



June 18, 2024

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

SUBJECT: Approval of, and Authorization for the Director of the Resource Management Agency or Designee to Execute, an Agreement with Bear Family LLC, Ford Rocks LLC, and Hummel Family Grimes Canyon LLC for Release of \$772,496.31 in Forfeited Financial Assurance Funds to Facilitate Reclamation of the Former Best Rock Mining Site; Waive the Requirement in the Ventura County Administrative Manual That Contracts Shall Not Include Provisions for the Payment of Attorney's Fees by One Party to the Other Party; Supervisorial District No. 3

Recommendations:

1. Approve and authorize the Director of the Resource Management Agency (RMA) or designee to execute an agreement with Bear Family LLC, Ford Rocks LLC, and Hummel Family Grimes Canyon LLC for release of forfeited financial assurance funds to facilitate reclamation of the Best Rock Mining Site (Exhibit 1).
2. Waive the requirement in the Ventura County Administrative Policy Manual, Chapter VI-1, that contracts shall not include provisions for the payment of attorney's fees by one party to the other party.

Fiscal Mandates/Impacts:

Mandated:	No
Source of Funding:	Trust Account, N942-808A
Funding Match Required:	None
Impact on Other Departments:	No

<u>Summary of Revenues and Costs:</u>	<u>FY 2023-24</u>	<u>FY 2024-25</u>
Revenues:	\$ 772,496	\$ -
Costs:		
Direct	\$ 772,496	\$ -
Indirect-Agency/Dept.	\$ -	\$ -
Indirect-County CAP	\$ -	\$ -
Total Costs	\$ 772,496	\$ -
Net Costs:	\$ -	\$ -
Recovered Indirect Costs:	\$ -	\$ -

FY 2023-24 Budget Projection for Planning – Division 2910				
	Adopted Budget	Adjusted Budget	Projected Actual	Estimated Savings/(Deficit)
Appropriations	\$ 10,415,656	\$ 11,040,215	\$ 10,043,696	\$ 996,519
Revenue	\$ 4,371,381	\$ 4,371,381	\$ 3,466,401	\$ (904,980)
Net Cost	\$ 6,044,275	\$ 6,668,834	\$ 6,577,295	\$ 91,539

There is no fiscal impact associated with this Board item. All funds in trust account N942-808A will be disbursed according to the attached Agreement (Exhibit 1).

Alignment with County Strategic Plan:

This Agreement, which releases forfeited financial assurance funds to facilitate reclamation of the former Best Rock Mining Site, aligns with County Strategic Plan Priority Reliable Infrastructure and Sustainability Goals 2 and 3 because the project would help to maintain, and potentially enhance, the health and resilience of the County by authorizing site reclamation for erosion control and revegetation to an end use of open space in the unincorporated County.

Discussion:

In December 2012, the County Planning Division issued an Order to Comply with the state Surface Mining and Restoration Act (SMARA) and a Notice of Permit Revocation to the operator of the Best Rock mining facility, Best Rock Products, Inc. These enforcement actions were taken because mining excavation had occurred outside of permitted limits and substantially below the final reclaimed surface specified in the approved Reclamation Plan. After years of submittals of inadequate permit applications and draft reclamation plans, the operator had failed to produce a revised reclamation plan that reflected the actual conditions at the mining site and that met SMARA standards.

After a series of meetings involving the operator, staff and management of the California Department of Conservation, Division of Mine Reclamation (DMR), and County staff and management, County enforcement actions were heard in two noticed public hearings before the Ventura County Planning Commission. At the first hearing on April 18, 2013, the Commission gave the operator 60 days to produce a SMARA-compliant reclamation plan. At the second hearing on June 20, 2013, the legal representative of Best Rock Products announced that it would not challenge the revocation of the Conditional Use Permit (CUP) under which this facility operated, that it would abandon the site, and that it would not undertake any reclamation efforts.

