



COUNTY OF SANTA BARBARA

Planning and Development

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# Appeal to the Board of Supervisors or Planning Commission (County or Montecito)

2019 AUG 12 PM 2:43  
COUNTY OF SANTA BARBARA  
CLERK OF THE BOARD OF SUPERVISORS

**APPEAL TO THE BOARD OF SUPERVISORS OR PLANNING COMMISSION (APL)** on the issuance, revocation, or modification of:

- All Discretionary projects heard by one of the Planning Commissions
- Board of Architectural Review decisions
- Coastal Development Permit decisions
- Land Use Permit decisions
- Planning & Development Director's decisions
- Zoning Administrator's decisions

## THIS PACKAGE CONTAINS

- ✓ APPLICATION FORM
- ✓ SUBMITTAL REQUIREMENTS

## AND, IF ✓'D, ALSO CONTAINS

<b>South County Office</b> 123 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2000 Fax: (805) 568-2030	<b>North County Office</b> 624 W. Foster Road, Suite C Santa Maria, CA 93455 Phone: (805) 934-6250 Fax: (805) 934-6258	<b>Clerk of the Board</b> 105 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2240 Fax: (805) 568-2249
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## SUBMITTAL REQUIREMENTS

- X 8 Copies of the attached <sup>appeal</sup> application.
- X 8 Copies of a written explanation of the appeal including:
- If you are not the applicant, an explanation of how you are an “**aggrieved party**” (“Any person who in person, or through a representative, appeared at a public hearing in connection with the decision or action appealed, or who, by the other nature of his concerns or who for good cause was unable to do either.”);
  - A clear, complete and concise statement of the **reasons or grounds for appeal**:
    - Why the decision or determination is consistent with the provisions and purposes of the County’s Zoning Ordinances or other applicable law; or
    - There was error or abuse of discretion;
    - The decision is not supported by the evidence presented for consideration;
    - There was a lack of a fair and impartial hearing; or
    - There is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.
- X 1 Check payable to County of Santa Barbara.

Note: There are additional requirements for certain appeals including:

- a. Appeals regarding a previously approved discretionary permit** – If the approval of a Land use permit required by a previously approved discretionary permit is appealed, the applicant shall identify: 1) How the Land Use Permit is inconsistent with the previously approved discretionary permit; 2) How the discretionary permit’s conditions of approval that are required to be completed prior to the approval of a Land Use Permit have not been completed; 3) How the approval is inconsistent with Section 35.106 (Noticing).
- b. Appeals regarding Residential Second Units (RSUs)** – The grounds for an appeal of the approval of a Land Use Permit for a RSU in compliance with Section 35.42.230 (Residential Second Units) shall be limited to whether the approved project is in compliance with development standards for RSUs provided in Section 35.42.230.F (Development Standards).



PLANNING & DEVELOPMENT  
APPEAL FORM

SITE ADDRESS: 1300 Ellwood Ranch Road, Goleta, CA

ASSESSOR PARCEL NUMBER: 079-100-017

Are there previous permits/applications?  no  yes numbers: 18-RVP-00000-00016  
(include permit# & lot # if tract)

Is this appeal (potentially) related to cannabis activities?  no  yes  
17-RVP-00000-00082

Are there previous environmental (CEQA) documents?  no  yes numbers: 87-EIR-3

1. Appellant: William R. Pulice 1/0 Susan Petrovich, Attorney  
Phone: 805-882-1405 FAX: 805-965-4333

Mailing Address: 1021 Anacapa Street, S.B. 93101 E-mail: spetrovich@bhs.com  
Street City State Zip

2. Owner: Ellwood Ranch LLC Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

Mailing Address: 1300 Ellwood Ranch Road, Goleta 93117 E-mail: \_\_\_\_\_  
Street City State Zip

3. Agent: Susan F. Petrovich Phone: 805-882-1405 FAX: \_\_\_\_\_

Mailing Address: 1021 Anacapa St, Santa Barbara 93101 E-mail: spetrovich@bhs.com  
Street City State Zip

4. Attorney: Susan F. Petrovich Phone: 805-882-1405 FAX: 805-965-4333

Mailing Address: 1021 Anacapa Street, Santa Barbara 93101 E-mail: spetrovich@bhs.com  
Street City State Zip

