



LETTER 11

March 9, 2021

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San Rafael Planning Commission
14 Fifth Avenue
San Rafael, CA 94901

RE: Comments on Draft Environmental Impact Report for General Plan 2040 and Downtown Precise Plan

Honorable Commissioners,

The fact that the Draft EIR finds the greenhouse gas (GHG) impacts of General Plan 2040 to be “significant and unavoidable” (p. 4.8-26) is a major wake-up call for San Rafael to increase its actions to reduce climate change.

The DEIR projects a 20% reduction of GHG (from 2019 levels) by 2040, while stating that a 60% reduction by then would be required to meet state law (table 4.5-5).

Contrary to the report’s statement, these GHG impacts are not unavoidable. Although meeting emission goals statewide may entail “advancements in technologies” (p. 4.8-27), that is not the case for the requisite amount of local emission reductions, for which compliant technologies already exist in all the emission sectors the DEIR lists (e.g., GHG-free electricity, electric heat pumps and appliances, electric vehicles, and organics recycling).

Accordingly, we request that these significant GHG impacts be mitigated by adding the following language to the General Plan:

1. [New] **Program C-5.1D: CCAP Implementation and Updates.** Conduct complete updates of the Climate Action Plan at least every ten years, adjusting programs to assure implementation of GHG goals, including reductions of 40% by 2030, 60% by 2040, and to levels conforming to Executive Orders S-03-05 and B-55-18 by 2050, or greater goals as may be adopted.

2. **Program C-4.1D: Reducing Natural Gas Use.** ~~Promote~~ Implement electrification of building systems and appliances in new buildings and those that currently use natural gas by requiring new or replacement furnaces and appliances to be electric and to utilize fossil-free electricity.

3. **Program M-3.6A: ZEV Plan.** Consistent with the San Rafael CCAP, develop and implement a Zero Emission Vehicle (ZEV) Plan with a goal of 25 percent of the passenger vehicles in San Rafael being ZEVs by 2030, and 60% by 2040. The Plan should provide for additional charging stations, preferential parking

for ZEVs, and other programs that incentivize ZEV use by San Rafael residents.

4. Program CSI-4.17E: Community Composting. Consider Implement a mandatory community-scale program for curbside collection, ~~and~~ composting, or other low-emission conversion of food and green waste, as well as vegetation cleared through fire prevention efforts, in compliance with SB 1383 requirements to divert at least 75% of organics.

By implementing low-emission building electrification, transportation, and waste management as mitigations to General Plan 2040, the required 60% reduction of GHG is readily achievable over the next 20 years, placing San Rafael on a solid trajectory toward carbon neutral.

As the DEIR makes clear, it is now necessary for the City to step up to these more robust programs and requirements, with supporting ordinances and incentives finalized as soon as possible. To assist that effort, model ordinances already exist from the State, County, and other jurisdictions, along with incentive programs at MCE, TAM, and other partner agencies.

The DEIR could also be furthered strengthened by a) an explanation of how the 40% GHG reductions itemized in San Rafael's CCAP 2030 figure in the DEIR's GHG calculations and determinations, along with the numerous policies and programs in General Plan 2040 itself that target additional reductions; and b) a clear description of the applicability of Executive Order B-55-18, which calls for carbon neutrality by 2045.

Overall, we commend General Plan 2040 and the Downtown Precise Plan for recommending a comprehensive range of actions to address both climate change and the other issues shaping the City's future.

Sincerely,

William Carney
Board President

Copies:

Paul Jensen, Alicia Giudice, Barry Miller, Cory Bytof

S A N · R A F A E L
ROCKQUARRY

March 9, 2021

Mr. Barry Miller
Consulting Project Manager
City of San Rafael Community Development Department
1400 Fifth Avenue, 3rd Floor
San Rafael, CA 94901

[VIA EMAIL TO BARRY.MILLER@CITYOFSANRAFAEL.ORG]

RE: General Plan 2040 and Downtown Precise Plan DEIR Comments

Dear Mr. Miller:

San Rafael Rock Quarry, Inc. ("SRRQ"), which operates the San Rafael Rock Quarry ("Quarry"), submits the below comments on the draft Environmental Impact Report ("DEIR") prepared for the General Plan 2040 and Downtown Precise Plan.

As you are aware, the Quarry is located outside of San Rafael's city limits but within the DEIR Study Area. The Quarry is an important local employer and infrastructure materials supplier to the City of San Rafael, and, as acknowledged in the DEIR, the Quarry property may ultimately be annexed into the City as part of its post-mining redevelopment. In this regard, it is important that the both the General Plan 2040 and the DEIR carefully and accurately describe the Quarry's current entitlements and operating characteristics.

