult discussion it's a,
2132 it's a decision I've not taken lightly. I've come to know some of the opponents quite well
2133 through this process. They are wonderful, caring, and concerned people. Some of my
2134 remarks here are said with the hope that perhaps they can be real assured that (while) I
2135 have heard your heart felt passion and fears, I believe generally that they are fears of the
2136 unknown, and that the unknown is frequently more frightening and often turns out to be
2137 far worse than the reality. I am persuaded that any adverse impacts of this facility will be
2138 minor and will never come close to the catastrophic levels envisioned or argued here
2139 before us.

2140 The benefits of this project to the community at large significantly outweigh any
2141 negative impacts and I will, therefore, move approval of the project for purpose of a vote
2142 and discussion. I would like to, have, state that I believe the EIR to be adequate, that

2143 there is no need for re-circulation of the EIR, and specifically I would move to uphold the
2144 appeal of SMP No. 213127508 Noise and Ordinance Exception, Exception No. 2;
2145 tentatively certify EIR No. 475 based on the findings incorporated in the Planning
2146 Department Staff Report to the Planning Commission on April 26th, 2011, tentatively
2147 approve Change of Zone No. 7508, tentatively approve Noise Ordinance Exception No.
2148 2, and tentatively approve SMP No. 213 with the reduced footprint as modified by the
2149 EIR and conditions of approval as proposed by the Planning Department staff in its April
2150 26th Staff Report and subject to the following modifications and additional conditions to
2151 be included and reviewed by the Planning Director.

2152 First, a runaway truck safety area, as I previously described. Secondly, with
2153 regard to air quality monitoring, the Liberty Quarry Project shall have no less than four
2154 air quality monitors placed around the perimeter of the facility to measure key
2155 contaminants PM10, PM2.5, and periodically crystalline silica. If the monitors show an
2156 exceedance of any state or federal ambient air quality standard due to the project, the
2157 operator shall develop a mitigation plan and submit it to the lead agency within 90 days
2158 of discovery of the exceedance.

2159 The Mitigation Plan shall include measures to reduce applicable pollutant
2160 emissions to insure that there are no future exceedance. Project operator shall consult
2161 with the community and South Coast Air Quality Management District regarding the
2162 design of the monitoring system, appropriate laboratory analysis of the samples and
2163 appropriate mitigation measures if required.

2164 With regard to the Clean Truck Fleet Program, mitigation measures AQ3J and
2165 AQ6J in EIR No. 475 shall be modified to replace the 130 new truck requirement with a

2166 Clean Truck (fuel) Fleet Program as previously discussed and that that program shall
2167 include enforceable mechanisms to insure compliance. I am, I've handed out copies of
2168 this and I'm going to quickly summarize a couple of these.

2169 Solar power, while it's been discussed it has not been formally included as a
2170 condition of approval; I would ask that the Planning staff include that as a condition of
2171 approval. And an important point; I believe 75 years is too long. I think we need to
2172 bring this back; I'm going to propose 50 years. I'm thinking that that's going to be;
2173 there's going to be a number of years before this project is operational but that time clock
2174 would start today if we approve this, and I would further require that the proponent must
2175 begin permanent plant operations within eight years of this approval.

2176 While there's a Camp Pendleton agreement that was referred to earlier, I think it's
2177 a Memorandum of Understanding; I don't believe there's any condition that requires
2178 compliance with Memorandum of Understanding. I would add that as a condition of
2179 approval.

2180 And finally and it's particularly in respect to Supervisor Buster's appropriate
2181 concerns; I would recommend and condition that there become, be, be instituted a public
2182 oversight review committee; the committee oversight and, and; or Community Oversight
2183 and Review Committee to be established by the quarry operator; the COR or Community
2184 Oversight Review Committee shall meet periodically but no less than annually and shall
2185 review and advise the operator regarding operational plans and environmental monitoring
2186 results and shall include at least; I'm going to change this from seven to; or seven to
2187 eleven members based on testimony heard earlier today. So it's; I would say, at least 11
2188 members.

2189 Each of the following entities shall be permitted to one appointee; the City of
2190 Temecula, the Pechanga Tribe, SMER, County Supervisor District One, County
2191 Supervisor District Three, Camp Pendleton, the CHP, Caltrans, AQMD, the Riverside
2192 County Transportation Director, and the quarry operator.

