

COUNTY OF LAKE

USE PERMIT 98-5

**Clearlake Redi-Mix
Middle Creek Terrace Pond Project
Expiration Date: August 24, 2010**

Pursuant to the approval of the Lake County Planning Commission on August 24, 2000 there is hereby granted to Clearlake Redi-Mix, P.O. Box 111, Lakeport, CA 95453, a Use Permit to allow terrace mining of 140,000 cubic yards of aggregate, located approximately 4.5 miles northwesterly of Upper Lake at 12572 White Rock Canyon Road, Assessor Parcel 022-009-06, subject to the following terms and conditions:

Approval is subject to the following terms and conditions:

1. This use permit has been approved by the Planning Commission on August 24, 2000. The use permit shall be valid until August 24, 2010, a period of ten years. The Commission may, at its discretion, approve time extensions with the approval of a new use permit with a revised expiration date. If the surface mining area is not determined to be reclaimed prior to the use permit expiration date, the Reclamation Plan 98-1 shall continue to be in effect after the expiration or revocation of this use permit until the mining area is reclaimed pursuant to the Reclamation Plan.
2. The permit holder shall permit the County of Lake or its representative(s) or designee(s) to make periodic inspections at any reasonable time deemed necessary in order to assure that the activity being performed under the authority of this permit is in accordance with the terms and conditions prescribed herein.
3. The Planning Commission may, after public hearing, modify or revoke this use permit any time during its term if the Commission finds that the use to which the permit is put is detrimental to the health, safety, comfort and general welfare of the public or constitutes a nuisance.
4. The use permit shall be further subject to the following conditions:
 - A. **GENERAL CONDITIONS:**
 1. All mining operations, including excavation, hauling and loading, maintenance operations, and vehicle warm-up shall be limited to Monday through Friday 8:00 A.M. to 5:00 P.M. All operations are prohibited on Memorial Day, Fourth of July and Labor Day. In the event substantive noise complaints are received, the Community Development Department may require reductions in hours of operations consistent with condition F.4 of this permit.
 2. Operations outside of the allowed operating hours shall be limited to emergency situations. The Community Development Department shall be notified on the closest working day immediately preceding or following emergency operations. An emergency is defined as an event requiring immediate services by the permit holder to protect public health, safety, welfare and the environment as determined by the Community Development Director or his designee.
 3. The permit holder shall conduct operations in a manner to reduce or correct flood, erosion control and environmental hazards and to conduct wildlife

enhancement measures as directed by the County of Lake.

4. This permit does not abridge or supersede the regulatory powers or permit requirements of any federal state or local agency, special district or department which may retain a regulatory or advisory function as specified by statute or ordinance. The applicant shall obtain permits as may be required from each agency.

5. This permit shall be constructed and operated in substantial conformance with the project description provided in use permit application UP 98-5 and reclamation plan RP 98-1, as modified in this permit. This project shall be limited to the lands contained in Assessor Parcel number 022-009-06, except for project access which may occur from adjacent parcels. Prior to commencement of mining operations, the permit holder shall provide to the Department documentation from adjacent landowners of APN 022-004-01 and 02 that authorizes mining operation traffic to travel across such adjacent parcels. Mining operations shall not commence until documentation is received by the Department.

6. Minor amendments which do not result in increased environmental impacts may be authorized by the Community Development Director in writing. Other modifications may be approved through the minor use permit process.

B. CONSTRUCTION AND MAINTENANCE OF PONDS:

1. The specific pond location shall be contained within the area indicated in the revised engineered plans dated 12/17/98 and received by the Lake County Planning Division on 1/5/99. Actual pond contours shall be staked in the field and shall require approval by the Planning Division and Water Resources Division in consultation with the Department of Fish and Game.
2. Pond banks shall be reclaimed at slope angles designated in Reclamation Plan 98-1.
3. Excavation shall be to a minimum depth of six (6) feet below summer ground water level. Maximum depth of the pond and total volume of aggregate extracted shall be dependent on pond contour and bank slope angle.
4. Ponds shall be stocked with mosquito fish in accordance with the recommendations of the Lake County Vector Control District.
5. All portions of the creek bank adjacent to the pond shall be back-filled and compacted in 6 to 8 inch lifts with natural earth or rip-rapped with rock material, to a slope of 2:1. Rip rap shall consist of natural rock, except for the concrete rip rap that has already been placed on the creek bank prior to July 1, 2000. The toe of the creekbank shall be planted in riparian trees (willow and cottonwood) from on-site sources (including trees described in condition C.2.). Trees shall be planted with rootballs intact within an excavated trench with a minimum depth of 18 inches. The trench shall be back-filled and the trees watered weekly from April 15 to November 15 for the first two years after planting unless this requirement is specifically waived by the Planning Division due to rain or wet conditions. The plantings and physical structure of the bank shall be maintained throughout the life of

the project plus the additional years of the reclamation plan. Prior to the

6. placement of rip rap on the bank of Middle Creek, the permit holder shall obtain all necessary state and federal permits. Biotechnical streambank stabilization techniques, such as those specified in the Fish and Game "California Salmonid Stream Habitat Restoration Manual" may be implemented in place of rip rap with approval of the Planning Division.

