

# ALAMEDA COUNTY CDA PLANNING DEPARTMENT

# **STAFF REPORT**

# **TO:** Sunol Citizen Advisory Committee

HEARING DATE: November 17, 2010

# **GENERAL INFORMATION**

APPROVALS REQUESTED:	<ul> <li>5-Year Periodic Review of Surface Mining Permit and Reclamation Plan No. 28 (SMP-28)</li> <li>Amendment to SMP-28 to extend the permitted surface mining and reclamation timeframe twenty (20) additional years.</li> </ul>							
<b>OWNER/ APPLICANT:</b>	C.W.C. Equity LLC (Applicant/Owner)							
PROPOSAL:	Periodic review for the 'Sheridan Road Quarry' regulated under SMP-28 and extension of said permit for twenty (20) additional years.							
PARCEL LOCATION AND SIZE:								
ZONING:	"A-100" (Agricultural - 100 Acre Minimum District)							
GENERAL PLAN DESIGNATION:	Resource Management and Large Parcel Agriculture (East County Area Plan).							
ENVIRONMENTAL REVIEW:	Class 1 (Existing Facilities) and Class 9 (Inspections) Categorical Exemptions (CEQA Guidelines §15301 and 15309).							

# RECOMMENDATION

Recommend that the Sunol Citizen Advisory Committee:

- a) Review this staff analysis, the documents submitted by the Permittee, and any new information presented at the public hearing;
- b) Take public testimony; and
- c) Offer comments for transmittal to the Planning Commission.

# PARCEL ZONING HISTORY

The Project site has been used for the production of special and general fill material for approximately 46 years. The Project site's regulatory history, including that pre-dating the State Surface Mining and Reclamation Act (SMARA) and Alameda County Surface Mining Ordinance, is summarized below.

- June 18, 1990 the Planning Commission grants approval (via Resolution No. 89-46) to modify Condition No. 31 of SMP-28 to allow limited nighttime loading and hauling, until July 31, 1990, in related to a Caltrans construction project underway at the time.
- January 2, 1990 the Planning Commission grants approval (via Resolution No. 90-06) of Alameda County Surface Mining Permit and Reclamation Plan No. 28 (SMP-28) which incorporated and superseded the prior SMP-3. The permit reflects current operations at Sheridan Quarry more fully described below.
- August 21, 1989 the Planning Commission grants approval (via Resolution No. 89-46) of modifications to Alameda County Surface Mining Permit and Reclamation Plan No. 3 (SMP-3) to allow temporary nighttime operation.
- February 3, 1986 the Planning Commission completes a 5-year review of Surface Mining and Reclamation Permit No. 3 (SMP-3) and makes no changes to the permit.
- June 16, 1980 the Planning Commission modified Condition No. 24 of SMP-3 (via Resolution No. 80-51); related to measures to control erosion and sedimentation.
- October 1, 1979 the Planning Commission grants approval (via Resolution No. 79-88) of Alameda County Surface Mining Permit and Reclamation Plan No. 3 (SMP-3). This permit was processed in response the enactment of the SMARA and subsequent Alameda County Surface Mining Ordinance. The principal outcome of SMP-3 was the adoption of a reclamation plan and accompanying financial assurance mechanisms for Sheridan Quarry.
- July 24, 1974 the Planning Commission completes a 5-year review of Quarry Permit No. 78 (Q-78) and makes no changes to the permit.
- June 4, 1969 the Planning Commission recommends approval (via Resolution No. 9532) of Quarry Permit No. 78 (Q-78) for the removal and processing of approximately 3,500,000 cubic yards of material over a 10-year period. This permit superseded Quarry Permit No. 44 (Q-44).
- June 4, 1964 the Board of Supervisors grants approval (via Resolution No. 108027) of Quarry Permit No. 44 (Q-44) for the removal and processing of approximately 3,500,000 cubic yards of material over a 5-year period.

# SITE AND CONTEXT DESCRIPTION

The Project site consists of an approximate 125-acre irregularly-shaped parcel located about 2.5 miles southwest of Sunol, immediately west of US 680, and adjacent to the intersection of Mission and Sheridan Roads (See Attachment A – Figure 1). In a broader geographical sense, the Project site is situated within the rolling hills between the cities of Pleasanton and Livermore (to the northeast) and the cities of Fremont and Milpitas (to the southwest). The western boundary of the City of Fremont is located approximately 0.30 miles to the southwest.

Vehicular access to the site is provided by a private road at the southern terminus of Mission Road. Access to this road is possible from the US 680. Northbound US 680 traffic may use the Sheridan Road exit; southbound traffic must use the Andrade Road exit and turn south at Mission Road. The US 680 does not provide a southbound exit directly to Sheridan Road.

# **PROJECT DESCRIPTION**

The proceeding description of mining and reclamation activities is derived from Attachment B (Site Location, Site Photos and Project Plans), the 2009 annual Surface Mining and Reclamation Act (SMARA) Inspection Report by the County dated January 2010, and observations from a field visit by the County's consultant planner on September 8, 2010.

### Overview

Mining activities are presently authorized to occur between the hours of 7AM to 5PM, Monday through Saturday. The current application would continue these hour/day restrictions.

### <u>Mining</u>

# Aggregate Removal

The Project site is an aggregate quarry and processing site. The aggregate removed from the site is used for special and general fill material at construction projects throughout the greater Bay Area. Mining activities have been intermittent over time. This is evident by the current, continued mining activity within Phase I, the original first phase authorized as far back as 1964. Phase II is undisturbed. Approximately 13 acres within Phase I have been disturbed (See Plan Sheets 2 and 3 within Attachment B).

Of the total Project site's approximate 125 acres, about 50 acres have been permitted for mining and reclamation activities. The Sheridan Quarry has, under the prior SMP-3 and now under SMP-28, an approximate maximum volume of 3,000,000 cubic yards of raw aggregate to extract. Approximately 892,000 cubic yards of material have been extracted to date.

Native material is exposed by the removal of overburden (topsoil) using earthmoving equipment (dozers, scrapers, loaders and trucks). The overburden is stored on-site for future use in the reclamation of slopes exposed through mining. Once the overburden materials are separated, native material is excavated and stockpiled, then fed into a dozer trap leading to a wash and screen process.

#### Aggregate Processing

Aggregate removal and processing activities occur in close proximity to one another at the Sheridan Quarry. No overland conveyor system is utilized. At Sheridan Quarry, processing equipment is consolidated in a single plateau created by mining activities in Phase I (See Attachment A – Figures 3, 5 and 6). At this location, removed native material is sorted and processed. Oversize stones are reduced in size through a jaw crusher. Aggregate is passed through screens to sort by size. Resulting materials are then stockpiled in close proximity to the processing equipment. Depending upon the desired fill material, recycled materials are either mixed with native materials or not. Water for dust control on-site is presently trucked in from the nearby Hanson Quarry.

