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Conditions of Approval

GENERAL/ONGOING

1. This conditional approval is for the establishment of Reclamation Plan No. 93M-04 (as amended); a revised reclamation plan for a vested sand and gravel mining operation on approximately 932 acres located within and adjacent to the active flood channel of Lytle Creek, situated about three miles southwest of the community of Devore and about one-half mile east of the boundary of the City of Rialto. The Northerly extension of the ultimate mining limits is approximately 6,000 feet south of Interstate 15.
2. The reclamation plan shall be effective for a period of twenty-five (25) years of mining activity, with a two (2) year revegetation monitoring period, expiring on April 29, 2028.
3. Any alteration or expansion of these facilities or increase in the approved reclamation plan may require submission of an additional application for review and approval. The San Bernardino County Planning Department shall be notified in writing about any:
 - A. Substantial change(s) in operating procedures, or inactive periods of operation for one (1) year or more;
 - B. Changes of company ownership, address or telephone number during the life of the Reclamation Plan;
 - C. Any changes to provisions of lease agreements or real property that will affect the approved Reclamation Plan.
 - D. Any changes in the operations or reclamation procedures identified in the reclamation plan shall be filed and approved before such changes are made effective.
4. A report summarizing the past years mining and reclamation activity shall be filed with the Department of Conservation, with a copy forwarded to the Planning Department, each year on an anniversary date to be determined by the Department of Conservation. Mine site inspections will occur in conjunction with the annual report or at other times as appropriate.
5. Implementation of the mitigation measures required for this project shall be verified according to the methods identified in the Mitigation Monitoring and Compliance Program for Reclamation Plan 93M-04. Planning Division

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verification of compliance shall be requested through submittal of a Mitigation Monitoring and Compliance Application along with the required fee deposit.

- **6.** An annual monitoring report shall be submitted to the Land Use Services Director not later than July 1 of each year. Each monitoring report shall include the following:
- A. Depth of pit areas.
 - B. Provide a map showing current status of all areas within the permit area including:
 - 1) New disturbance within past 12 months.
 - 2) Areas reclaimed within previous 12 months.
 - 3) Location of test plots.
 - 4) Location of topsoil stockpiles.
 - 5) Proposed new disturbance during the up-coming year.
 - 6) Identification of areas proposed for reclamation during the up-coming year (beginning July 1).
 - C. An aerial photo at a scale of 1" = 400' taken no more than 60 days prior to report submittal.
 - D. Description of test plot results.
 - E. Description of reclamation activities completed during the previous year to include:
 - 1) seed collection efforts,
 - 2) revegetation efforts,
 - 3) revegetation success for all areas which have been revegetated, but which have not yet achieved revegetation success criteria,
 - 4) repair of areas with excessive erosion,
 - 5) a statement that reclamation of all available areas has been initiated in accordance with the approved reclamation plan.
 - F. Revised reclamation cost estimate.
 - G. Description of monitoring activities during the past 12-month period.
 - H. Summary of results of groundwater monitoring activities.
- **7.** In all areas where natural vegetation occurs, the top six inches of soil materials shall be stripped for use on reclaimed areas. Where possible, topsoil materials