COUNTY USE ONLY

Case Number: \_\_\_\_\_ Companion Case Number: \_\_\_\_\_  
Supervisory District: \_\_\_\_\_ Submittal Date: \_\_\_\_\_  
Applicable Zoning Ordinance: \_\_\_\_\_ Receipt Number: \_\_\_\_\_  
Project Planner: \_\_\_\_\_ Accepted for Processing: \_\_\_\_\_  
Zoning Designation: \_\_\_\_\_ Comp. Plan Designation: \_\_\_\_\_

2019 AUG 12 PM 2:43  
COUNTY OF SANTA BARBARA  
CLERK OF THE  
BOARD OF SUPERVISORS

# COUNTY OF SANTA BARBARA APPEAL TO THE:

BOARD OF SUPERVISORS

\_\_\_\_\_ PLANNING COMMISSION: \_\_\_\_\_ COUNTY \_\_\_\_\_ MONTECITO

RE: Project Title Elwood Quarry Revised

Case No. 18-RVP-00000-00016, 17-RVP-00000-00016

Date of Action 7/31/19

I hereby appeal the \_\_\_\_\_ approval  approval w/conditions \_\_\_\_\_ denial of the:

\_\_\_\_\_ Board of Architectural Review – Which Board? \_\_\_\_\_

\_\_\_\_\_ Coastal Development Permit decision

\_\_\_\_\_ Land Use Permit decision

Planning Commission decision – Which Commission? County

\_\_\_\_\_ Planning & Development Director decision

\_\_\_\_\_ Zoning Administrator decision

### Is the appellant the applicant or an aggrieved party?

\_\_\_\_\_ Applicant

Aggrieved party – if you are not the applicant, provide an explanation of how you are and “aggrieved party” as defined on page two of this appeal form:

See attached letter. Planning Commission received the attached letter but failed to comply with requirement of new EIR, approved project despite requirement that it be compatible with surrounding neighborhood, and failed to impose adequate conditions, addressed in attached letter. Appellant is immediate neighbor and appeared at Planning Commission hearing in opposition to project.

Reason of grounds for the appeal – Write the reason for the appeal below or submit 8 copies of your appeal letter that addresses the appeal requirements listed on page two of this appeal form:

- A clear, complete and concise statement of the reasons why the decision or determination is inconsistent with the provisions and purposes of the County's Zoning Ordinances or other applicable law; and
- Grounds shall be specifically stated if it is claimed that there was error or abuse of discretion, or lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

See attached letter, particularly the failure to comply with CEQA, and the description of violations of prior conditions and need for new, tighter conditions.

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Specific conditions imposed which I wish to appeal are (if applicable):

- See attached letter with detailed list of issues pertaining
- to conditions. For the most part, these still have not
- been adequately addressed and the project
- daily creates conflicts with neighbors.

Please include any other information you feel is relevant to this application.

**CERTIFICATION OF ACCURACY AND COMPLETENESS** Signatures must be completed for each line. If one or more of the parties are the same, please re-sign the applicable line.

Applicant's signature authorizes County staff to enter the property described above for the purposes of inspection.

I hereby declare under penalty of perjury that the information contained in this application and all attached materials are correct, true and complete. I acknowledge and agree that the County of Santa Barbara is relying on the accuracy of this information and my representations in order to process this application and that any permits issued by the County may be rescinded if it is determined that the information and materials submitted are not true and correct. I further acknowledge that I may be liable for any costs associated with rescission of such permits.

Susan F. Petrovich Brownstein ~~in the~~ Farber Schreck Susan L. Petrovich 8/12/19  
Print name and sign - Firm Date

Susan F. Petrovich Susan L. Petrovich 8/12/19  
Print name and sign - Preparer of this form Date

William R. Pulice  8/12/19  
Print name and sign - Applicant Applicant Date

Susan F. Petrovich Susan L. Petrovich 8/12/19  
Print name and sign - Agent Date

William R. Pulice  8/12/19  
Print name and sign - Landowner Date

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July 26, 2019

Susan F. Petrovich  
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805.965.4333 fax  
spetrovich@bhfs.com

**VIA EMAIL TO DVILLALO@CO.SANTA-BARBARA.CA.US**

Santa Barbara County Planning Commission  
c/o David Villalobos, Secretary  
123 East Anapamu Street  
Santa Barbara, CA 93101

RE: Ellwood Quarry Revised Conditional Use Permit and Reclamation Project,  
17RVP-00000-00082, 18 RVP-00000-00016 and 02RPP-00000-00001; APN  
079-100-017

Dear Chair Parke and Honorable Commissioners:

Brownstein Hyatt Farber Schreck represents Ron and Stacy Pulice, who own the Ellwood Canyon Ranch, located directly across Ellwood Creek from the Ellwood Quarry project.