In response, the Planning Commission revoked the CUP and directed staff to forfeit (collect) the Financial Assurance posted for the site. In coordination with DMR, the County Planning Division took possession of the Financial Assurance funds.

Because of the unauthorized excavation, the mined lands at the Best Rock Site could no longer be reclaimed in accordance with the original reclamation plan approved for the facility. Given this situation, the County prepared an amended Reclamation Plan that reflected the current site conditions. The Amended Reclamation Plan was subject to a noticed public hearing held on October 29, 2014 before the Ventura County Planning Director. On November 17, 2014, the Planning Director approved the Amended Reclamation Plan.

In 2017, a portion of the former Best Rock site was incorporated into the adjacent Grimes Rock mining facility (CA Mine 10#91-56- 0032). This acquisition allowed for the removal by excavation of a remnant "highwall" that existed along the Best Rock/Grimes Rock property line.

Starting in 2021, County staff and representatives of the property owners, Bear Family LLC, Ford Rocks LLC, and Hummel Family Grimes Canyon LLC (Property Owners), met regularly to identify a feasible way to reclaim the remaining portion of the site without exceeding the \$772,496.31 that remained of the forfeited Financial Assurance funds. At their own expense, the Property Owners hired JT Kruer and Company to evaluate the approved Reclamation Plan and the site conditions, and subsequently prepared a revised Reclamation Plan that could be feasibly implemented with the available funds. (Exhibit 2). County and DMR staff reviewed the proposal, conducted a site visit, and agreed that the proposal is in conformance with the requirements of SMARA, the State Mining and Geology Board regulations, and the Ventura County Non-Coastal Zoning Ordinance. It was approved in 2023 as a minor deviation to the 2014 Reclamation Plan, and is thus referred to as the "Adjusted 2014 Approved Reclamation Plan."

RMA now requests authorization to enter into the attached Agreement with the Property Owners to facilitate the reclamation of the Best Rock Site in accordance with the Adjusted 2014 Approved Reclamation Plan, to disburse the remaining Financial Assurance funds of \$772,496.31 held by the County to accomplish reclamation, and to fully and finally resolve and settle any and all potential claims, causes of actions and disputes between the parties relating to reclamation of the Best Rock Site. No County funds will be used,

as the only funds provided are from the Financial Assurance funds forfeited by the former operator and held by the County since 2013. Because the County's approval of the proposed Agreement would facilitate implementation of the Adjusted 2014 Approved Reclamation Plan that was previously approved by the County, and because the site's overall reclamation was previously reviewed as part of the County's approval of the mining project's underlying CUP and SMARA reclamation plan, no additional review is required under the California Environmental Quality Act.

Ventura County Administrative Policy Manual, Chapter VI-1, states that contracts shall not include provisions for the payment of attorney's fees by one party to the other party. Paragraph 25 of the proposed Agreement does not comply with this provision, and generally states that should any of the parties institute an action or proceeding to enforce the Agreement or to seek any other judicial remedy pertaining to the agreement, that the prevailing party shall be entitled to reimbursement by the losing party of all costs and expenses incurred thereby, including, but not limited to, reasonable attorneys' fees. (See Exhibit 1, ¶ 25.) In order to reach a mutually beneficial agreement with the Property Owners to accomplish reclamation at the Best Rock Site with the limited funds available, RMA, in consultation and with the concurrence of County Counsel, believe such waiver would be appropriate in this circumstance, and accordingly request your Board's authorization for such waiver.

This letter has been reviewed by County Counsel's Office. If you have any questions regarding this item, please contact me at (805) 654-2481 or via email at Dave.Ward@ventura.org.

A handwritten signature in blue ink, appearing to read "Dave Ward", is written over a horizontal line.

DAVE WARD, AICP
Planning Director

Attachments

Exhibit 1 – Reclamation Agreement
Exhibit 2 – Adjusted 2014 Approved Reclamation Plan