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- shall not be stockpiled. Stripped topsoil shall be placed directly onto regraded sites.
8. The applicant shall ascertain and comply with the requirements of all Federal, State, County and local agencies as are applicable to the project area. They include, but are not limited to: County Departments of Public Health Services, Environmental Health Services Division, Transportation/Flood Control, Fire Warden, Building and Safety Division, Santa Ana Regional Water Quality Control Board, CalTrans District 8, California Department of Fish and Game, Division of Mines and Geology, U.S. Fish and Wildlife Service, Bureau of Land Management, Mine Safety and Health Administration (MSHA), California Occupational Safety and Health Administration (CAL-OSHA), California Highway Patrol and the South Coast Air Quality Management District (SCAQMD).
 9. In compliance with San Bernardino County Ordinance 2684, the applicant shall agree to defend at his sole expense any action brought against the County, its agents, officers, or employees, because of the issuance of such approval, or in the alternative, to relinquish such approval. The applicant shall reimburse the County, its agents, officers or employees, for any Court costs and attorney's fees which the County, its agents, officers or employees may be required by a Court to pay as a result of such action. The County may, at its sole discretion, participate at its own expense in the defense of any such action but such participation shall not relieve applicant of his obligations under this condition.
 10. The applicant shall pay a fee of \$1,250.00 (one thousand two hundred fifty dollars) to Department of Fish and Game, pursuant to California State Assembly Bill 3158. This fee shall be submitted to the Clerk of the Board of Supervisors within five (5) days after the date of conditional approval along with a \$35.00 administrative handling fee required by the Clerk. The check(s) shall be made payable to San Bernardino County. The Planning Department shall then file the Notice of Determination within five (5) days after the effective date of conditional approval. The applicant should be aware that Section 21089(b) of the Public Resources Code provides that any project approved under CEQA is not operative, vested or final until the required fee is paid. Proof of fee payment may be required prior to issuance of building permits or final recordation of map.
 11. The permittee shall maintain the mine site and premises in a neat and orderly manner at all times. No refuse shall be maintained at any time in pit excavation, channel ditches or work areas. All trash storage shall be maintained in closed containers and shall be kept in an enclosure.
 12. All landscaped areas shall be maintained in a healthy condition, free from weeds, trash, and debris.

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13. Reclamation of the site shall commence as soon as feasible. Final reclamation will include the removal of all equipment, processing plant, batch plants, stockpiles, drill holes, water wells and onsite monitor wells (unless required for continued monitoring of groundwater levels), and storage facilities used in conjunction with mining operations at the site. Continued use of the concrete and asphalt batching facilities and the rock processing plant following completion of mining operations will be subject to approval by the County of San Bernardino, in accordance with Title 8, Development Code in effect at that time.
- **14. The reclamation schedule for the North Quarry is as follows:
 - A. Upon completion of 50% of mining, 25% of reclamation shall be completed.
 - B. Upon completion of 75% of mining, 50% of reclamation shall be completed.
 - C. Upon completion of all mining, reclamation for all areas of the site shall be commenced within 90 days and completed within 2 years.
- **15. Maximum pit depth shall be 100 feet below existing ground surface on the northwest and pit depth shall be equal to the Lytle Creek channel bottom elevation on the southeast.
- **16. A 100-foot setback shall be maintained along the northwestern property line coincident with the Villages at Lytle Creek residential development project. A 50-foot setback shall be maintained along the northeast side of the site adjacent to the Sycamore Creek floodplain.
- **17. Operations shall not be conducted within 20 feet of groundwater. No operations shall be conducted in standing water.
- **18. All drainage control structures shall be maintained free of debris and in good working order.
- **19. Safety berms shall be placed at the top of slope above all working areas.
- **20. Implement a ground water monitoring program in accordance with the recommended program contained in the HSI GEOTRANS Groundwater Monitoring Plan dated 10/24/97, with samples from ten monitoring wells assessed on a quarterly basis. The results of the monitoring program shall be provided to the Fontana Union Water Company on an annual basis beginning July 1, 2002. The results of the monitoring report shall be stored at the site and summarized in the annual report to the County of San Bernardino.
21. The project text and maps shall be revised as necessary to reflect the project as approved by the County.

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22. All fees and processing costs due under account # 10783 MF1 shall be paid.
- *23. The operator shall provide the County of San Bernardino with an acceptable form of financial assurance for the reclamation plan and mitigation measures. The financial assurance shall be available to both the County and the Department of Conservation. The operator shall redeposit any withdrawals made by the County or Department of Conservation for reclamation within 30 days of notification.

The financial assurance amount shall be calculated based on a cost estimate submitted by the applicant and approved by the County for the approved reclamation procedures. The financial assurance shall be established and in place within thirty (30) days of project approval. Provide an updated financial assurance estimate each year with the annual monitoring report, to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.