The Pulices and their immediate neighbors are the people most directly impacted by the project and its impacts. The Pulices, their agricultural vehicles, and their immediate neighbors share Ellwood Canyon Road with the Ellwood Ranch.

Ellwood Canyon Road is a private rural road, located entirely on the Pulice property and a neighboring property, and not owned by Ellwood Ranch (the Doty family). Ellwood Canyon Road is a narrow, winding road with one particularly hazardous blind curve, and is designed for light agricultural and large lot residential traffic. We submit these comments on behalf of the Pulice family members who, because of relatively recently conduct on the part of the owners and operators of the Ellwood Quarry, risk their lives daily when they travel Ellwood Canyon Road, which is their sole access to the County public road system.

The pending proposal – to grant an extension of the Conditional Use Permit to allow another 25 years of quarry operation -- is astounding, given the history of activity on the part of the applicants. Make no mistake – although the Doty Family who own the ranch and the Batastini Brothers operating as Santa Barbara Sand & Topsoil, are two separate entities, they share the same lack of regard for the impacts of their activities on neighbors to Ellwood Ranch and the same objective of making money with non-agricultural operations that are not entirely in conformity with permit conditions, the Williamson Act contract, or the County Land Use Development Code.

### **A Brief Illustrative History**

In 1977, Ellwood Ranch entered into the County Agricultural Preserve Program (77-AP-047). At the time, the ranch was entirely devoted to agricultural operations. Santa Barbara Sand & Topsoil was operating a sand quarry across the canyon on what is now the Pulices' Ellwood Canyon Ranch [Ron Pulice purchased his ranch with the quarry already in operation and closed it in 1992]. Thereafter, Ellwood Canyon Ranch operated entirely as agriculture (primarily a very large avocado ranch), which operation continues to date.

In 1987, the County Board of Supervisors approved a 15-year Conditional Use Permit (CUP), based on 1987 Final EIR (FEIR), for Ellwood Ranch to replace the closing quarry on the Pulice ranch. A transition period occurred, during which the Batastinis gradually ceased their operations on the Pulice property and finally moved to the Doty property in 1992.

As part of that transition, the Batastinis and Dotys applied in 1992 for a permit for “agricultural reclamation” on Ellwood Ranch, stating that it would just be to “fill in a ditch/agricultural/orchard use”, would generate only 11.3 trips per day, and would be primarily for the use of locals who would bring fill material with their “pickup trucks and small flatbeds.” In some way that remains a mystery, given that this is agriculturally



zoned land subject to a Williamson Act contract, the agricultural reclamation morphed into a commercial landfill. There appears to have been NO environmental review of the “non-structural landfill” operation, despite a staff memo indicating concern about the environmental impacts of that operation.

In 2002, AFTER the Board of Supervisors was persuaded to extend the Ellwood Quarry CUP for a second 15-year term, the Dotys and Batastinis commenced a concrete recycling operation adjacent to the landfill. That changed the character of the trucks using Ellwood Canyon Road. Now, instead of agricultural and a few residential vehicles and sand trucks, larger trucks carrying huge chunks of concrete (sometimes outnumbering the sand trucks) were using the road and dumping the concrete chunks onto former pasture land. Once the debris pile became large enough, the Batastinis would bring in a crusher to convert chunks into gravel suitable for road base then truck the base out to various construction sites. The County issued no permit for the recycling facility and none could be issued because the use was not permitted on Williamson Act contracted agricultural land. The only benefit to the Pulice family and their neighbors was that the landfilling ceased when the recycling facility began to operate. The recycling was far more lucrative than allowing contractors to dump debris in the ravine – that debris was a desirable commodity once it had been crushed.

Just a reminder – the Pulices and their immediate neighbors live immediately across the canyon from this activity, so they not only endured the quarry operations, with the backup beeping and the general racket involved in a quarry, but they also had to experience the crusher when in operation. All this on agriculturally zoned land in what once had been a quiet canyon.