# Recycling Operation

The Project imports concrete and asphalt waste materials to produce recycled aggregate through an onsite plant. These waste materials, which might otherwise be deposited in local landfills, are crushed, sorted and recycled to supplement the native aggregate materials produced at the Project site's processing plant. The recycling operation is accessory use to the broader mining operations under SMP-28; as provided for under Surface Mining Ordinance Section 6.80.060.

#### Aggregate Distribution

Aggregate is delivered to off-site destinations via trucks. All trucks proceed along the routes described above. Southbound US 680 vehicles leaving Sheridan Quarry interact with no other land uses as the onramp is adjacent to the Project site. Northbound US 680 vehicles leaving Sheridan Quarry and travelling an approximate 1.5 miles to the Andrade Road on-ramp pass approximately three (residences) which are far removed from the road and four (4) businesses (i.e., Happiness Country Kennels, Valley Tropicals, Plant and Pottery Outlet and Sunol Valley Golf Course) near the freeway interchange.

### **Reclamation**

### **Reclamation Conditions**

Unlike other aggregate mines in Alameda County, the Sheridan Quarry will not result in large pits to be either filled with earthen material or water. Rather, the removal of aggregate from Sheridan Quarry will result in a terraced situation of three (3) relatively level plateaus (See Plan Sheet 8 within Attachment B). The first and lowest of these plateaus has not yet been fully established. As more material is ultimately removed, the lower plateau will be completed, followed by excavation at the second, higher plateau. The current lowest plateau contains all current equipment involved in mining activities as well as areas for the stockpiling of unprocessed and processed materials. Hence, few reclamation activities have occurred.

Condition No. 32 of SMP-28 provides that the eventual use of the site is for agriculture; namely grazing land. Exhibit F within Attachment C of this staff report contains the approved Reclamation Plan with overlaid topography annotating the status of reclamation as of June 2008. That exhibit also illustrates future reclamation.

#### Financial Assurance

The permittee filed a financial assurance estimate totaling \$47,367.79 in December 2008. The County for subsequently approved the estimate and corresponding surety bond on October 15, 2009. A copy of the financial assurance report is on file at the County's offices at 224 Winton Ave, Hayward. Also, the permittee is presently preparing an updated financial assurance estimate to address the limited amount of additional mining which has occurred since the prior update.

# STAFF ANALYSIS

The following staff analysis is split into two basic topics: (1) Periodic Review in accordance with Section 6.80.190 of the Alameda County Surface Mine Ordinance (ACSMO); and (2) the extension of SMP-28 for an additional twenty (20) years.

#### Periodic Review

Condition 27 of SMP-28 requires the Alameda County Planning Commission to review compliance with the permit and reclamation plan and consider any new or changed circumstances (i.e., "Periodic Review"). In conjunction with that condition, County Surface Mining Ordinance Section 6.80.190 provides the parameters which the Planning Commission must follow when conducting a Periodic Review. This section provides one basic test:

# Are there new or changed circumstances within the general area of the mining operations that should be accommodated by SMP-28?

# Surrounding Properties & Area

As evidenced by the aerials photographs in Attachment B (Aerial Photos 1999 to 2010), there has been very little to no noticeable change to land uses or development within the immediate and nearby surroundings of Sheridan Quarry. Therefore, staff views the current terms or conditions of SMP-28 as adequate and sees no need to modify them in response to an issue of changed circumstances related to nearby land uses and development. Similarly, there are no proposed changes to SMP-28 that would necessitate the need to address changed circumstances internal to mining and reclamation activities.

# City of Fremont General Plan Update

The City of Fremont's existing General Plan provides a Hill Open Space (HIL) designation for parcels abutting Sheridan Quarry. The City of Fremont is currently working on a General Plan Update. The most current updated draft Land Use map would continue open space designations in proximity to Sheridan Quarry. In fact, it does not appear the General Plan Update would alter those designations since they were established by voter initiative and, the provisions of which, require voter approval to change those designations. Therefore, staff views no need to modify the terms or conditions of SMP-28 in response to changes in circumstance related to the City of Fremont General Plan update.

## Permit Extension

The applicant proposes to continue mining and reclamation activities at Sheridan Quarry for an additional twenty (20) years in accordance with the terms and conditions of the original approval of SMP-28 (i.e., Planning Commission Resolution No. 90-06 dated January 2, 1990). No change to the mining plans, reclamation plans, or operational parameters are proposed. Condition No. 29 of SMP-28 provided a permit approval period of twenty years between January 2, 1990 to January 2, 2010. The applicant filed the subject application to extend the approval period prior to the expiration of SMP-28 on January 2, 2010.

ACSMO 6.80.120 requires, in part, that, "Applications to modify the terms or conditions of, or uses permitted under, a surface mining permit or an approved reclamation plan shall be in accord with the provisions of this section, except that minor changes in dimensions, volumes, or timing of the staging plans that will not affect implementation the reclamation plan may be approved by the Planning Director." Staff has interpreted the request to extend the permit by twenty (20) years as not "minor," as described by ACSMO Sec. 6.80.120. Therefore, the extension request has been forwarded to the Planning Commission for action.

This next staff report section will describe Sheridan Quarry's relationship to and consistency with the State Surface Mining and Reclamation Act (Public Resources Code (PRC), Division 2, Chapter 9, Section 2710 et seq.), the Alameda County East Area Plan and the Alameda County Surface Mining Ordinance (ACSMO).

#### Surface Mining and Reclamation Act

The only SMARA question raised by the current application is whether it constitutes a "substantial deviation" from the approved reclamation plan. SMARA §3502 provides, amongst other things, that the lead agency (i.e., Alameda County) must determine whether the current application triggers the need for an amended reclamation plan that complies with, "current reclamation standards as described in Chapter 9

(commencing with Section 2710) and Title 14 of the California code of Regulations commencing with Section 3700." SMARA §3502(d) provides the following five (5) criteria (<u>with staff analysis in underline text</u>):

SMARA 3502(d) – In determining whether a change or expansion constitutes a substantial deviation, the lead agency (i.e., County of Alameda) shall take into consideration the following factors:

(1) A substantial increase in the disturbance of a surface area or in the maximum depth of mining;

The current application does not propose any increase to the disturbance area or mining depths authorized by SMP-28 in 1990.

(2) A substantial extension of the termination date of the mining operation as set out in the approved reclamation plan;

The current application does constitute a substantial extension of the termination date set by SMP-28 in 1990.

(3) Changes that would substantially affect the approved end use of the site as established in the reclamation plan;

The current application would not, in any way, change the approved end use of the site established by SMP-28 in 1990.

(4) The consistency of any proposed change to the operation with the previously adopted environmental determinations.

The current application would not change operations authorized by SMP-28 in 1990. The current application is consistent with the project description contained within the Negative Declaration adopted in conjunction with the approval of SMP-28 in 1990. Therefore, the current application is consistent with the previously adopted environmental determination.

(5) Any other changes that the lead agency deems substantial deviations as defined in the subsection.

There are no "other changes" associated with the current application that Alameda County may qualify it as a substantial deviation.

