

## **Exhibit 13.b**

### **Planning Division Responses to Written Comments from the City of Ojai**

Ojai Quarry Reclamation Plan Amendment  
Case No. PL18-0136

#### **INTRODUCTION**

By letter dated, July 1, 2021, the City of Ojai submitted comments in support of the appeal of the Planning Director's approval of the proposed Reclamation Plan Amendment (RPA) for the Ojai Quarry. Provided below are the responses of Planning Division staff to the City of Ojai comments, numbered in correspondence to the marked copy of the City's letter.

#### **RESPONSES TO COMMENTS**

1. Any mine operator can apply to the applicable Lead Agency for an amendment of an approved Reclamation Plan. As with all proposed Reclamation Plans, the RPA must be (and has been) reviewed for conformance with the requirements of the California Surface Mining and Reclamation Act (SMARA), the State Mining and Geology Board (SMGB) reclamation regulations, and the Ventura County zoning ordinance.

A Reclamation Plan is not a discretionary permit granted by the County decision-makers. It is a State-mandated plan for reclamation of a mining site. If the proposed plan is in conformance with applicable regulations, the Lead Agency, or the State Mining and Geology Board acting on appeal, is obligated under SMARA to approve it. The proposed RPA has been reviewed by both County staff and staff of the State Division of Mine Reclamation (DMR) and found to be in compliance with all applicable regulations.

2. The practice of geology and engineering before the public is limited by various State laws (e.g. the Business and Professions Code) to individuals licensed to practice by the State of California. On these technical subjects, substantial evidence on the record in a public hearing can only be provided by such individuals.

The engineering and geologic reports submitted with the RPA application were prepared and certified by professional geologists and engineers licensed to practice by the State of California. Although not required, the subject reports were independently reviewed for adequacy by a licensed engineering geologist (James O'Tousa, CEG) employed by the County of Ventura. This County professional found the reports to be adequate and prepared in accordance with established standards of practice. The reports were also reviewed by DMR and found to be adequate. These reports document that the subject slope is stable in its current (un-filled) configuration.

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The statement that the reports were “*paid for by the applicant*” appears to imply that the licensed professionals who stamped the documents were not providing impartial analysis. The County of Ventura has no evidence of any impropriety in the preparation and certification of the submitted reports. If the City has any evidence of such activity, it should be reported to the California Board of Professional Engineers, Land Surveyors and Geologists for investigation. It is common practice for applicants to retain (and the County to require) licensed professionals to design projects and conduct technical studies.

3. The issue of slope stability is addressed in the professional reports attached to the Planning Director and Planning Commission staff reports (see Exhibit 3). These reports have been found adequate by the County. The City has not provided substantial evidence that unstable slopes currently exist or would be created in the future.
4. It is unclear what impact related to climate change is of concern to the City. If the concern involves potential erosion of the reclaimed slope due to severe winter storms, the native rock currently exposed on the slope in question would be less likely to suffer severe erosion than any emplaced fill.
5. The placement of 97,000 cubic yards of fill as part of site reclamation was not recognized in 1995 when the current Reclamation Plan was approved. The fact that the mining site had been excavated below the Final Reclaimed Surface (FRS) depicted in the approved Reclamation Plan was discerned by County staff in 2012. In order to be in compliance with the approved 1995 Reclamation Plan, the mine operator was (and currently is) required to post a Financial Assurance to account for the cost of the placement of fill based on the current topography of the mining site. The issue of slope stability was not a factor in recognition that the Financial Assurance held by the County and State for the Ojai Quarry must reflect the need for placement of 97,000 cubic yards of fill.

Under SMARA and the SMGB reclamation regulations, reclaimed slopes must be no steeper than a 2:1 gradient, unless documented to be stable by adequate analysis and report. The submitted technical reports satisfy this SMARA requirement to allow a steeper slope to remain upon site reclamation.

6. Refer to Response to Comment 2 above. The County has not identified any fraudulent or biased opinions or analysis in the submitted technical reports.
7. As referenced by the City, notices of violation have been issued to the operator of the Ojai Quarry in the past for activities that were not authorized by the previous County permit (CUP 3489-2) or the approved Reclamation Plan. In addition, the facility was cited for water quality (sedimentation) issues by the RWQCB. The operator installed various drainage improvements and entered into a Consent Decree to settle litigation

on this issue. All identified violations of State Law and County Code have been abated. There are currently no outstanding violations identified for the Ojai Quarry mining facility.

Refer to Responses to Comments 2 and 6 above regarding *“independently verifying the reports provided by the applicant...”*.

8. Refer to Responses to Comments 2 and 3 above.
9. Refer to Responses to Comments 1, 2, 3, 5 and 7 above.
10. The Ojai Quarry is located outside of the area subject to the Ojai Valley Area Plan (OVAP). Thus, the OVAP policies do not apply to the subject Reclamation Plan application.
11. The County does not agree that a new or supplemental EIR is appropriate. The ongoing operations of the Ojai Quarry (such as truck traffic) are governed by the terms and conditions of Conditional Use Permit PL15-0118. This permit was granted by the County Board of Supervisors in 2015 and is not proposed for modification. The current public process is limited to proposed changes in site reclamation after the cessation of mining excavation. The proposed changes to site reclamation have been carefully evaluated for potentially significant environmental effects. Per section 15162(a) of the CEQA Guidelines, “no subsequent EIR shall be prepared” unless one or more of the criteria in subsections (1) through (3) is met. Detailed findings addressing these criteria are provided in the EIR Addendum (Exhibit 4 of the Staff Report). The City’s letter does not specifically address staff’s findings or explain how the proposed RPA would result in new or more severe environmental effects. As also discussed in Response to Comment 4 above, the native rock currently exposed on the slope in question would be less likely to suffer severe erosion than any emplaced fill.
12. As indicated in the Planning Director staff report and the Planning Commission staff report, the required findings to approve the proposed RPA can be made. The City letter does not identify any specific finding that cannot be made, nor any substantial evidence that refutes staff’s findings.
13. The mention of the geologic phenomenon of “subsidence” is not relevant to the Ojai Quarry as such a process does not occur in areas with consolidated bedrock exposed at the surface. The phrase *“applicant excavating outside of approved areas”* appears to refer to the grading work that was done in 2011-12 along the southern boundary of the quarry. This issue was addressed in the Reclamation Plan Compliance Amendment approved by the County in 2012 and is not relevant to the proposed RPA.
14. Refer to Response to Comment 4 above. Given its location in a canyon outside of the City limits, it is unclear how the proposed changes in future reclamation of the Ojai

Quarry would place the residents of the City of Ojai at “*significant risk.*” The steep slope of concern has existed for more than 30 years and would continue to remain regardless of the County decision on the proposed RPA. This slope has been evaluated by State-licensed professional engineers and geologists and determined to be stable.