In 2019, the County finally issued and enforced a Notice of Violation and shut down the recycling operation -- except it didn't. The recycling pad with two large piles of debris remains in place. It can't be used for agriculture as it is, but it's available for whatever new unpermitted, non-agricultural use the applicants concoct.

With the recycling operation discontinued or suspended, the Dotys and Batastinis have resumed their landfill operation, but with enormous trucks hauling trailers now bringing in debris. Unlike the quarry trucks, these new trucks are operated by drivers who are unfamiliar with the narrow, twisting nature of Ellwood Canyon Road. They drive too fast and, at the blind curve that includes a steep downslope, they can't see oncoming traffic let alone move over. The road is far too narrow to accommodate these trucks and there is no safe way for oncoming drivers to pull over. On one side of the road there is a drop-off and on the other there is a sheer wall.

The County's Agricultural Preserve Uniform Rules do not allow any kind of landfill except a legitimate agricultural reclamation project that provides a "long-term benefit to the agricultural operation on the premises" and is compatible with agricultural operations on the property and on adjacent agricultural properties. The landfill on Ellwood Ranch is an unsightly mound of uncompacted debris that could never provide farmland and poses a potential hazard to both ranches if it should slide down into the creek during a heavy rain, causing Ellwood Creek (a blue line stream) to back up and inundate the orchards on both sides of the creek. That would cause the Pulices significant damage.

This is an intolerable situation and the Pulices and their neighbors should not have to tolerate it any longer.

### **Inadequate Environmental Review**

The staff report suggests that extending a 15-year project, which turned into a 30-year project, for 25 years can be accomplished with a simple Addendum to a 32-year old FEIR. The staff report is wrong.

First, this is a new project, not just a minor modification to an existing project. Although CEQA allows for a project to use a previous EIR, it has limits. Under CEQA Guideline 15162, the Lead Agency may not use a previous EIR if it determines, based upon substantial evidence in the record, that "**substantial changes occur with respect to**

**the circumstances under which the project is undertaken, which will require major revisions of the [EIR] due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or . . . New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified . . . [that] (A) The project will have one or more significant effects not discussed in the previous EIR . . .; (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR . . . .”**

Second, and Addendum doesn't meet CEQA requirements. CEQA Guideline 15164 makes it clear that the circumstances under which the Lead Agency may skip the new EIR and use an old one with an Addendum are very narrowly drawn and confined to circumstances where “some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.”

Here is why the 1987 FEIR can't be used for this project:

1. Thirty-two (32) years have passed since certification, during which the parcels on the Pulice part of Ellwood Canyon have been developed into single-family residences and the Pulice family has moved onto the Ranch full-time. The result is far more residential traffic reliant on Ellwood Canyon Road as their sole access to public roadways. When the EIR was certified, the Pulice ranch had only a small avocado orchard when compared to the orchard today and only one resident -- the ranch manager, who was a bachelor. Many of the adjacent parcels were undeveloped. That has changed substantially, with the adjacent parcels and the Pulice ranch all being developed with homes and additional agriculture. Far more lives are at risk today when the Pulice family, their workers, and their neighbors travel Ellwood Ranch Road. This is new information that couldn't have been known in 1987. It's also a significant change in

circumstances that gives rise to new or substantially more severe impacts from the project.

2. During that 32-year period, the residential traffic, which includes vehicles, bicyclists and walkers/joggers, on Cathedral Oaks Road and on Winchester Canyon Road has increased significantly. In 1987, Cathedral Oaks Road was a dead-end street that didn't access Highway 101 or connect to Winchester Canyon Road. The traffic analysis in the FEIR was confined to Winchester Canyon Road and the mandate that all truck traffic use Cathedral Oaks Road is a major project change and change of circumstances not analyzed in the FEIR.

3. Attachment C of your staff report (the Addendum to the FEIR) states under **Background** that there are no new or different traffic impacts associated with Ellwood Quarry as compared to those analyzed in the FEIR. I urge you to read the Traffic section of the FEIR (4 ½ pages long) because its traffic analysis was based entirely upon the assumption that the quarry operations on Ellwood Canyon Ranch would be the same as those historically resulting from the quarry on the Pulice ranch so it didn't take into account the narrow roadway and blind curve from the base of Ellwood Ridge Road to the Doty property, it includes absolutely no analysis of the traffic impacts on Cathedral Oaks Road because all truck traffic was going to use Winchester Canyon Road. It assumes that the Ellwood Canyon Road traffic would be 100 trips per day, but the traffic report with your staff report says it will be 250 trips per day and doesn't even address the unsafe road conditions on Ellwood Canyon Road. The FEIR estimated 96 daily truck trips from Ellwood Canyon Ranch onto Winchester Canyon Road occurring only 140 days per year. The quarry operates year round. The FEIR assumed that all trucks would carry 15 cubic yards of sand per load. The FEIR, unlike the traffic report, tried to address the road width problem, which was to be addressed through a project condition, but it missed the mark. More on that below in the discussion of condition violations.