The financial assurance is not established to replace the operator's responsibility for reclamation or mitigation, but to assure funding for the Reclamation Plan and mitigation measures. Should the applicant fail to perform or operate within all of the requirements of the approved reclamation plan, the County or Department of Conservation will follow the procedures outlined in Section 2773.1 and 2774.1 of the Surface Mining and Reclamation Act (SMARA), regarding the forfeiture of the assurance and applicable administrative penalties, to bring the applicant into compliance. The requirements for the financial assurance will terminate when the approved project, mitigation measures, and final Reclamation Plan have been completed.

- **24. Recommendations of the CHJ slope Stability Investigation dated 8/28/98 and amended 2/18/00 shall be adhered to throughout the life of the project.
- **25. Recommendations of the HSI GEOTRANS Hydrogeologic Assessment dated 10/24/97 and amended 2/28/01 shall be adhered to throughout the life of the project.
- **26. Prior to expansion of operations into new areas of the North Quarry as identified in the approved Reclamation Plan, the following conditions must be satisfied:
- A. The revised Reclamation Plan shall be bound in a 3-ring notebook and shall incorporate the revegetation plan, test plot plan, Stormwater Permit and Stormwater Pollution Prevention Plan, and Conditions of Approval. Said reclamation plan shall be kept at the site at all times and be presented to the inspector upon request. The revised Reclamation Plan and attendant maps shall be identified as Exhibit A to this approval.

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- B. Fund deposit accounts with the County of San Bernardino, to be used to review all required mitigation monitoring plans and reports, financial assurance estimates, and conduct annual inspections.
- C. Clearly legible signs denoting "Disturbance Limits" shall be placed along the inside limits of the buffer area adjacent to all property lines/permit boundaries. Lettering shall be a minimum of 4 inches in height. At a minimum, signs shall be placed every 300 feet around the perimeter of the permit area where undisturbed ground adjoins the permit area. All signs shall be in place prior to the commencement of extraction activities.
- D. Warning signs, along with fencing, berms, or rock barriers shall be installed, as necessary, to protect against accidental entry to the site.
- E. Lockable gates shall be placed at all vehicular access points to the reclamation plan area.
- F. The applicant shall dedicate to the County of San Bernardino a 5-acre conservation easement associated with biological habitats and endangered species occurrence. The location of the conservation easement is shown on Sheet 3 of 3 of the Reclamation Plan (Exhibit A).

Additionally, 112 acres of CEMEX property located on the south side of the existing soil cement levee shall be placed into a conservation easement.

The conservation easements shall prohibit brushing, clearing, grading, placement of structures or any other installation or maintenance of septic systems, or vegetation addition or removal. The conservation easements shall be prominently monumented in the field to preclude inadvertent disturbance by on-going mining operations. Activity within the easement adjacent to the soil cement levee shall allow for periodic maintenance activity required for the levee. Activity shall be monitored to ensure no encroachment into flagged areas of the easement.

- G. Prior to new land disturbance, conduct a focused survey for the four special status plants listed in the project biota survey (Section 4.2) (Mariposa Lily, Parry's Spineflower, Pious Daisy and California Spineflower), in accordance with current plant survey guidelines from the California Department of Fish and Game. Provide copies of the survey to this office for review and approval. If species are identified within areas scheduled for disturbance, individual plants deemed likely to survive shall be relocated and transplanted to similar habitat along the Sycamore Creek setback area or in areas available for reclamation.