While the document overall is very well analyzed and presented, the following comments identify portions of the DEIR concerning the Quarry that are inaccurate or incorrect, and which should be acknowledged and corrected in the final DEIR.

COMMENT 1: The DEIR states erroneously that the San Rafael Rock Quarry is a "major stationary source of noise". (DEIR, p. 4.13-27.) The DEIR cites to no evidence for this statement.

In fact, the Quarry is not a major stationary noise source, and complies with both County noise standards and separate standards set out in eight permit conditions regulating noise emissions from the Quarry. These conditions, among other stringent measures, require SRRQ to limit noise from Quarry operations to 60 dBA day/night Ldn, 70 dBA maximum and 65 dBA impulsive. SRRQ also funds an ongoing noise monitoring program to ensure that the Quarry does not exceed the stated noise limits. Since approval of the Quarry's current operating conditions in 2010, the Quarry has not violated these noise limits.

SRRQ requests that the City delete or revise the erroneous statement identified above to reflect that the Quarry is not a major stationary source of noise.

COMMENT 2: The DEIR erroneously states that the Quarry’s current Surface Mining and Quarry Permit and Reclamation Plan “mandates a cease of operations in 2024.” (DEIR, p. 4.12-3.)

In fact, the Quarry is a vested mining operation, which, among other property rights, includes a judicially-confirmed right to continue operating without a time limit.

As noted in the DEIR, the Quarry is subject to both an operating permit, which includes 172 operating conditions, and a reclamation plan (the “Reclamation Plan”), which describes how the Quarry will be reclaimed post-mining. Both entitlements were approved by the County in 2010. A reclamation plan is a standalone document that is required by the state Surface Mining and Reclamation Act (“SMARA”) to, among other things, specify an anticipated termination date for mining operations. The current Quarry Reclamation Plan states that mining is anticipated to cease in 2024.

Because the Quarry is entitled to continue operating without a time limit, Condition 30 of the Quarry’s operating permit requires SRRQ, should SRRQ intend to continue mining past 2024, to submit to the County no later than December 31, 2021 an application to amend the current Reclamation Plan to reflect a later termination date for mining. Condition 30 ensures that the Quarry Reclamation Plan will comply with SMARA should SRRQ continue mining past 2024.

The application that SRRQ submitted to the County in 2019 seeks to amend the Reclamation Plan’s anticipated termination date from 2024 to 2044. To be clear, this application is not a request for permission to continue mining, because, as noted, SRRQ is entitled to continue mining the Quarry without a time limit.

SRRQ requests that the City delete or revise the erroneous statement identified above to clarify that the Quarry is vested and is entitled to continue operating without a time limit.

COMMENT 3: The DEIR misconstrues the legal basis for and requirements set forth in the Quarry Reclamation Plan. The Reclamation Plan is required by state law, SMARA, and not as a “requirement for approval of the Surface Mining and Quarrying Permit”. (DEIR, p. 4.12-3.) Under SMARA, all surface mining operations must have a reclamation plan. (Pub. Resources Code, § 2770.)

The DEIR also misstates the Reclamation Plan’s requirements. In particular, the Reclamation Plan prescribes more for the “northeast portion of the site” (called the “North East Quadrant” in the Reclamation Plan) than just “vegetation restoration”. (DEIR, p. 4.12-3.) Additional surface mining operations, to a limit specified in the Reclamation Plan, will still occur in the North East Quadrant, accompanied by reclamation grading and berm construction.

The Reclamation Plan, further, does not require “working closely with the United States Fish and Wildlife Service to protect the California red-legged frog.” (DEIR, p. 4.12-3.) The Reclamation Plan requires SRRQ to survey and assess habitat for the species as part of seeking County grading permits for each reclamation phase. A biological survey performed in 2015 found a single California red-legged frog (“CRLF”) metamorph in a rainwater pond created by mining operations. SRRQ ceased operations in the area. A subsequent survey in 2017 found no further CRLF on the site and concluded that no suitable habitat was present. No CRLF have since been identified on the Quarry site. Because no CRLF are present on the site, and the site is not suitable habitat, SRRQ is not required to “work closely” with USFW.

SRRQ requests that the City delete or revise the erroneous statements identified above to clarify that (1) the Reclamation Plan is required by SMARA; (2) additional mining and reclamation activities will occur in the Northeast Quadrant; and (3) surveys have determined that no CRLF are present on the Quarry site.