Does the traffic report replace a new EIR? Not by a long shot. The safety issue has been completely ignored. The traffic report includes no identification and analysis of the road conditions and makes no recommendation for making Ellwood Canyon Road safer. The traffic report doesn't even address the inadequacies of the intersection of Cathedral Oaks Road and Ellwood Ranch Road, where the width of Ellwood Ranch Road is so narrow that trucks can't safely turn from Cathedral Oaks Road onto Ellwood Ranch Road if a car is stopped at the intersection stop sign on Ellwood Canyon Road. It's just too narrow. Since 2002, the condition that all trucks shall use Cathedral Oaks Road has been ignored consistently so many trucks exiting Ellwood Canyon Road turn right in order to reach the Highway 101 interchange more quickly. In so doing, they must swing into oncoming traffic lanes to do so. Even their left turns from Ellwood Canyon Road onto Cathedral Oaks Road are unsafe because many of the trucks are just too long and ungainly so they turn slowly, risking a collision or obstructing traffic.

4. The FEIR includes absolutely no discussion of agricultural impacts. The truck traffic from the non-agricultural operations on Ellwood Ranch impair legitimate agricultural traffic on the road because farm workers, harvesters, and avocado transporters all share the risk of a head-on collision with a large truck hogging the road or must crawl along behind a semi hauling a trailer as the driver tries to navigate the narrow, winding road. This problem impacts the long-term viability of agriculture on adjacent properties.

5. The FEIR and the 2018 traffic report fail to adequately address the cumulative traffic impacts of the non-agricultural activities on Ellwood Ranch. The FEIR was certified before the Dotys and Batastinis started their landfill and concrete recycling operation. There has been no environmental review of either of these operations so this is new information and a major change in circumstances. The quarry, landfill, and concrete recycling facilities have always been a combined operation, using the same employees, the same roadways, and the same equipment. The Batastinis acquired a license from the State of California for a "landfill and recycling" in 2005. How they obtained a license

for a landfill and recycling facility on Williamson Act contracted land remains a mystery. The traffic report, that claims to address cumulative traffic impacts, doesn't even mention the landfill and recycling facility. The recycling facility was in full operation throughout 2018.

6. Neither the FEIR nor the 2017 Air Quality analysis included with your staff report mentions the cumulative air quality impacts of the quarry AND the landfill/recycling facility. Those cumulative impacts have never been analyzed in any study that we have located in the public record.

7. The Addendum provides no comprehensive analysis of cumulative impacts of the project and the County certainly can't use a 32-year old cumulative impact analysis to support approval of this project.

8. The FEIR doesn't analyze the noise impacts of drilling and blasting, yet the quarry operators have drilled into rock for days on end, sending the noise through the canyon, and lately have included blasting in their quarry operation. This is new information and a definite change of circumstances. It also gives rise to a new potentially significant impact that hasn't been identified and studied.

9. The FEIR includes no discussion of project alternatives that would be applicable today and neither does the Addendum. We can suggest some project alternatives, but that isn't the point – it is the EIR that should be publicly scoped with a range of alternatives analyzed. For example, there may be other alternatives for yellow sand in the area.

10. The FEIR and Addendum completely fail to analyze the dangerous deteriorated condition of the access road. With the heavy truck traffic, plus the residential and agricultural traffic, the lack of signage, the blind curve, the project must mitigate the public safety hazard. At a minimum the road should be required to be brought up to minimum County road standards for this type of use – 24 feet of paved width plus 6-foot

shoulders of each side – but additional mitigation measures are necessary to address the potential for collisions. This issue requires thorough study – in an EIR.