2193 Mr. Chairman, I believe that the heartfelt concerns notwithstanding of the fine
2194 folks in the room here today and making it a very, very difficult decision; on balance this
2195 will add tremendous benefit; air quality benefit and transportation safety benefit, as well
2196 as savings to Riverside County infrastructure projects in the future and I would move
2197 approval.

2198 CHAIR TAVAGLIONE: Thank you, Mister—Supervisor Benoit. We do have a
2199 motion on the floor. Is there a second?

2200 SUPERVISOR ASHLEY: Yeah, Mr. Chairman, I'll second it but I would like to
2201 see; I...appreciate all the, your statements and agree with them and I like the idea of the
2202 oversight committee and the air monitoring. The water's already being monitored
2203 through the, through monitoring wells and so forth, but we also need a, a monitor for the
2204 noise in there as well. I don't; I didn't see that. We (want to be, monitor) the noise so
2205 this oversight committee meets, they'll have all this information available to see how it's
2206 going, (you know), as well as the regulatory agencies. So if you'd include that in your...

2207 SUPERVISOR BENOIT: Can I simply include a Noise Monitoring Program
2208 similar to the Air Quality Monitoring Program? So done.

2209 SUPERVISOR ASHLEY: Okay, I'll second it then.

2210 SUPERVISOR BENOIT: Thank you.

2211 CHAIR TAVAGLIONE: Alright, we have a motion and second, but before we
2212 go to a vote we have further comments by members of the Board. Supervisor Buster and
2213 then I'd like to comment.

2214 SUPERVISOR BUSTER: Yeah, this is the kind of approach I could entertain if
2215 the, we cut the project by 70% in effect; I mean, 70% is headed toward another county
2216 that hasn't indicated it really needs, needs it or wants this kind of model of quarry.

2217 They're going a different route, not with these mega quarries that can extend
2218 market rates that really a, really a model constructed by a large national or even
2219 international corporation that, that it is in, in this case they want to impose here. So it's
2220 probably rates as a red herring. There are lots of uses of this property short of a mega
2221 quarry that would fulfill any kind of need for property rights.

2222 This is really; this is really a, a, (an) antiquated, I think, kind of an approach that
2223 then throws a risk off on the neighbors and, you know, you put in place all these things to
2224 try to guard against risk, all these conditions, all these monitoring things; shorten the
2225 lifespan, and but still the risk is there and it's, it's not being borne equally by, by the
2226 company that's running this.

2227 They want to maximize profits, they want to reduce risks, and they want to extend
2228 their market reach. They're not interested so much increasing the number of jobs, so
2229 that's not the model you have here, so you, you (bring) people out there. I hope we can.

2230 You know, this is a Sketchers model. This is where you, you combine existing
2231 warehouses; the five or six of them in the Los Angeles area and you get a super large new
2232 warehouse that is extremely efficient but that it doesn't even match the jobs that are

2368 7 of Ordinance No. 847 requesting exception to Sections 4 and 6; those are the General
2369 Sound Level Standards, and Special Sound Sources Standards based upon the findings...

2370 MALE SPEAKER: If I could...

2371 KATHERINE LIND: Wait, before you...

2372 SUPERVISOR BUSTER: And, and is there more, because there's a (hanging
2373 and)?

2374 KATHERINE LIND: No, you're done.

2375 SUPERVISOR BUSTER: Okay.

2376 KATHERINE LIND: I just want to...

2377 MALE SPEAKER: {NOT INTELLIGIBLE} you're done.

2378 KATHERINE LIND: I just want to make sure that the Board's decision is based
2379 on the failure to meet the standards of Ordinance 555 and on your determination that the
2380 benefits of the project do not outweigh the significant effects that cannot be avoided or
2381 reduced to a level of insignificance.

2382 CHAIR TAVAGLIONE: That was your intent.

2383 MALE SPEAKER: {NOT INTELLIGIBLE} second.

2384 CHAIR TAVAGLIONE: Now, we have a motion by Supervisor Buster,
2385 seconded by Supervisor Stone to support the projects with the conditions expressed into
2386 the record by Supervisor(s) Buster in his motion. Please vote. Supervisor Ashley.