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- H. Conduct focused surveys for the Coastal California Gnatcatcher according to current survey protocol by the US Fish and Wildlife Service. Submit copies of the survey to this office for review and approval.
- **27.** Within six (6) months of project approval, the following conditions must be completed to the satisfaction of the Land Use Services Director.
- A. The applicant shall prepare a plan for the implementation of revegetation test plots. Said plan shall be prepared to the satisfaction of the Planning Director. This plan shall become part of the revised reclamation plan. The plan shall be prepared to evaluate revegetation methods for a range of physical conditions that will be encountered during revegetation. The primary goal will be to identify methods to restore Riversidean Fan Sage Scrub habitat on previously disturbed sites. The Test Plot Plan shall be actively pursued with results presented in an annual monitoring report.
- B. A plan shall be prepared and implemented to the satisfaction of the County for the purpose of controlling weeds on all areas of the site. The weed control plan shall augment weed control measures identified in the Revegetation Plan.
- **28.** The following conditions are performance standards for reclamation:
- A. Prior to seeding of reclaimed lands, all surfaces shall be ripped to a minimum depth of 24 inches.
- B. Final reclaimed slopes shall be graded as shown on Exhibit "A" (Reclamation Plan Map). Maximum slope gradient shall not exceed 2:1 (horizontal:vertical) with exception of the northwest slope of the North Quarry where the maximum slope gradient shall not exceed 3:1.
- C. Prior to revegetation, a soil analysis shall be conducted on the areas to be reclaimed to determine the presence or absence of essential elements as compared to natural local soils. If nutrient deficiencies are noted, soil amendments shall be added, as necessary, in an effort to replicate natural topsoil conditions.
- D. Revegetation shall be deemed successful when the following performance criteria have been met:
- 1) A minimum of 20 percent cover by native species;
 - 2) A minimum of 25 percent for species diversity represented by a minimum of five dominant or co-dominant native plant species;
 - 3) Less than 20 percent cover of non-native plant species; and

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- 4) Recruitment of seedlings of native plant species must occur demonstrating a positive trend in cover and diversity.
- E. At the time of termination of the operation for any reason, all equipment, buildings, structures and refuse shall be removed from the site, all hazards mitigated, and final reclamation initiated within 90 days.
- F. All roadways, which will not be retained for post-mining uses, shall be reclaimed at the conclusion of mining/hauling activities. Maximum width of retained roadways shall be 22 feet.
- G. Each area reclaimed shall be identified on a map and labeled for identification. All reclamation areas shall be monitored for a minimum of five years following completion of final reclamation measures. Revegetation monitoring shall continue until performance criteria are achieved for two consecutive years. Annual monitoring reports shall be presented in accordance with Conditions of Approval No. 6.
- H. Roads not needed for access by fire fighting equipment and general operations shall be scarified and revegetated.
- I. The goal of revegetation shall be to establish Riversidean Fan Sage Scrub on post-mining reclamation sites. Revegetation methods identified in the reclamation plan text shall be applied during revegetation.
- J. Initial reclamation shall begin in 1999 with final grading of quarry side walls in Phase B. Stockpiles of processed fines shall be moved from their present location adjacent to the MWD property to previously mined areas of Phase B. Reclamation (i.e., final grading and revegetation) of this material shall be completed as part of planned reclamation for the Phase B area.

Mitigation Measures from the Environmental Initial Study

- G-1. Fill, and cut and fill slopes constructed onsite shall be no steeper than 2:1. The slope construction (preparation, compaction, and inspection) shall be implemented as recommended by CHJ's "Slope Stability Investigation", dated August 28, 1998, as follows:

Fill Slope Recommendations

- Fill slopes shall be no steeper than 2:1 and no higher than 150 feet.
- Where fill is to be placed against existing cut slopes, the existing slopes must be benched. Benches shall be a minimum of 8 feet in width separated by vertical cuts approximately 2 feet in height or as dictated by topographic conditions but in any

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case, shall be no higher than 6 feet. In addition, a shear key, a minimum of 15 feet wide, must be constructed across the toe of each fill slope.

- No rocks or similar irreducible material with a maximum dimension greater than 24 inches shall be placed within the fill.
- All fill to be compacted to a minimum relative compaction of 90% in accordance with ASTM standards.
- Construction of fill slopes must be observed and tested by the geotechnical engineer.
- Runoff must be prevented from flowing onto the slopes by the construction of top-of-slope berms and/or levees.
- Slopes must be planted as soon as possible after completion.