11. Nowhere has the traffic that will be generated to complete the portion of the quarry reclamation that requires the spreading of adequate topsoil so plant life, particularly orchards, can grow successfully so the agricultural character of the land is restored. Adequate restoration is an absolute requirement on Agricultural Preserve land. Assuming the importation approximately 250,000 cubic yards of topsoil to reclaim the quarry, plus at least that same amount of topsoil, probably more, to do the same to the landfill, there will be incredible traffic on Ellwood Canyon Road for months but that impact hasn't been studied in any environmental document.

The applicants' traffic report cannot substitute for an updated EIR. It fails to address major traffic and cumulative issues. It also relies heavily on information provided by the applicants rather than independent traffic counts and analysis. For example, the number of actual daily trips is grossly understated. In addition, the number of full-time employees in the traffic report is 3 while the Project Description identifies the number of full-time employees as 8. Maybe the extra 5 employees are truck drivers, but there isn't enough sand being sold from this quarry to generate jobs for 5 full-time truck drivers.

In conclusion, this project cannot be approved without a new EIR. The sheer age and lack of scope of the 1987 document makes it antiquated and inapplicable to this project.

### **The Applicants Have Consistently Violated Project Conditions**

When the County approved the Ellwood Quarry in 1987, it was over the objections of neighbors, but the neighbors relented because the approval was merely for a term of fifteen (15) years and included a provision to ensure that the applicants would be good neighbors -- the approval included a provision that the County Planning Commission would conduct a noticed public hearing every 5 years to review permit condition compliance and progress on the reclamation. Those public hearings were never

conducted and telephone phone calls from complaining neighbors to Planning & Development went unheeded and undocumented. Perhaps those periodic hearings would have prevented the current operations on Ellwood Ranch from getting so far out of control. The hearings certainly would have provided a forum for the neighborhood complaints about heavily loaded and oversized trucks on neighborhood roadways and might have revealed, early on, the expansion of the quarry operations into a commercial landfill and a concrete recycling facility.

Project Conditions Violated Throughout 30-Year Term:

Condition #8 -- imposes absolute daily cap on truck traffic for the project – 96 (48 in and 48 out) trips per day with a total limit of 13,440. Periodically during the past 30 years, if sand demand peaked, the quarry operators have increased the number of trips to meet demand, despite the 96-trip daily cap.

Conditions #9 and #56 -- required improvements to Ellwood Canyon Road, including widening and regular road maintenance. There is no signage instructing trucks to slow at the blind curve. There is no left turn pocket that would accommodate the trucks making the left turn off Cathedral Oaks onto Ellwood Canyon Road. There is no striping on Ellwood Canyon Road to force trucks to stick to their own lane. There are no speed limit and warning signs. The road surface is deplorable. Although the Pulices shared the cost and labor of making the required repairs to Ellwood Canyon Road when the County granted the time extension, the permit condition required that the applicants maintain the road thereafter. The applicants violated this condition by failing to make ANY repairs or improvements to Ellwood Canyon Road since 2002. The road surface has been severely compromised by the heavy trucks that the applicants' have invited onto their property.

Condition #13 -- limits skip loader and truck access to "roads already existing onsite" with truck access being limited to the southwest corner of the Quarry. With the combining of



operations among the quarry, landfill, and recycling facility, the owners and operators have violated this condition by building new roads to reach those operations.

Condition #22 – requires quarry trucks to use Cathedral Oaks Road (not Winchester Canyon Road) between the quarry and Highway 101. This condition is violated on a routine basis because of the proximity of the Winchester Canyon/101 interchange.

Condition #55 – the bed of all sand trucks shall be covered with a tarp. Neighbors have repeatedly complained that this condition was being ignored, particularly on trucks with trailers. In particular, they complain that the truck may have a tarp but the trailer does not, resulting in substantial discharge of particulates. This condition should be revised to clarify that both the truck AND TRAILER must be tarped.

**The Applicants Request Condition Modifications that Should Not Be Allowed**

Condition # 1 – Project Description – and Condition #6 -- the applicants request 25 more years, with a termination date of December 31, 2043. **This either should be denied altogether or limited to 5 years maximum.**

Applicants request that they not be required to remove the truck scale upon conclusion of the project. Given the history of unpermitted uses and condition violations, **this request should be denied.** There is no need for a commercial truck scale on land being restored to agricultural production. Leaving the scale opens the door to future improper land uses on this Agricultural Preserve land. The entire “reclamation” plan claims are suspect. The Revised Mining Reclamation Plan repeatedly depicts the reclamation as being a “quarry to orchard” but the plan doesn’t describe the depth of restored topsoil, which would have to be many feet deep to provide a suitable medium for productive orchard trees. Orchard trees require relatively rich soil and substantial irrigation, not the scraped earth of a mining operation covered with a few inches of topsoil.