While the current application does include a substantial extension of the previously established termination date, as described in SMARA §3502(d)(2), no other criteria of SMARA §3502(d) would apply. The objective of SMARA §3502 is that, "Reclamation plans shall be developed to attain the objectives of Public Resources Code Section 2712(a)-(c) which states an intention to assure that,

- (a) Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses.
- (b) The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.
- (c) Residual hazards to the public health and safety are eliminated.

The mining and reclamation plans and activities authorized by the Planning Commission in 1990 via

approval of SMP-28 fulfill the objectives stated in SMARA §3502 and 2712(a)-(c). The only substantive change currently requested is the extension of time to continue mining and reclamation activities, in accordance with the previously authorized terms and conditions of SMP-28.

The reclamation plan associated with the 1990 approval of SMP-28 provides, as discussed above, for a reclaimed site able to provide for agricultural land use consistent with the East County Area Plan. Mineral extraction is proposed for continuance, as previously authorized. Lastly, no hazards to the public health and safety were identified in conjunction with the 1990 approval of SMP-28 and none have presented themselves since.

For the reasons mentioned above, the current application does not constitute a "substantial deviation," as described by SMARA §3502, and, therefore, the continuance of mining and reclamation activities under SMP-28 for twenty (20) additional years is consistent with the intent, purposes and provisions of SMARA.

# General Plan

The Sheridan Quarry is located within the East County Area Plan and is provided Land Use Diagram designations of Large Parcel Agriculture and Resource Management. Both designations provide for quarries, amongst other uses. Continuation of the previously approved mining and reclamation activities associated with Sheridan Quarry would, therefore, as was determined in 1990 via Planning Commission Resolution No. 90-06, be consistent with the land use intent for the Project site, as described by the East County Area Plan. Additionally, continuation would not conflict with Measure D, as passed by the voters of the County in November 2000 and as subsequently incorporated into the East County Area Plan.

Measure D, passed by the voters of the County in November 2000, places strict limits on where new mine excavations may be conducted. The text of Measure D, Policy 144, in so far as it applies to quarries, reads as follows, "Except to the extent required by State law, no new quarry or other open-pit mine may be approved by the County outside the Urban Growth Boundary, unless approved by the voters of Alameda County. Excavation not adjacent to an existing quarry site and on the same or an adjoining parcel shall be regarded as a new quarry."

The 5-Year Periodic Review component of the current request is mandated by the County Code and the State Surface Mining and Reclamation Act. Also, the time extension component of the current request would not result in new or expanded mining operations. Maintenance of the current mining and reclamation plan, as provided for under SMP-28, would simply continue into the future; for twenty (20) additional years. Therefore, Measure D neither prohibits nor requires voter approval for the current application.

# Surface Mining Ordinance

Article III (Investigation and Action) of the ACSMO provides the Planning Commission must make eight (8) findings prior to approving the current request. Each finding and staff's analysis (<u>in underline text</u>) are as follows:

1. That the reclamation plan complies with SMARA Sections 2772 and 2773 as may be amended, the provisions of this Chapter and other applicable provisions;

The current application to extend the duration of mining and reclamation activities is consistent with the provisions of SMARA §2772 and 2773. Those sections speak to the need for the establishment of a reclamation plan. Under the current application, the reclamation plan 2. That the reclamation plan complies with applicable requirements of State regulations (CCR §§ 3500-3505, and 3700-3713, as may be amended).

The provisions of CCR 3502(d) are identical to SMARA §3502(d) which establishes a threshold which provides that only applications for a "substantial deviation" must comply with current reclamation plan standards. As described above, the current application does not constitute a "substantial deviation." Therefore the provisions of CCR §§ 3500-3505 and 3700-3713 are not applicable to the current application.

3. That the reclamation plan and potential use of reclaimed land pursuant to the plan are consistent with this chapter and the county's general plan and any applicable resource plan or element.

As discussed herein, the current application proposes the fulfillment of a reclamation plan that would provide for agricultural use of the subject site, in accordance with the land use policies of the East County Area Plan.

4. That the reclamation plan has been reviewed pursuant to CEQA and the county's environmental review guidelines, and all significant adverse impacts from Reclamation of the Surface Mining Operations are mitigated to the maximum extent feasible.

The current application would continue implementation of a reclamation plan that was previously reviewed in accordance with CEQA. The proposed continuation of SMP-28, as permitted in 1990, qualifies for a Class I (Existing Facilities) exemption from CEQA. No new or additional environmental review is necessary or required for the current application.

5. That the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site mitigation will compensate for related disturbance to resource values.

The current application would provide for continued implementation of a reclamation plan previously found by the Planning Commission to result in a condition that is compatible with and which blends with the natural environment, topography and other resources. No aspect of the current application would alter that previous Planning Commission finding.

6. That the reclamation plan will restore the mined lands to a usable condition that is readily adaptable for alternative land uses consistent with the general plan and applicable resource plan, or as specified in the reclamation plan.

As discussed herein, the current application proposes the fulfillment of a reclamation plan that would provide for agricultural use of the subject site, in accordance with the land use policies of the East County Area Plan.

7. That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that department. Where the county's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

Though the State Department of Conservation was provided notice of the subject application, no written response has yet been received by Alameda County.

8. That the reclamation plan is consistent with protection of the public health, safety and welfare. The planning commission shall state the basis for its determinations regarding such finding.

The current application would provide for the continued implementation of a reclamation plan previously found by the Planning Commission to be consistent with the public health, safety and welfare. As described herein, no aspect of the current application would alter that finding. Reclamation would proceed as approved by the Planning Commission in 1990 via Resolution No. 90-06.

As reflected by the staff analysis above, all required findings can be made to authorize the current request to extend the permit expiration date of SMP-28 for twenty (20) additional years.

### **RESPONSIBLE OR AFFECTED AGENCIES**

On October 13, 2010, County staff distributed a courtesy notice to known interested parties well in advance of the November 17, 2010 Sunol CAC meeting. This included the following agencies and organizations:

- State of California, Department of Conservation, Division of Mines and Geology
- California Regional Water Quality Control Board, District 2
- Bay Area Air Quality Management District
- City of Fremont
- Alameda County, Public Works Agency
- Alameda County, Environmental Health Department
- Save Our Sunol
- Alameda Creek Alliance
- The Sunolian

As of November 3, 2010 no agency or interested person sent notice of the Project has submitted written or verbal comments.

Since the application does not consist, as stated by ACSMO Section 6.80.120, of a request to, "expand the land area affected by an existing permit or approved reclamation plan," the referral requirements of ACSMP Sections 6.80.091, 6.80.110 and 6.80.80.112 are not applicable.

#### ENVIRONMENTAL CONSIDERATION

The 5-Year Periodic Review component is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) under CEQA Guidelines §15039 which states that, "activities limited entirely to inspections to check for performance of an operation, or quality check or safety of a project," do not have a significant effect on the environment and are, therefore, exempt from

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the provisions of CEQA.