C. VISUAL RESOURCES

1. All stockpiles, vehicles and equipment shall be removed from the project site before the commencement of the off season period (Nov. 16 – April 14) and remain off the site until mining commences during the next spring or summer. No junk, as defined by the Lake County Zoning Ordinance, is allowed on the parcel at any time.
2. Excavators and all other construction vehicles shall be parked overnight either within the confines of a pit or in a position on the terrace that utilizes the riparian trees as a visual screen from Elk Mountain Road.
3. The use for erosion control purposes of additional concrete, construction materials and other waste such as rebar, pipes, tires, automobile bodies or other materials is strictly prohibited by this permit.

D. TRAFFIC SAFETY AND ROAD MAINTENANCE:

1. The use of White Rock Canyon Road is specifically disallowed by this Use Permit except for access to parcel AP# 022-009-06 by passenger automobiles and pick-up trucks with a rating not to exceed $\frac{3}{4}$ ton and a length of 20 feet. Trucks with trailers, heavy equipment, gravel trucks and other project related vehicles are specifically disallowed use of White Rock Canyon Road and must access the site utilizing a seasonal access via Elk Mountain Road. Any proposed modification of this condition shall utilize the minor use permit process and require notification of neighbors and White Rock Canyon Road residents.
2. Project-related truck traffic shall access the site via a seasonal access road that crosses Middle Creek Road. Use of the road shall be restricted to the period between April 15 and November 15 and specifically during periods when Middle Creek is dry. Exceptions to this restriction shall require specific approval by the Planning Division, Water Resources Division and the California Department of Fish & Game and shall be based on the presence of dry conditions.
3. The access road from Elk Mountain Road to the pond site shall be constructed with the minimal disturbance to natural channel features necessary to allow its use by trucks. No road cuts shall be made below 1' above thalweg. All road cuts shall be restored to original grade before the rainy season. The loss of established trees (trees 1 inch or greater in diameter) within the channel shall be avoided. Smaller trees incidentally removed from within the roadway shall be collected with the rootball intact and transplanted to the base of the creek bank adjacent to the pond for use in bank stabilization pursuant to condition B.5. This planting shall take place prior to the initiation of mining activity.

4. An encroachment permit for access from the project site onto Elk Mountain Road shall be obtained from the Department of Public Works. The proposed encroachment shall be constructed to current commercial driveway standards and shall be constructed to accommodate two-way truck traffic. Warning signs shall be installed at both approaches to the project driveway on Elk Mountain Road. Any gate across the driveway shall be setback from Elk Mountain Road to a distance no less than a gravel truck and trailer plus an additional 10'. All conditions of the encroachment permit are herein referenced and made part of this use permit.

5. All project related truck traffic to and from Highway 20 shall be restricted to the use of Elk Mountain Road and Mendenhall Avenue.

6. Prior to initiating extraction activities the permit holder shall enter into an extraordinary use agreement for maintenance of Elk Mountain Road and Mendenhall Avenue with the Department of Public Works. Said agreement shall cover maintenance and repair of directly verifiable damage of these roads and any bridges between the project site and Hwy. 20. The agreement shall cover those costs above and beyond the normal cost of maintenance attributable to this project. The maintenance agreement may involve a contribution of construction and maintenance materials from the permit holder to be used in the maintenance of Elk Mountain Road. All conditions of the extraordinary use agreement are herein referenced and made part of this use permit.

7. The permit holder and all subcontractors operating under the authority of this permit shall comply with speed limits and all other traffic laws on public roadways. Trucking during school busing hours shall be avoided.

E. RECLAMATION:

1) Reclamation shall comply with the terms of Reclamation Plan RP 98-1 as modified by this use permit unless more restrictive conditions have been included in other required permits. **Reclamation Plan 98-1 consists of the following documents and engineered map:**

a) Surface Mining and Reclamation Plan for Clearlake Redi-Mix Pond Project, March 1998 (received by Planning 4/10/98) and the following addendums:

b) Letter to S. Zalusky, Community Development Department from D. Campbell dated 9/29/98,
 c) Letter to D. Wappler, Community Development Department from D. Campbell dated 12/30/98 and
 d) Clearlake Redi-Mix Pond Project – Middle Creek Project Map engineered drawing revised 12/17/98, received by the Planning Division 1/5/99.