Cut Slope Recommendations

- Cut slopes shall be no steeper than 2:1 and no higher than 100 feet.
- Construction of cut slopes must be observed by the engineering geologist.
- Runoff must be prevented from flowing onto the slopes by the construction of top-of-slope berms and/or levees.
- Slopes must be planted as soon as possible after completion.

G-2. Fill, and cut and fill slopes constructed onsite shall be no steeper than 2:1. The slope construction (preparation, compaction, and inspection) shall be implemented as recommended by CHJ's "Slope Stability Investigation", dated August 28, 1998.

E-1. To mitigate the short-term effects of the reclamation activity, applicant shall maintain adequate dust control measures such as regular wet sweeping on paved driveways and adjacent public streets and/or applying biodegradable dust-binding agents on unpaved roads, such as Weslig 120.

B-1. Prior to clearing the unmined areas of the North Quarry, Plummer's mariposa lilies deemed likely to survive by the project biologist shall be located and transplanted to similar habitat.

B-2. The 5-acre area set aside for SBKR avoidance shall be prominently monumented in the field to preclude inadvertent disturbance during operational activity.

AQ-1. Cemex shall comply with SCAQMD Rule 403 which requires the preparation, approval, and implementation of a fugitive dust emissions control plan.

WQ-1. Cemex shall implement a Groundwater Monitoring Program in coordination and agreement with the FUWC. A Groundwater Monitoring Plan has been developed for tracking the effects of recharge during the mining operation. This Plan was prepared by HSI GeoTrans and is included as Appendix D. At least six monitor wells shall be located upgradient and four on the downgradient perimeter of the

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recharge basins. These wells would will provide an early warning should any evidence of surface water impacts on groundwater be detected. The ten monitor wells shall be sampled on a quarterly basis. The seven existing production wells shall be monitored as recharge occurs at progressively lower elevations. In this manner, indications of a potential impact would be observed prior to significant impacts to production wells. In addition, surface water samples shall be collected when surface water or recharging surface water is available. Samples shall be collected where Lytle Creek crosses the Cemex property line and at all active recharge basins. The parameters pH, electrical conductivity, and temperature shall be monitored in the field, and samples collected for laboratory analysis of total suspended solids (TSS), total dissolved solids (TDS), total coliform, total heterotrophic plate count for presence of bacteria and Giardia, and nitrate as nitrogen. A database of all monitoring activities shall be updated on an annual basis to aid in identifying the development of trends in water quality data so that additional mitigation measures could be implemented, if determined necessary. Monitoring reports shall be provided to FUWC on a quarterly basis. Monitoring reports shall be maintained at the site office and reviewed during annual compliance inspections. It shall be the operator's responsibility to notify FUWC and the County if groundwater monitoring results identify an exceedance of drinking water standards in any of the monitor wells. Nothing related to the processing or approval of amended Reclamation Plan 93M-04 shall be deemed to relieve the applicant of any responsibility it has under all applicable laws, if as a result of the applicant's activities, there is an exceedance of drinking water standards in any well owned by Fontana Union Water Company. In that event, the applicant shall take all corrective action required by law. (REVISED BY PC)

WQ-2. Cemex shall cease mining in areas where groundwater is daylighting and where active recharge activities are occurring. At no time shall excavations and/or reclamation activities be allowed in standing or exposed water.

WQ-3. Cemex shall fence, berm, and gate the excavation on the project site for public safety and to reduce the potential for illegal discharges of contaminants to recharging water.

29. The following additional conditions are project requirements as agreed to by the applicant:

A. Excavations, processing, and reclamation operations shall be restricted to the hours of 7:00 a.m. until 7:00 p.m. for any operations conducted within 500 feet of any residential dwelling unit. This limitation shall not apply to repair and maintenance operations. The hours may be exceeded for operations conducted pursuant to federal, state or local government contracts entered into in response to a state of emergency, or for periods of peak period power outage, which results from shortfalls in electrical power supply.