The time extension component of SMP-28 is categorically exempt from environmental review under CEQA Guidelines §15301 since it consists of the operation, maintenance and permitting of existing private facilities, mechanical equipment and topographical features with no expansion of the its use, as originally permitted by Alameda County.

### CONCLUSION

Mining and reclamation activities are expected to continue, as authorized and according to market demand, until the requested revised permit expiration. After completion of Phase I, substantive reclamation activity may proceed. The next 5-Year Periodic Review would occur in 2015. During intervening years, the applicant will continue to provide annual progress reports and updated financial assurances for reclamation activities.

Staff requests the Sunol CAC provide comments for consideration by the Planning Commission at a future meeting date.

### ATTACHMENTS

- A. Site Location, Site Photos and Mining and Reclamation Plans
- B. Aerial Photos 1999 to 2010

PREPARED BY:	Kevin Colin, Contract Planner
REVIEWED BY:	James Gilford, Director

ATTACHMENT A SITE LOCATION, SITE PHOTOS AND PROJECT PLANS This Page Intentionally Left Blank

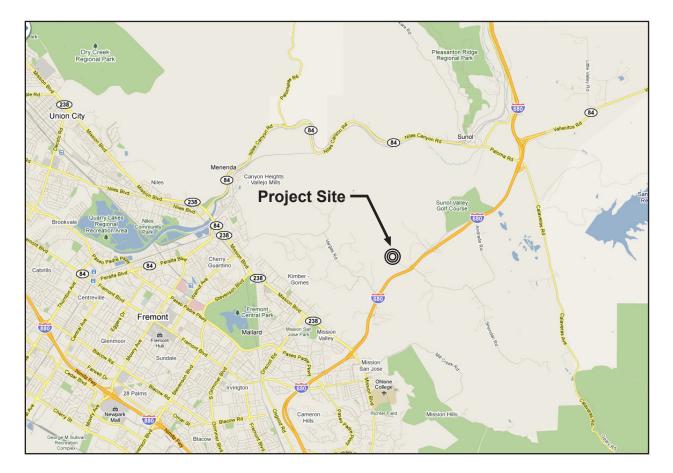


Figure 1. Project Location.



Figure 2. View of Sheridan Quarry from northbound lanes of US 680.



Figure 3 - Processing Equipment and Stockpiles (September 8, 2010)



Figure 4 - View Looking Northwest at Stockpiles and Future Phase II (September 8, 2010)



Figure 5 - View Looking East at Phase I with Stockpiles & Processing Equipment (September 8, 2010)



Figure 6 - View Looking East at Phase I with Stockpiles & Processing Equipment (September 8, 2010)



Figure 7 - View Looking South at Phase I Stockpiles & Access Road (September 8, 2010)



Figure 8 - View Looking Southeast at Abutting Property (September 8, 2010)



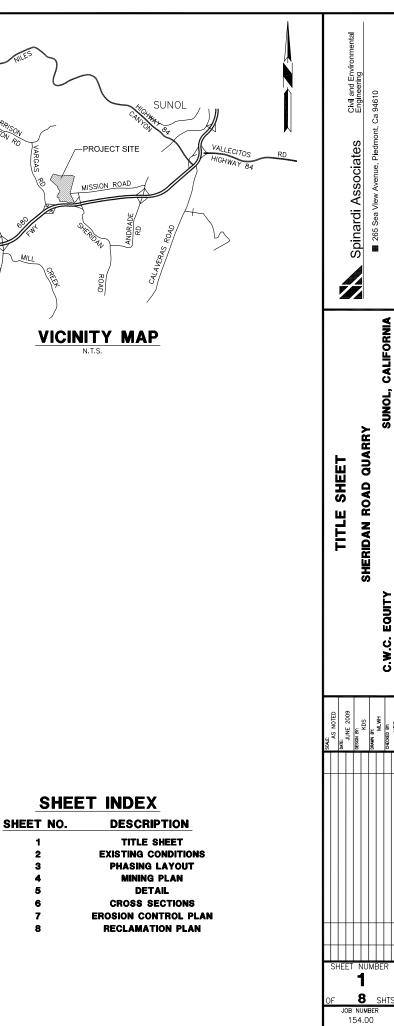
Figure 9 - View Looking East at Abutting Property & City of Fremont (Background) (September 8, 2010)