COMMENT 4: The DEIR states inaccurately that the “Dutra Group recently submitted an application amendment to extend operations through 2044 to allow access to rock reserves remaining under the existing entitlements for the San Rafael Rock Quarry and McNear Brickworks.” (DEIR, p. 4.12-3.)

As noted above, the Quarry is a vested mining operation that includes a judicially-confirmed right to continue operating without a time limit. SRRQ’s recent application seeks only an administrative amendment to the Quarry Reclamation Plan as required by SMARA to change the anticipated termination date for mining from 2024 to 2044. SRRQ has not requested an amendment to the current operating conditions for the Quarry. Further, mining operations will continue within the areas already identified in the current Reclamation Plan, which do not include McNear Brickworks.

SRRQ requests that the City delete or revise the erroneous statements identified above consistent with the above clarification.

COMMENT 5: The DEIR states inaccurately that “the County of Marin is currently reviewing an operating permit extension for the San Rafael Rock Quarry and McNear Brickworks that is anticipated to be approved, extending mining operations through 2044.” (DEIR, p. 4.12-4.)

As noted above, the Quarry is a vested mining operation that includes a judicially-confirmed right to continue operating without a time limit. SRRQ’s recent application seeks only an administrative amendment to the Quarry Reclamation Plan as required by SMARA to change the anticipated termination date for mining from 2024 to 2044. SRRQ has not requested an amendment to the current operating conditions for the Quarry. Further, mining operations will continue within the areas already identified in the current Reclamation Plan, which do not include McNear Brickworks.

SRRQ requests that the City delete or revise the erroneous statements identified above consistent with the above clarification.

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COMMENT 6: The DEIR suggests that the Quarry is subject to code enforcement activities in Program NH-5.6A (“Seek ongoing input into County code enforcement activities . . .”). (DEIR, p. 4.12-5.)

The Quarry is not subject to any “County code enforcement activities”, and in fact, the Quarry has never been subject to a County code enforcement action since approval of its current operating conditions and Reclamation Plan in 2010.

SRRQ requests that the City delete or revise the erroneous statement identified above consistent with the above clarification.

COMMENT 7: The DEIR suggests inaccurately that the County of Marin can periodically impose new “Best Management Practices” on Quarry operations (“The City will urge the County to require Best Management Practices for Quarry operations . . .”). (DEIR, p. 4.12-5.)

The Quarry is subject to 172 operating conditions approved in 2010 and additional requirements under the Quarry’s SMARA-compliant Reclamation Plan. The Quarry, as noted, is a vested mining operation, and its current operating entitlements are also vested. The County does not have a legal basis or authority to impose new or additional “Best Management Practices” as the DEIR seems to suggest.

SRRQ encourages the City to review the Quarry’s current operating conditions, which already require “air quality testing, water quality monitoring and improvements, and runoff controls that reflect the latest technology and scientific methods.” (DEIR, p. 4.12-5.) Other operating conditions include measures to reduce and eliminate noise, measures to control and limit truck traffic, biological protection measures, and operating hours. SRRQ also continually upgrades its operations on its own. SRRQ files annual reports with the County documenting its compliance with these and other operating conditions, and the County inspects the Quarry annually as well.

SRRQ requests that the City delete or revise the erroneous statement identified above consistent with the above clarification.

COMMENT 8: The DEIR incorrectly suggests that the costs to reclaim the Quarry will become “public costs” (“[f]uture public costs associated with reclamation, such as long-term environmental restoration and infrastructure repair, are objectively measured and considered in decisions about future quarry operations”). (DEIR, p. 4.12-5.)

The Reclamation Plan, as required by SMARA, addresses long-term environmental restoration of the Quarry site and infrastructure in preparation for post-mining redevelopment. Costs to reclaim the Quarry in accordance with the Reclamation Plan will never become “public costs”. SMARA requires all surface mining operations to post and annually update financial bonds in an amount adequate to cover the costs of reclamation. (Pub. Resources Code, § 2773.1.) Consistent with this requirement, SRRQ maintains a financial bond that is payable to the County and the State. The financial bond is analyzed annually by the County and the State Division of Mine Reclamation and updated annually as required by SMARA.

SRRQ requests that the City delete or revise the erroneous statements identified above consistent with the above clarification.

COMMENT 9: Program NH-5.6B inaccurately calls for the City to “[c]ollaborate with residents to ensure that any modifications to the existing Operating Permit remain within the restrictions imposed by existing and future court orders.” (DEIR, p. 4.12-5.)