2387 SUPERVISOR ASHLEY: {NOT INTELLIGIBLE} make sure I hit the right
2388 button. Okay.

2389 CHAIR TAVAGLIONE: Alright, motion carries. {CHEERS / OUTBURST
2390 FROM FLOOR} Thank you for your....thank you ladies and gentlemen.

2391 CHAIR TAVAGLIONE: Permission to speak? Yes we do. We have an
2392 individual wishing to speak in Public Comment. Mr. Grant, please come forward. Gary
2393 Grant, you still here? Okay.

2394 MALE SPEAKER: Yeah, he's trying to get out.

2395 {REMAINING RECORDING NOT TRANSCRIBED}

I attest under penalty of perjury that this transcript is a true rendition of the February 16, 2012 Riverside County Board of Supervisors hearing on the proposed Liberty Quarry Project as transcribed by me, Noelle Blouin, on May 13, 2012.



ATTACHMENT 7



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Hon. Chairman Roth and Members of the Planning Commission
Riverside County Planning Department
P.O. Box 1409
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Submitted by Email
December 6, 2011

**Re: Planning Commission Candidate Findings for Denial of Liberty Quarry
December 7, 2011. Agenda Item 1.1**

Dear Chairman Roth and Commission Members:

The following is submitted on behalf of the Pechanga Band of Luiseño Indians (Pechanga or Tribe), a federally-recognized tribal government. We thank the Planning Commission for its attention to this project and for conducting many public hearings in Temecula in this matter.

While we believe the candidate findings may be generally adequate for the purpose of denying the proposed project, we respectfully request that the Planning Commission make the following general and specific revisions in adopting the final findings for project denial. Our intent is not to address every issue or further extend the project's final denial, but rather, to clarify or further support the key findings.

Factual and Procedural History

Section A.13. States that the project is not located within a Criteria Area for the MSHCP, but fails to recognize that the project is within a special biological linkage area (discussed in Section D.3.a. lines 23-28).

Section A.25. References the testimony of the Tribe and others at the public hearings on the project. The findings should also reference the extensive written testimony commenting on the Draft EIR and that submitted during the public hearing process at the Planning Commission. Those materials, including letters, reports, analyses and other materials, are part of the project record, and contain clear, concise and carefully researched information that supports many of the findings below.

Section A.26. References the fact that the City of Temecula adopted and submitted an opposition resolution to the project. This section should also reference that Pechanga, a sovereign government, also adopted a resolution opposing the project and is located directly across I-15 from the proposed project site.



Pechanga testimony about the sacred viewshed to the west including and over the proposed project site from Mount Tavishpa, that Pechanga has an MOU with federal agencies to manage the repatriated reservation lands for cultural and biological purposes and that the project would degrade cultural values from that managed area and testimony from the Pechanga GIS Department showing the extreme visual impacts of the proposed project.

Cultural Resources

Section D.4.a. Cultural Resources EIR Background section should clearly summarize the conclusions of Mr. O'Neil and the EIR preparers, which are different. Again, this section does not accurately summarize the important aspects of Stephen O'Neil's report, a Technical Appendix to the EIR, therefore part of the EIR, as noted above. The statement from the Tribal Communications section that "The EIR identified a total of seven (7) potential Traditional Cultural Properties (TCPs) in the region surrounding the Project" should be moved to this section and revised to state, "The EIR Technical Report identified a total of seven (7) potential Traditional Cultural Properties (TCPs) in the region including and surrounding the Project site" as at least two of the seven TCPs identified by O'Neil ("Whale Bones" and "Upper Rainbow Canyon Camp") are within the Project boundaries and the entire project site is within O'Neil's recommended TCP District.

Section D.4.a. Tribal Communications section, as written, is unnecessarily confusing; it should summarize tribal communications, including the submission of the ethnography by the Tribe (Chairman Macarro) in 2008 and the information regarding the Luiseño Ancestral Origin Landscape as conveyed by the Tribe to the County in both written materials and in verbal testimony. Moreover, this section, by definition, should not try to summarize conclusions of Mr. O'Neil or Lilburn, the EIR preparers.

