Las Pilitas Resources LLC

September 20, 2010

Dear Mr. Oliveira,

In response to your request, this letter sets forth the basis for the inapplicability of the County's recycling ordinance to the Las Pilitas Quarry project, and requests that the County formally determine that a waiver or modification of that standard is appropriate pursuant to County Code § 22.30.020(D).

The proposed Las Pilitas Quarry project is on a site zoned Rural Lands (RL) with an extractive overlay, meaning it is zoned for mining. The area has also been designated as MRZ-2, meaning it contains known mineral resources, by the State pursuant to Public Resources Code § 2761. The proposed project includes a concrete and asphalt recycling component, which would utilize the same equipment as the quarrying operation. The recycling operation would accept discarded concrete and asphalt from off-site projects and would process the material into recycled aggregate for sale to their consumer market.

County Code § 22.30.380, "Recycling and Scrap," states that recycling facilities are allowable in the RL category only when in conjunction with an approved waste disposal site, i.e. a landfill or dump. This standard is not applicable to the Las Pilitas Quarry recycling operation for the following reasons.

Recycled asphalt and concrete is more aptly termed "recycled aggregate." According to the State of California, recycled aggregate "is produced by crushing concrete, and sometimes asphalt, to reclaim the aggregate. Recycled aggregate can be used for many purposes. The primary market is road base." (See www.calrecycle.ca.gov/condemo/aggregate/default.htm) Locating recycled aggregate facilities on quarry sites consolidates and reduces truck trips when compared to the alternative of a standalone recycling operation on commercial or industrial lands, thereby reducing vehicle miles traveled (VMT), greenhouse gas emissions, and fossil fuel consumption, the goals of AB 32. For instance, when a quarry and an aggregate recycling facility are located on the same site, one truck could deliver a load of asphalt concrete or Portland cement concrete for recycling, and leave with a load of replacement road base aggregate (either recycled or new).

Recycled aggregate consists primarily of many of the materials that would be extracted anyway as part of the quarrying operation, and once crushed and recycled, would be sold to

the same market of purchasers for many of the same uses. The equipment used to process and crush the recyclables would be the same as the equipment used to process the rock extracted on-site.

County Code § 22.30.380 envisions only certain types of recycling facilities, and at the time of its drafting, specialized recycling of concrete and asphalt into aggregate likely was not contemplated. While it makes sense to exclude a general recycling/scrap operation from rural lands unless associated with a waste disposal site, the same rationale does not apply to a recycled aggregate operation which would be associated with aggregate extraction and sales in an area zoned for such activities (EX or EX-1 and MRZ-2). This exact point was observed by the County Board of Supervisors in their findings for a nearby recycled aggregate facility in 1991 (CUP D900038D, granted July 11, 1991 via Resolution 91-60.)[1]

Further support for this notion can be ascertained by looking at the definitions of "Recycling and Scrap" and "Recycling Facility" in the County Code. County Code § 22.80.030.S(12) states "Recycling and Scrap (land use) means establishments primarily engaged in assembling, breaking up, sorting temporary storage and distribution of recyclable or reusable scrap and waste materials, including auto wreckers engaged in dismantling automobiles for scrap." (Emphasis added.) The Las Pilitas Quarry would not be primarily engaged in recycling activities. A "Recycling Facility" is defined as an area greater than three hundred square feet, used for outdoor storage, sorting handling, processing, dismantling, wrecking, keeping or sale of inoperative, discarded, wrecked, or abandoned appliances, vehicles, boats, building materials, machinery, equipment, or parts thereof, including but not limited to scrap materials, wood, lumber, plastic, fiber, or other tangible materials that cannot, without

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[1] Specifically, the Board found:
"The proposed project or use is consistent with the San Luis Obispo County General Plan because a recycle operation is allowed within the rural lands category with development plan approval and with a modification of the standard requiring location of the recycle operation next to a waste disposal site, which is required by the Land Use Ordinance Section 22.08.097(a) – Recycling and Scrap." (Finding A.)

"The establishment of the proposed recycle plant in the Rural Lands category, on a site that is not in conjunction with an approved waste disposal site, is justified because the adjacent land uses are under the same ownership and will not be negatively affected by the recycle plant, said uses being ranchland, a rock quarry, and an asphalt batch plant, and because the recycled materials will be taken by buyers who will remove the materials off site. In addition, the requirement for the waste disposal site assumed that the recycling involved material more likely to go into a sanitary landfill such as old appliances, debris, and scrap. This project involves mostly old concrete and asphalt." (Finding G.)

further reconditioning, be used for their original purposes. Includes both wrecking yards for vehicles and recycling centers handling materials such as glass, paper and aluminum." (County Code § 22.80.030.S(13).) Recycled aggregate is not mentioned, and the examples listed indicate that a quarry involved in recycling materials that were formed *from* aggregate *back into* aggregate, for sale alongside the newly extracted materials, was not envisioned by this definition.

For all of these reasons, the standard set forth in County Code § 22.30.380 is unnecessary, ineffective, or inapplicable to the proposed Las Pilitas Quarry, and a waiver or modification is supported under County Code § 22.30.020(D).

Sincerely,

Ken Johnston

Project Manager

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