The Quarry’s vested rights were confirmed in a 2004 judicial decision. This is a final decision, and no “future court orders” are predicated or necessary to effectuate this decision. The current Quarry operating conditions are, as stated by the court, voluntarily-accepted, economically-viable conditions that minimize or eliminate potential operating impacts on neighbors. No changes to these conditions are proposed.

In terms of “collaboration with residents”, the City should note that SRRQ values community collaboration and already has a program in place to collaborate with the community on a regular basis. For example, SRRQ holds biannual community meetings, including one annual meeting with a public tour of quarry operations. In addition, the Quarry provides tours to local groups such as the Boy Scouts and local elementary schools, and provides updates to the community through an actively managed website and social media accounts.

SRRQ requests that the City delete or revise the erroneous statements identified above consistent with the above clarification.

COMMENT 10: The DEIR should be updated to reflect previous analyses which concluded that “restoring the saltwater marsh to tidal action” is infeasible. (DEIR, p. 4.12-6.)

Pursuant to the Quarry’s current operating conditions, SRRQ developed and the County approved a Marsh Restoration Plan pursuant to which SRRQ has undertaken a number of actions to enhance ecological values in the salt marsh located in the North West Quadrant of the Quarry site, along Point San Pedro Road.

Development of the Marsh Restoration Plan included a “full tidal restoration” alternative that was analyzed by the County and all relevant resource agencies. The County and agencies eliminated this alternative because full tidal restoration would result in flooding to Point San Pedro Road, Chapel Cove, and McNear’s Brickyard.

SRRQ requests that the City delete or revise the erroneous statement identified above consistent with the above clarification.

COMMENT 11: The DEIR inaccurately suggests that Quarry truck traffic results in unmitigated impacts to Point San Pedro Road (“Continue, and periodically update, measures to mitigate the impacts of quarry-related truck traffic on Point San Pedro Road”). (DEIR, p. 4.16-35.)

Quarry truck traffic does not result in any unmitigated impacts on Point San Pedro Road, and monitoring data collected indicates that the Quarry’s traffic levels are

within County permit limits. The Quarry has also implemented a host of programs to improve traffic, bike and pedestrian safety along the Point San Pedro Road corridor including:

1. Strict limits on truck traffic per day.
2. Implementation of a trucker management program that details rules of the road, hauling times, speeds, etc. The program includes a process for warnings, citations and bans if needed.
3. Full time truck marshal who monitors the PSPR corridor.
4. Strep sweep between the entrance to SRRQ and San Rafael High School.
5. Metering truck traffic during peak times.
6. Require all trucks hauling material, with the exception of rip rap to tarp their loads.
7. Require all trucks leaving the quarry to wash their undercarriage, and all trucks expect those hauling asphalt to go through an overhead wash.

As analyzed in the Quarry environmental documents, these measures fully mitigate the potential impacts of Quarry truck traffic on Point San Pedro Road.

SRRQ requests that the City delete or revise the erroneous statement identified above consistent with the above clarification.

COMMENT 12: The BPMP proposes a Class I bike path around the perimeter of Point San Pedro. Note that this location is not consistent with the County-approved Reclamation Plan for the Quarry, and since the ultimate redevelopment of the Quarry is not included in this General Plan Update, we request this path location be removed from the document. However, when the Quarry is finished operating, and the site reclaimed, the ultimate redevelopment plan will include greater bike and pedestrian path lengths and access than shown on this current plan. Specific path locations will be proposed at that time.

COMMENT 13: We applaud the City's efforts on the General Plan 2040 and in the DEIR to update the City's general transportation policies. The City's inclusion of a host of potential VMT reduction options (such as support of mass transit, commute trip reduction, last mile connections, shuttles, water transit and other opportunities and measures to accommodate housing growth without significant transportation and quality of life impacts) brings the City's policies into conformance with the best current regional thinking on the issue.

* * *

While we have proposed some corrections to some of the language in the DEIR, SRRQ appreciates the City's efforts and the high quality of its work on the General Plan 2040 and the DEIR. The above corrections and clarifications will help ensure that these important documents accurately describe the Quarry's entitlements and operating characteristics.

SRRQ – General Plan 2040 and Downtown Precise Plan DEIR Comments
March 9, 2021

Please feel free to contact me at rcampbell@dutragroup.com with any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'RCampbell', written in a cursive style.

Ross Campbell
San Rafael Rock Quarry, Inc.