Section D.4.a. Summary of Cultural Resources Impact Evaluation statement that "The EIR includes a total of four mitigation measures to reduce the Project's potential indirect impacts to Pechanga's identified potential TCPs" should be revised to state that "The EIR includes a total of four mitigation measures to reduce the Project's potential indirect impacts to the potential TCPs identified by Lilburn" as Pechanga has very clearly stated that the project site and the mountain are itself a TCP and would suffer direct, indirect and cumulative impacts and Mr. O'Neil recommended that consultation with the Tribe occur to evaluate the landscape of the TCP District.

Section D.4.b. Public Testimony, in general, while probably sufficient to support the denial findings, the Tribe has some concerns about the summary of testimony on page 20 being relied upon for other purposes. It is the Tribe's view that in trying to summarize testimony, particularly tribal cultural testimony, that important aspects and nuances can be often lost or mischaracterized, and that the best source for the information is the testimony itself as contained in the Tribe's correspondence and the hearing transcripts. A few specific comments are in order, however:



Bullet 1: The Tribe conveyed that among the many important cultural aspects of the Origin Area, one very important fact is that the first funerary ceremony where death was introduced into the world was conducted in this area, the death and cremation of Wuyóot, the father of the first people, which also set forth funerary practices for the Luiseño people.

Bullet 3 through 6: The issue of whether place names relate to sacred places, whether they are the same as TCPs and whether the tribe has developed on a TCP, a sacred site or a place name location is not what is at issue concerning the proposed project. The Tribe conveyed in testimony at the public hearings as well as in written submissions that the project site is located within the Tribe's Origin Area including its Place of Creation, which the Tribe, all Luiseño tribes and the County's expert O'Neil, considers a TCP and sacred area.

Bullet 8: Should be corrected to state that, "Ms. Coyle stated that the intensity of limited residential development and a blasting quarry in this location are very different." (See August 15, 2011, hearing transcript.)

Bullet 9: Should be corrected to state Dr. King authored National Register Bulletin 38 "Guidelines for Evaluating and Documenting Traditional Cultural Properties" on behalf of the National Park Service, not the National Register.

Bullet 11: Should be revised from, "Dr. King also explained that tribes generally attempt various forms of protection, regarding sites, when sites are specifically threatened" to "Dr. King also explained that it is not uncommon for tribes to avoid revealing information about sacred sites until and unless such sites are specifically threatened and then tribes may attempt various forms of protection for them."

Bullet 13: Dr. Woodward also explained that the County's ethnographic expert O'Neil, in his report submitted as a Technical Appendix to the Project's EIR, stated that the areas the Pechanga Tribe defined in written correspondence as the TCP could be a landscape that is eligible for the National Register of Historic Places as a TCP (O'Neil, pages 47-48).

Add a new bullet stating that the Tribe testified that the mitigation in the EIR does not reduce impacts to less than significant because the proposed project would have significant, unmitigated adverse direct, indirect and cumulative impacts to the Origin Area and the Tribe's religious and cultural practices and would "kill" the mountain.

Geology and Hydrogeology

Section D.5.b. Bullet 10. Should be revised from, "Dr. Shlemon suggested that balanced rock studies should be done for mining projects on sites like the Project



site" to "Dr. Shlemon believes that investigations including literature review about the presence of site-specific balanced rock, should be done to determine if these features will topple owing to quarry blasting. His concern is for immediate physical damage and potential impact to public health and safety and to damage to cultural resources of concern to local tribes."

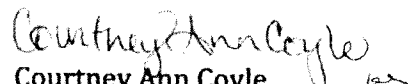
Overall Conclusions

Section E. Overall Conclusions could benefit from more specific tying back to the relevant language within the Surface Mining Permit Ordinance No. 555 and Noise Ordinance Exceptions No. 847.

Finally, we believe that the findings could include brief sections being added regarding Alternatives and Land Use Analysis and Compatibility, as these issue areas were also addressed during public testimony and further support the Overall Conclusions.

Again, on behalf of Pechanga, we appreciate the time and effort the Planning Commission has taken to review the proposed project and consider our concerns.

Very truly yours,


Courtney Ann Coyle
Attorney at Law

CC:

Hon. Chairman Buster and Members of the County Board of Supervisors
Carolyn Syms Luna, Riverside County Planning Director
Matt Straite, Project Planner
Michelle Clack, Deputy County Counsel
John Macarro, Pechanga Office of the General Counsel