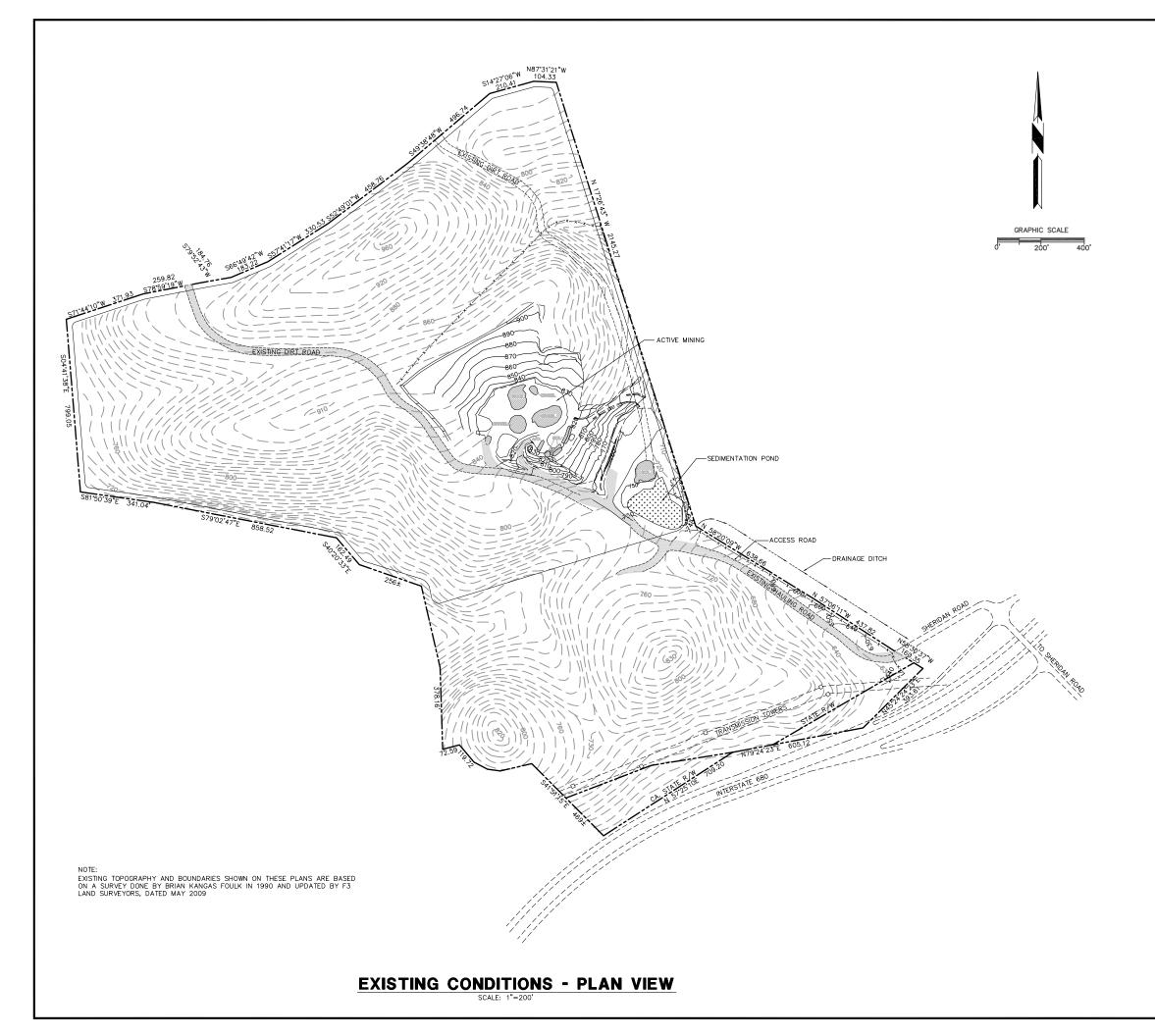


Figure 10 - View Looking East at Abutting Property & City of Fremont (Background) (September 8, 2010)