Condition #8 – applicants request that the daily trip cap for truck trips be replaced with an “emergency” exception, but the proposed condition modification invites mischief. The proposed modification would require the applicants to notify P&D in writing of such an emergency, but when? After the fact? At the end of the year? What constitutes an emergency and who makes that judgment call? It should not be the applicant. **The daily cap should be retained as currently worded.** If a true emergency arises, justifying increased sand export, the applicants can apply to the P&D Director for a temporary suspension of the condition until the emergency passes. **In the alternative, the condition could read:** “The maximum number of truck trips to and from the property shall not exceed 40 trips in any given day (20 trips in and 20 trips out), except that the P&D Director, or designee, may authorize an emergency exemption from, or modification of, the daily truck limit due to a threat to public health, safety and welfare, and if the neighbors are notified in advance of the specifics of the emergency and the dates when increased ADT’s will be allowed, the number of additional ADT’s approved, AND a 24 hour telephone number is provided so neighbors can report violations.”

### **Suggested Additional Conditions**

If the CUP is extended at all, it should be subject to the following additional conditions:

1. Prior to implementation of the CUP and any further quarry operations, the recycling facility shall be removed entirely and the land underlying it reclaimed as productive agricultural land. That use was never permitted, but it remains on the property. It is an eyesore and an invitation to future violations. The site should be inspected by County staff, at the applicant’s expense, every 12 months until revegetation or agricultural planting can be deemed a success (minimum of 3 years).
2. Prior to implementation of the CUP, the landfill operation shall terminate, the existing mounded fill shall be spread out across the ravine and compacted for safety then covered with adequate soil to reclaim the area as productive agricultural land or grazing

land/habitat. It, too, is an eyesore. The site should be inspected by County staff, at the applicant's expense, every 12 months until revegetation or agricultural planting can be deemed a success (minimum of 3 years).

3. Prior to implementation of the CUP and any further quarry operations, Ellwood Canyon Road shall be improved, which includes widening the paved surface of Ellwood Canyon Road at the intersection with Cathedral Oaks Road so incoming trucks can pass a car located at the stop sign, widening the paved surface of all of Ellwood Canyon Road up to the bridge on the applicant's property to 24 feet, except where topography makes the widening infeasible, but in those areas, paved to no less than 20 feet, with additional width as possible at the curves, striping shall be added, and the following signage shall be installed at 50-foot intervals along the road: mandatory speed limit of 15 MPH; warning of blind curve ahead; warning of caution, oncoming traffic. Project conditions should require maintenance of the access road, at the applicant's sole expense, so that the road and signage remain in good and safe condition until the end of the permit term.

4. The County must monitor traffic counts and tarping of all loads – both in and out at least once every 3 months (the annual monitoring has been ineffective). This can be done in a variety of ways, but one suggestion is the installation of a trip counter and a traffic camera set high enough to snap a photo of each vehicle entering the property to show whether loads are tarped and to track the number of trucks. The applicant should be required to submit this evidence to the County quarterly for inspection. The applicant also should be required to submit, quarterly, the scale tickets so the amount of sand being sold and the number of daily truck trips can be verified.

5. A condition should be added that the applicant may not sell any products that are not sourced onsite.

6. A condition should be added that sets a weight limit for all trucks traveling to and from the site. The excess weight of trucks using the road not only chews up a road surface, it also creates a safety hazard on the winding access road.
7. A condition should be added that no drilling or hammering of rock may occur and if blasting is used, it shall be not before 9:00 a.m. and immediate neighbors shall be notified in advance. [Until recently, quarry operators wishing to break up a large boulder, drilled and hammered the boulder for days at a time. The noise was oppressive and far in excess of what any neighbor should be expected to suffer].
8. Add to the project description a statement that violation of any project conditions and/or introduction of any unpermitted uses to Ellwood Ranch (not just the parcel on which the project is located) shall be the basis for re-opening the permit and possible revocation.
9. If the project is approved for any term longer than 5 years, there should be a noticed public hearing conducted by the County Planning Commission to review permit compliance every 3 years. If it is determined that the applicants are not complying with permit conditions, the Commission should have the power to revoke the CUP.