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- B. Install strobe lights for use during night operations on all off-road equipment as allowed by Mine Safety and Health Administration (MSHA) and California Division of Occupational Safety and Health (Cal OSHA).
- C. Within 180 days of project approval, the operator shall complete the following:
 - 1) Prepare a lighting study and implement recommendations to reduce potential light and glare impacts on surrounding residential development.
 - 2) Conduct an acoustical survey annually in areas close to occupied residential areas. Noise emanating from the processing and extraction operations must be in compliance with the noise standards contained in the County's Noise Ordinance. The operator shall take such steps as a necessary to reduce noise levels that exceed the County's Noise Ordinance for any continuous two-hour period.
- D. Widen Riverside Avenue for Approximately 720 feet north of the driveway to accommodate a northbound acceleration lane to a point where Riverside Avenue widens to 4-lanes at Life Tile.
- E. Widen southbound Riverside Avenue north of the driveway to provide a left turn pocket lane for 240 feet;
- F. Widen northbound Riverside Avenue south of the driveway to accommodate a right turn only lane for approximately 500 feet;
- G. Widen southbound Riverside Avenue for approximately 500 feet south of the driveway to provide an acceleration lane;
- H. Pave the operator's driveway from Riverside Avenue northeast for a distance of approximately 400 feet and width of 40 feet.
- I. Plant a windrow of trees approximately 2,000 feet in length beginning at the southeast corner of the property near the entrance and ending at a point midway around the curve of the MWD property, to screen views.
- J. If development of the Villages at Lytle Creek project is approved, the following conditions will apply:
 - 1) The primary vehicular access to the operator's property shall be relocated to the intersection of Locust Avenue and Riverside Avenue concurrent with street improvements proposed by the Villages at Lytle Creek.

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- 2) Following relocation of the primary vehicular access, all commercial trucks exceeding 20,000 pounds gross vehicle weight shall utilize Locust Avenue (following necessary improvements to Locust Ave) instead of Riverside Avenue with the following exceptions:
 - a) Local deliveries in an area bounded by Highland Avenue, Sierra Avenue, and Lytle Creek Channel;
 - b) Deliveries and returns from north of the plant accessing the I-15 Freeway northbound at Sierra; and
 - c) Maintenance vehicles.
 - 3) The operator shall contribute to traffic mitigation for Locust Avenue by supplying material to the City of Rialto at a discount rate (if the City makes the improvements to Locust Avenue). The operator shall pay for signalization and landscape entry improvements of Locust Avenue at Riverside Avenue concurrent with improvements by the proposed Villages at Lytle Creek.
 - 4) The operator shall participate in a landscape maintenance program for the Locust Avenue/Riverside Avenue intersection. The level of participation will be 25 percent for the maintenance from the intersection to the point of exclusive use, and 100 percent for maintenance of the exclusive use portion.
 - 5) The operator, at its own expense, shall pay for paving of the Locust Avenue access (northeast of Riverside Avenue) from the point of their exclusive use to 100 feet within their mining property boundary in order to reduce the particulate emissions and carryout resulting from trucks using this road. Paving will occur when the operator relocates its entrance to Locust Avenue.
- L. Operational areas west/south of the Lytle Creek channel shall be fenced by six-foot chain link fencing. All fencing shall include warning signs.
- M. An eight-foot high chain link fence topped by a triple strand of barbed wire shall be placed within 20 feet of the top of the quarries adjacent to future residential planning areas.
- N. The operator, in cooperation with LDC, shall allow construction of a landscape buffer within the operator's 100-foot setback along the northwestern boundary of the North Pit. The operator shall provide a one-time hydroseeding of the slope as part of a landscape buffer upon completion of said berm by LDC.

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- *30. The existing gated turnout valves (2) installed in the existing levee separating Lytle Creek from the North Quarry shall not be used for the purposes of water spreading/diversion activities within the North Quarry. The future use of the turnout valves for water spreading activities shall constitute a separate project and shall be subject to review under applicable County procedures should such a use be proposed. (ADDED BY PC)