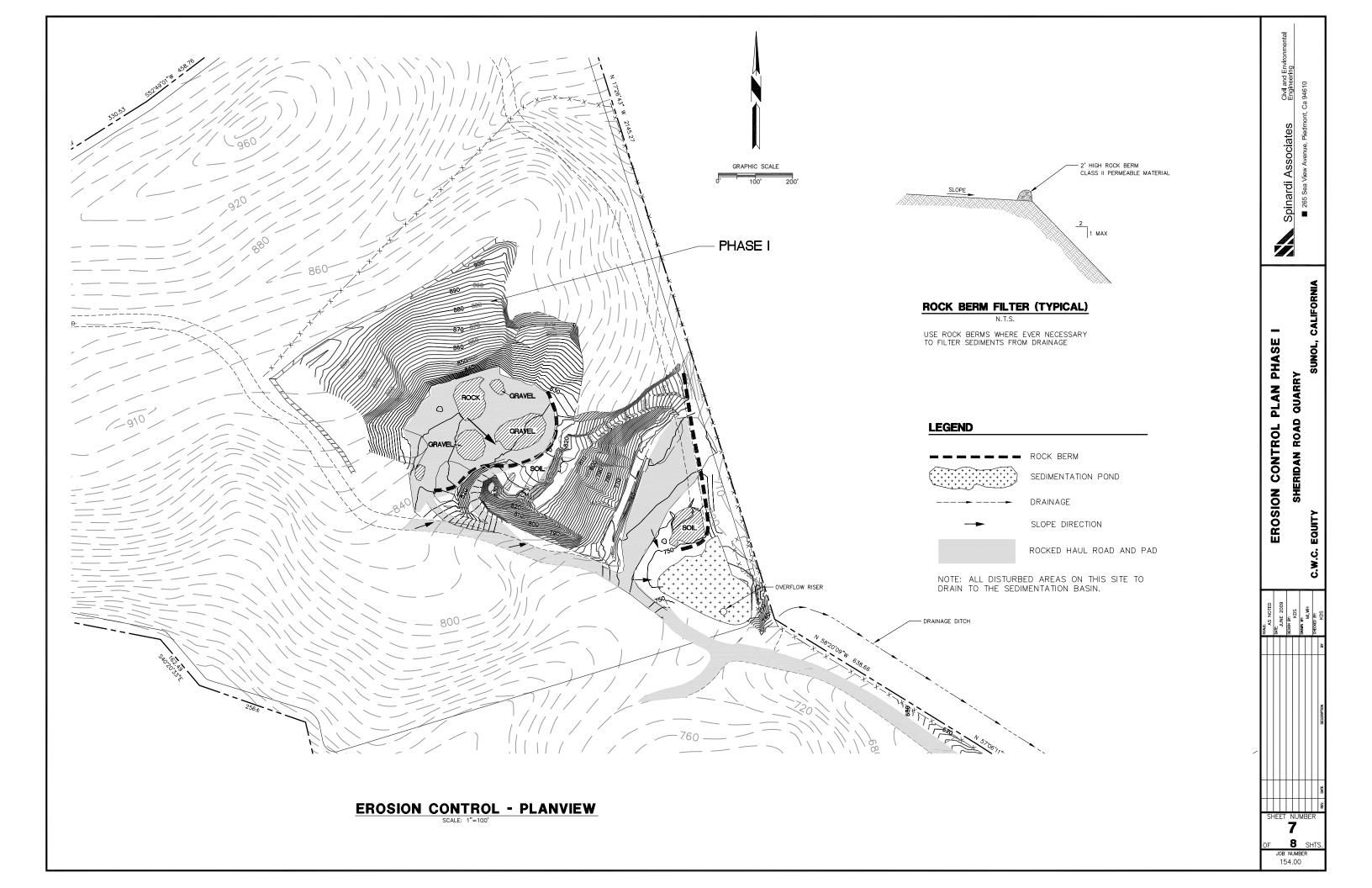


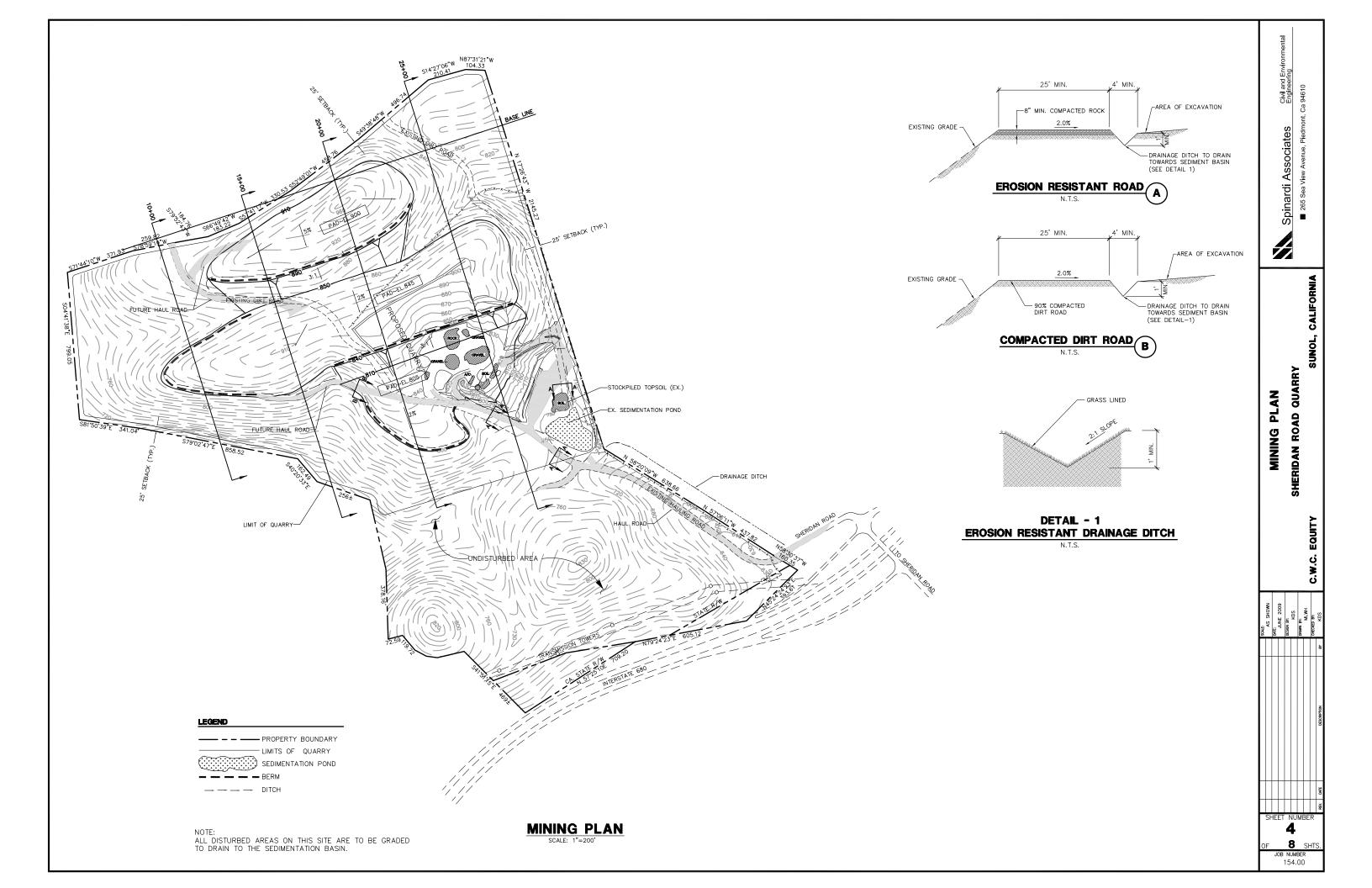
SHERIDAN ROAD QUARRY - AERIAL PHOTO

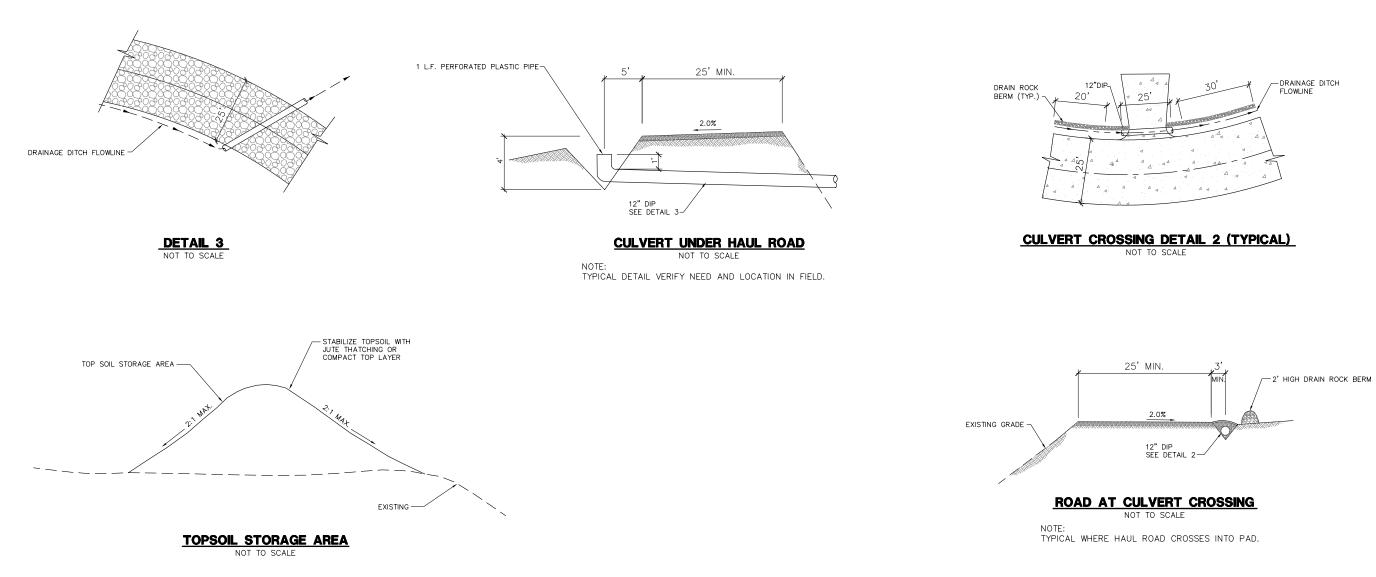




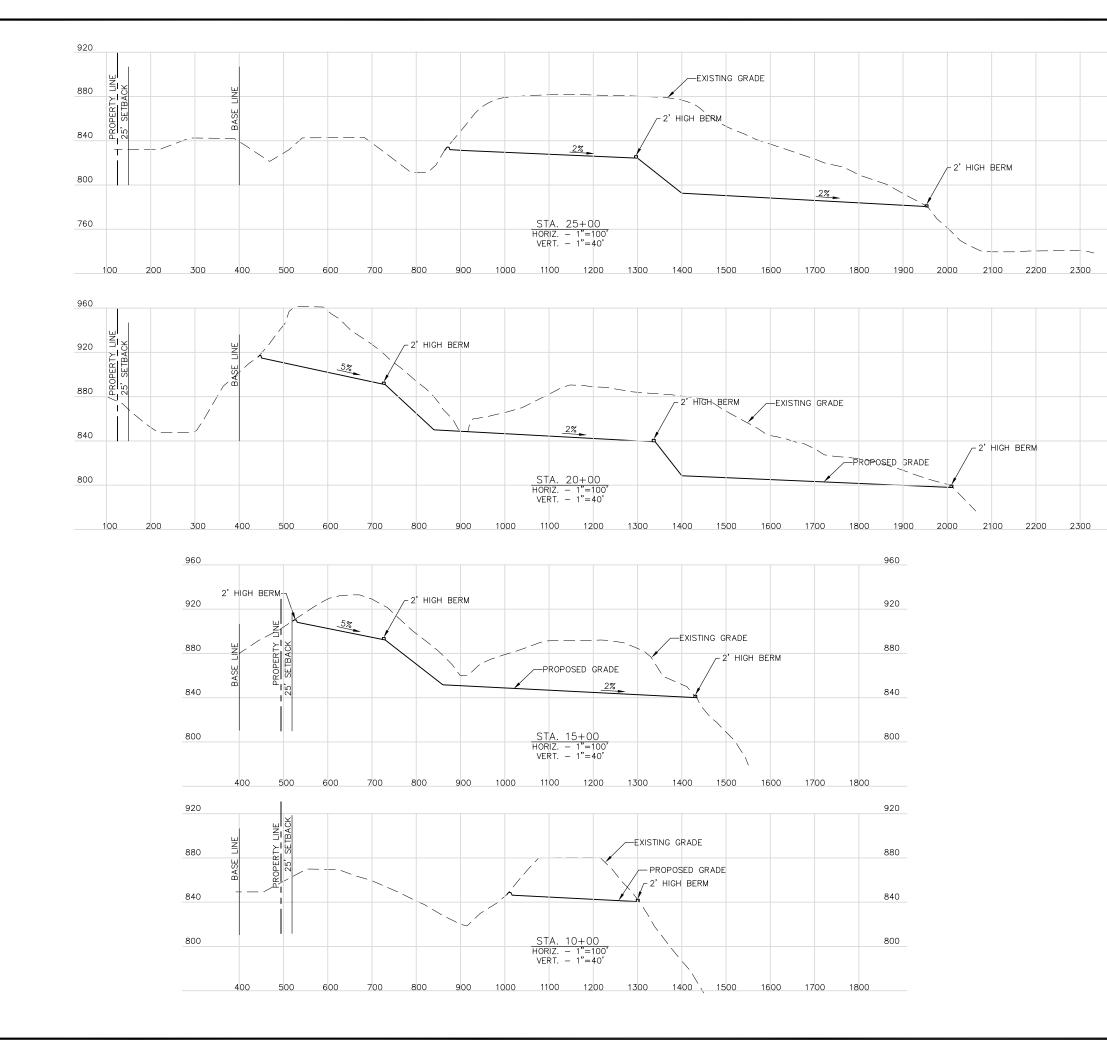


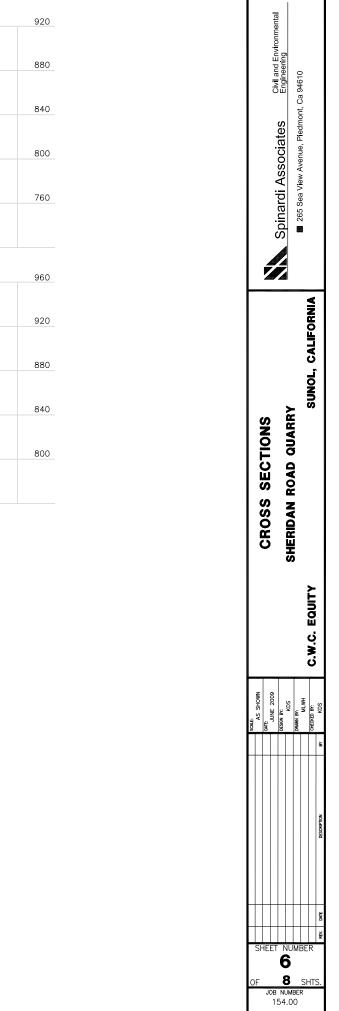


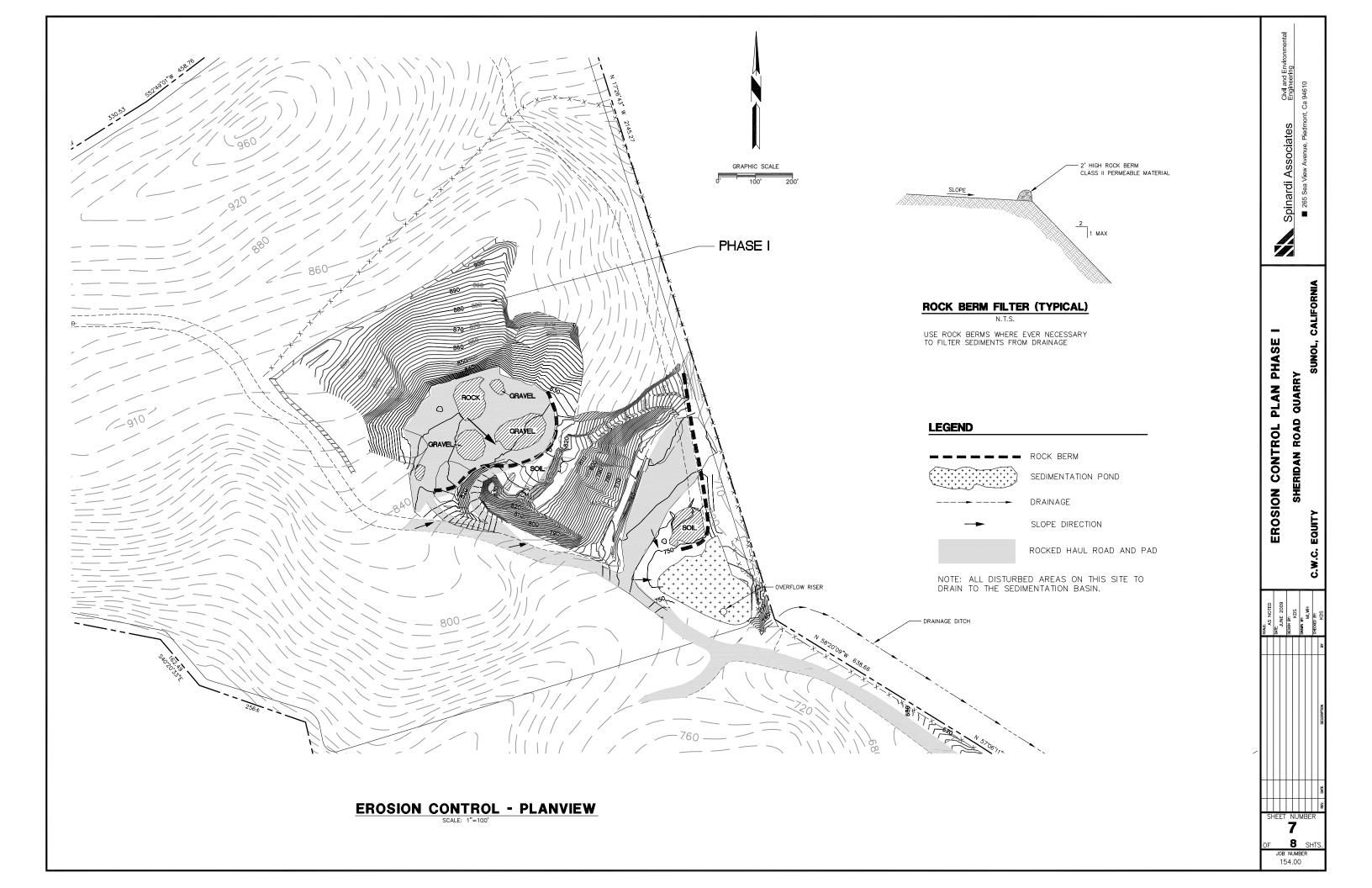


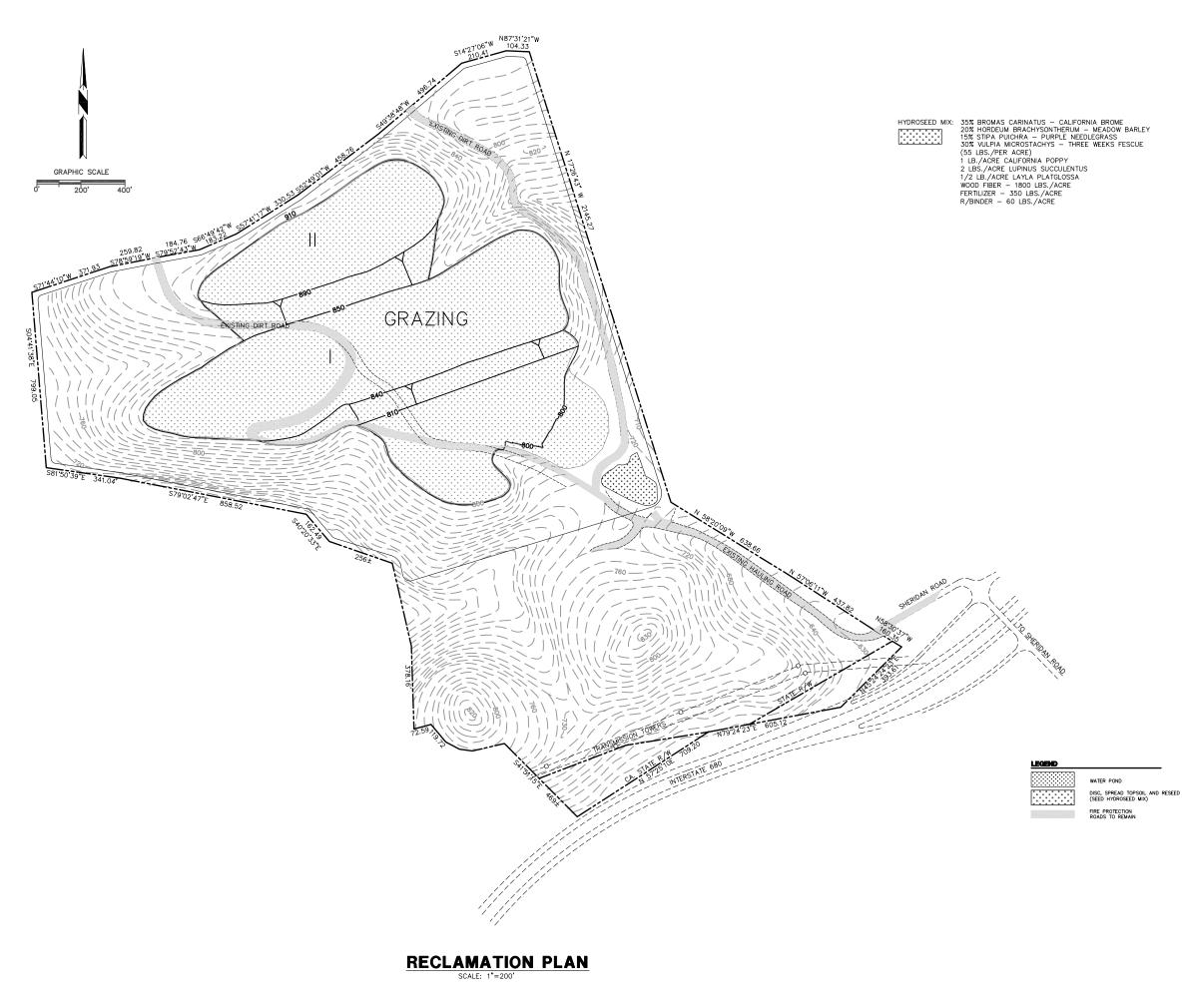












	Spinardi Associates						
