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Conservation, Development and Planning

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CERTIFIED MAIL

August 26, 2011

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NOTICE OF NONCOMPLIANCE

RE: Pope Creek Quarry: CA Mine ID #91-28-0007
Equipment Removal, Reclamation, and Financial Assurance Cost Estimate
Surface Mining Permit #97420-SMP (APN 018-080-023)

Dear Sirs:

This letter serves as an **Initial Notice of Noncompliance** pursuant to Napa County Code (NCC) Section 16.12.610(A) regarding the financial assurances and reclamation of Pope Creek Quarry that are further detailed below. This Notice of Noncompliance may be appealed pursuant to NCC Section 16.12.610(B).

In a Notice dated February 24, 2011, the County requested pursuant to Surface Mining Permit #97420 and associated reclamation plan for this operation, NCC Section 16.12 (Surface Mining and Reclamation), and the Surface Mining and Reclamation Act (SMARA) Public Resources Code (PRC) Section 2710, that Pope Creek Quarry: 1) provide an adequate Financial Assurance Cost Estimate by March 28, 2011; 2) remove all debris, materials and spoils piles, abandoned and unused equipment, and buildings and installations associated with the operation by May 31, 2011; and, 3) commence reclamation of the site by May 31, 2011.

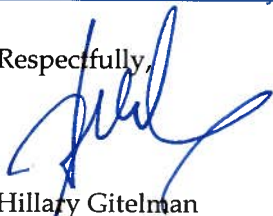
During a site inspection conducted August 4, 2011, it was evident that none of these activities have commenced: the site was substantially in the same condition as detailed in the 2009/2010 Annual Inspection Report prepared by the County for the facility. Specifically:

- **Financial Assurance Cost Estimate (FACE):** The County was not able to conclude the revised FACE update provided by Mr. Wesner via FAX transmittal on April 8th and 12th 2011, was adequate pursuant to Public Resources Code (PRC) Sections 2773.1(a) and the California Code of Regulation (CCR) Title 14 Section 3804(a): see the attached memo and inspection report for details. Failure to submit an annually updated FACE is a violation of PRC Section 2773.1(a)(3), CCR Section 3804(c), NCC Section 16.12.415, and permit Condition of Approval No. 74.
- **Equipment Removal:** Failure to remove all trash/debris, materials and spoils piles, abandoned and unused equipment, buildings and installations in the Rock Quarry and Batch/Wash Plant areas is a violation of Condition of Approval No. 7, 56, and 66, of Surface Mining Permit #97420 and associated reclamation plan approved pursuant to NCC Section 16.12.300 and PRC Section 2770.
- **Reclamation:** Failure to initiate reclamation of the Rock Quarry and Batch/Wash Plant areas (which includes equipment and debris removal described above) is a violation of Condition of Approval No. 1, 2, 5, and 66 of Surface Mining Permit #97420 and associated reclamation plan approved pursuant to NCC Section 16.12.300 and PRC Section 2770. Reclamation activities must include the removal of all equipment (as described above and in the inspection report), de-compaction, re-grading and re-contouring of the facility, and installation of erosion control measures. Subsequent reclamation activities must include re-vegetation and invasive plant species control including a program/plan for controlling the star thistle infestation in and adjacent to the Batch/Wash Plant as described in the annual inspection report.

These compliance matters can be remedied by submittal of an adequate FACE, the removal of equipment and debris, and the commencement and substantial completion of reclamation, including submittal of a program/plan to control the star thistle infestation, within 30 days from the date of receipt of this notice (i.e. **September 27, 2011**). Should these compliance matters extend beyond this period Pope Creek Quarry will be subject to a Final Notice of Noncompliance pursuant to NCC Section 16.12.610(c) at which point the mining permit may, after hearing, be suspended or revoked and an order to comply may be issued in accordance with NCC Section 16.12.630. Failure to comply with such an order could result in the imposition of an administrative penalty of up to \$5,000 per day, assessed from the original date of noncompliance, and/or further enforcement actions including referral to the District Attorney.

Should you have any questions regarding this matter please contact Donald Barrella at 707-299-1338 or donald.barrella@countyofnapa.org

Respectfully,



Hillary Gitelman
Director

Enclosures:

County Notice dated February 24, 2011
Surface Mining Inspection Report 2009/2010
Financial Assurance Cost Estimate Memo, August 20, 2011
Chapter 16.12 (Surface Mining and Reclamation) of the Napa County Code

Cc: Diane Dillon, Supervisor District 3
Laura Anderson, Deputy County Counsel
Patrick Lowe, Deputy Director – Conservation Division
Brian Bordona, Supervising Planner – Conservation Division
Donald Barrella, Planner III – Conservation Division
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Don Wesner Incorporated, P.O. Box 317 Rutherford CA 94573