**The Required Findings for Approval Cannot Be Made Based on Substantial Evidence in the Record**

As currently proposed, without additional environmental review and conditions as described in this letter, key findings required by law cannot be made.

1.1 – the Commission cannot find that the 1987 FEIR and Addendum are adequate to comply with CEQA.

1.3 – the annual monitoring by P&D staff has proven to be completely inadequate. Monitoring should include surprise visits to the property every 3 months, the video monitoring described above, and a 24-hour hotline for neighbor complaints.

#### 1.4 Findings re Addendum Issues

Traffic and Circulation – with the new information provided in this letter, and in light of the woeful inadequacy of the environmental review and traffic study, there is no substantial evidence to support a finding that traffic and circulation impacts are less than significant. A hapless bicycle rider on Cathedral Oaks Road has been killed by one the quarry trucks. How many more people have to be killed or maimed because the truck traffic is unsuitable for the available road system.

Air Quality – in light of the fact that none of the environmental review has included the cumulative impacts to air quality from all non-agricultural operations on this property, there is no substantial evidence in the record to support a finding that there is no significant impact on air quality as a result of this project.

Noise – the recent use of drills, hammers, and blasting at the quarry hasn't been analyzed in any environmental document. Furthermore, the cumulative noise impacts from the landfill and trucks traveling to and from it, and the quarry, haven't been studied and quantified at all.

#### 2.0 Administrative Findings

2.1.1 – site suitability – given the many traffic and circulation issues, including the cumulative impacts, there is no substantial evidence in the record to support this finding at this time.

2.1.2 – impact mitigation to maximum extent feasible – the record is clear that the failure to prepare a current EIR makes it impossible to make this finding because the individual and cumulative impacts haven't been properly identified. Mitigation measures and alternatives that would reduce or avoid potentially significant impacts simply haven't been identified.

2.1.3 – adequacy of streets and highways – the long discussion of the unstudied traffic and road conditions above demonstrates that this finding cannot be made.

2.1.4 – adequate public services – there is been no current identification and analysis of this issue so there is no substantial evidence to support this finding. There simply must be a current EIR.

2.1.5 – no detriment to neighborhood comfort, convenience, general welfare, health and safety; compatibility with surrounding area – this finding simply cannot be made, whether for a 1-year, 5-year, and certainly not for a 25-year, extension. The quarry trucks were a concern when the County first approved this project. That concern has grown exponentially with the increase in residential population and development adjacent to the quarry and along the truck route. This is a use that doesn't belong at the back of a narrow, rural canyon and large numbers of large trucks, particularly those hauling trailers, should not be rumbling through dense residential neighborhoods.

2.1.7 – compatible with and subordinate to rural and scenic character – for all of the above reasons, this finding cannot be made. The applicants may be able to partially hide the quarry, but they can't make the truck traffic compatible with and subordinate to the rural and scenic character of this agricultural canyon.

#### Reclamation Plan Findings

2.3.5 – reclaim to land uses specified by owner – the Plan claims that the quarry area will be converted to orchard land, but the record includes no evidence that sufficient soil will be restored to accommodate the needs of orchard trees. That would require a substantial import of soil, which results in more truck traffic and more expense than the bond posted by the applicants will cover. Shallow-rooted vegetation may survive, but orchard trees require enough soil to sink their roots and suck up the water and nutrients needed to produce fruit. A few inches of topsoil won't provide that medium.

**Conclusion**

Based upon substantial evidence in the record, it is evident that these applicants are trying to push this project through without adequate environmental review. They were fortunate enough to have been granted 30 years of mining. Had they been responsible operators with respect for their neighbors, rather than miscreants who flaunted CUP conditions, tore up the only access road in the canyon, misrepresented a commercial landfill as an agricultural reclamation while flaunting those permit conditions as well, then operated an unpermittable and unpermitted concrete recycling facility on Agricultural Preserve land in an otherwise quiet, rural canyon, perhaps they could have made a good case for some kind of time extension – but not without a current EIR!

This is just a bad project made worse by the operators and their shenanigans, but it's also an antiquated project. There just weren't as many people impacted by the truck traffic when the project was approved. Times have changed and this project isn't compatible with the area – and nothing can make it compatible.

We request that you deny the Conditional Use Permit. This is agricultural land, not industrial land.

Sincerely,



Susan F. Petrovich