2. Reclamation shall comply with the terms of Reclamation Plan 98-1, unless more restrictive conditions have been included in this use permit or other

required permits.

3. Pond bank revegetation shall be carried out in the fall of each year and shall use planting stock from the project area as directed by the Reclamation Plan and the Planning Division. Supplemental watering may be required during summer months in order to establish plantings if determined necessary by the Planning Division.
4. The excavation and reclamation of the ponds shall occur in two phases. Excavation of the upstream pond shall occur first. Excavation of this pond shall be carried out to finished depth, and the resulting pond banks revegetated before excavation of the second pond occurs.
5. Prior to operation, financial assurance of \$30,000, satisfactory in form and content to the Lake County Counsel shall be provided and maintained by the permit holder to ensure reclamation pursuant to RP 98-1. This amount shall be adjusted every two (2) years according to the consumer price index: San Francisco Bay-Oakland Area. The sum shall be payable to the County of Lake and require County approval to terminate. The agreement shall be for the full term of the project plus five years to assure successful reclamation (August 24, 2015). The financial assurance shall have a requirement for a minimum 120 day written notice to the Community Development Department prior to any cancellation. Any cancellation without providing the Department a minimum 120 day written notice shall be considered null and void.
6. The permit holder shall pay a reclamation monitoring fee each year as set forth in County Ordinance 2303 or its successors.

F. NOISE:

1. Adjustable backup beepers (when backup beepers are required by law) and manufacturer supplied grade mufflers shall be used on loading and on-site transport equipment.
2. The permit holder shall not exceed a noise standard of Ldn 55 dBA at residence property lines.
3. Stockpiles shall be placed in a manner that reduces noise impacts to nearby residences. When feasible, aggregate loading operations shall occur within the confines of the excavated pit.
4. The permit holder may be required to submit a supplementary noise control plan to the Community Development Department for review and approval if it is determined by the Department that the conditions contained in this permit have not been sufficient to reduce noise to acceptable levels. Said plan shall provide noise reduction measures in addition to those contained in this permit.

G. AIR QUALITY:

1. The permit holder shall secure an Authority to Construct from the Lake County Air Quality Management District (LCAQMD) prior to commencement

of any extraction activities and shall meet all LCAQMD regulations and standards.

2. All conditions of the LCAQMD Authority to Construct and Permit to Operate are herein referenced and made part of this use permit. The permit holder shall minimize vehicular and fugitive dust by use of water or other acceptable dust retardant. If valid dust complaints are received, the LCAQMD may require submittal of a dust mitigation plan.

3. Where a non-paved egress leads to a paved public road, the egress road shall be paved for no less than two lengths of the longest haul truck used at the site. The paved section of road shall be maintained in a clean condition. In the event that further mitigation is necessary, a mitigation plan shall be required and implemented.

H. WATER QUALITY:

1. The permit holder shall comply with all regulations and permit requirements of the California Regional Water Quality Board, Central Valley region and State Department of Water Resources Division of Water Rights.

2. No discharge of hazardous materials shall be allowed to enter into the ground or into surface waters. Equipment maintenance shall occur in a specified area to be approved by the Planning Division. If fuel is to be stored on-site it shall be located on an impermeable surface surrounded by a berm. The volume of the impermeable surfaced, bermed area shall be at least twice the volume of the fuel tank in order to contain the entire spillage from a full tank plus additional rainfall.

3. In order to avoid vandalism that may cause hazardous materials to enter into the ground or surface waters, all vehicles shall be removed from the site during the off-season (November 16 – April 14) and any fuel storage tank shall be safely removed from the site or left empty during this time.

4. No extraction of water from Middle Creek is allowed.

I. PUBLIC AND EMPLOYEE SAFETY:

1. The permit holder shall conduct all project-related operations in a manner that safeguards employees and the public and shall comply with the State Health and Safety Code.

2. The permit holder shall be responsible for the safe operation and proper maintenance of trucks and other vehicles used by employees, subcontractors, or others hauling or purchasing aggregate under contract to the mining company. Safe operation shall include observation of speed limits and all other applicable traffic and vehicle safety and maintenance laws.

J. ARCHAEOLOGICAL, HISTORICAL AND PALEONTOLOGICAL RESOURCES:

1. If archaeological, historical or paleontological sites are encountered during excavation of the pit, all construction activity shall cease and no resources removed until a qualified professional surveys the site and appropriate mitigation measures are implemented by the permit holder.

Expiration Date: August 24, 2010

Dan Obermeyer, Director
Community Development Department

By: Kris Edgmon
Kris Edgmon, Secretary

ACCEPTANCE

I have read and understand the foregoing Use Permit and agree to each and every term and condition thereof.

Date: 10-3-00

Richard Thorn
Signature of applicant or authorized agent

RICHARD THORN
Printed name of applicant or authorized agent

