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April 20, 2010

Members of the General Plan Advisory Committee
c/o San Benito County Planning Department
3224 Southside Road
Hollister, CA 95023

HAND DELIVERED

**RE: REQUEST TO NOT INCLUDE THE CURRENT LAND USE ELEMENT
POLICY 31 FOR NEW QUARRIES IN THE PROPOSED GENERAL PLAN**

Members of the General Plan Advisory Committee:

On behalf of Robert Enz, it is requested that the requirements for new quarries in the current Land Use Element Policy 31 not be included in the proposed general plan.

Basically, Land Use Policy 31 currently requires a general plan amendment for new quarries outside areas identified for Mineral Resources in the Open Space/Conservation Element, as well as an environmental impact analysis for consideration of the general plan amendment. But, these requirements are unnecessary and, as such, they could cause unnecessary permit processing delays and costs for new quarries. Also, since these requirements are inconsistent with other general plan policies governing quarries outside areas identified for Mineral Resources, they should not be included in the proposed general plan.

The Policy 31 requirement for a general plan amendment for new quarries is unnecessary because new quarries can be conditioned via the use permit approval process to protect mineral and other resources regardless of whether they are, and remain, outside areas identified for Mineral Resources in the Open Space/Conservation Element. And, as to the Policy 31 requirement for an environmental impact analysis for new quarries, it too is unnecessary because the California Environmental Quality Act (CEQA) already provides rules that impose a duty to protect against adverse effects on the environment, including adverse effects on mineral resources (see, for example, CEQA Guideline sections 15021 and 15064; and, Guideline Appendix G, subsection x).

Furthermore, the processing delays and added costs caused by the unnecessary requirements for new quarries in Policy 31 makes smaller, family owned quarries, more difficult to achieve. This creates an unwarranted competitive advantage for the larger, corporate owned, quarry operators. And, since smaller, family owned quarries, are more likely to include other residential and agricultural uses, the requirements of Policy 31 could deter mixed-use approvals, such as a quarry, vineyard and winery use. This could interfere with the purpose of the planning approval process since mixed-use approvals may have less environmental impacts and be more compatible with their surroundings than a single, larger quarry operation.

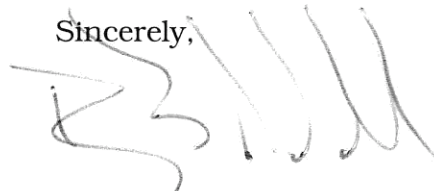
Policy 31 requirements for new quarries are also inconsistent with other general plan policies for quarries in agriculturally designated areas since other policies expressly allow mineral extraction subject to use permit approval, without mention of any mandatory requirements for a general plan amendment or environmental impact analysis. This is indicated in the current Land Use Element for designated Agricultural land (Page 8) and Policy 2 for Agriculture in the March 2010 Public Review Draft General Plan Report (Chapter 4, Pages 4-5 and 4-6).

If the recommendation of the Committee is to not include Policy 31 requirements for the new quarries in the proposed general plan but to keep the other provisions contained in Policy 31, it is requested that this policy be revised as follows:

"POLICY 31

A general plan amendment shall be required for the establishment of new heavy industrial areas ~~or quarries outside the areas identified for Mineral Resources in the Open Space/Conservation Element.~~ An environmental impact analysis shall be required for consideration of the general plan amendment to minimize near and long-term effects on the environment. In some limited situations, new small scale isolated industrial operations will be allowed as overlay zoning in other land use categories."

Sincerely,



Douglas E. Marshall, Esq.
Attorney for Robert Enz

DM:kf
cc: Robert Enz