	RECLAMATION PLAN		SHFRIDAN ROAD OILARRY			C.W.C. EQUITY SUNOL. CALIFORNIA	
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Figure 11 - Aerial of Project Site and Surroundings (August 8, 2010)

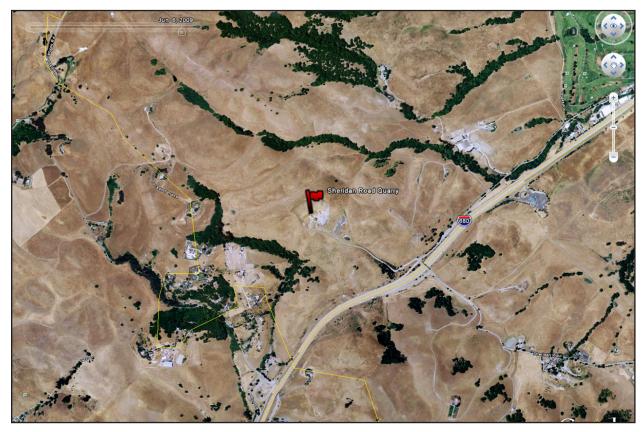


Figure 12 - Aerial of Project Site and Surroundings (June 6, 2009)



Figure 13 - Aerial of Project Site and Surroundings (June 30, 2007)

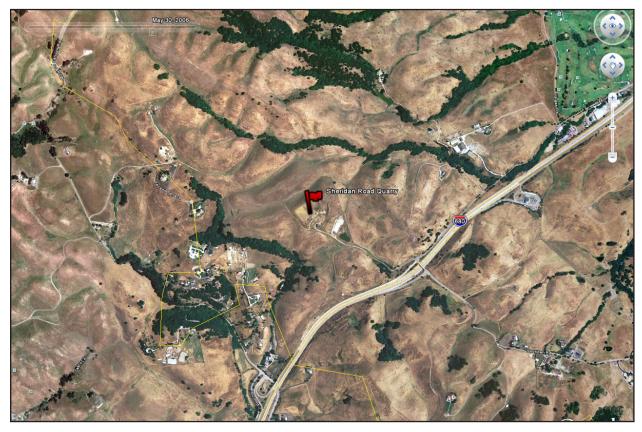


Figure 14 - Aerial of Project Site and Surroundings (May 30, 2006)



Figure 15 - Aerial of Project Site and Surroundings (October 6, 2004)



Figure 16 - Aerial of Project Site and Surroundings (October 31, 2002)

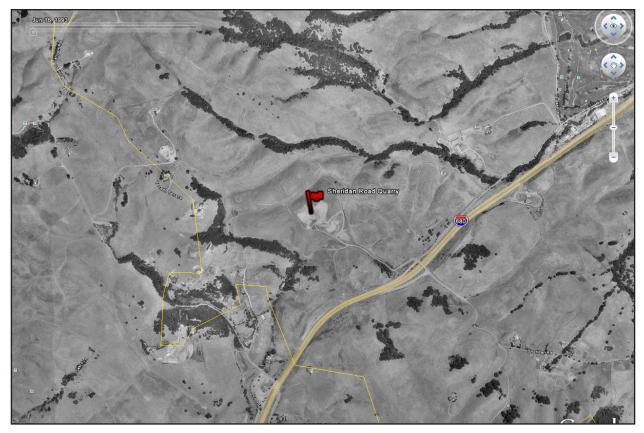


Figure 17 - Aerial of Project Site and Surroundings (June 16, 1993)