



## PLANNING COMMISSION STAFF REPORT

Meeting Date: December 17, 2024

To: Town of Truckee Planning Commission

From: Chantal Birnberg, Associate Planner

RE: Application No: 2024-00000023, Martis Valley Quarry Two-Year Review and Project Amendment; Owner/Applicant: Teichert Aggregates; Agent: Michael Smith; 13879 Joerger Drive, APN 049-330-006-000

Approved by: Denyelle Nishimori, Community Development Director

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**Recommended Action:** That the Planning Commission conduct the required 2-Year review of the Martis Valley Quarry and adopt Resolution 2024-16 thereby taking the following actions:

- Approve a Project Amendment allowing the quarry review process to return to a five-year timeframe; and
- Determine the Project Amendment exempt from the California Environmental Quality Act (CEQA) Guidelines per Section 15061(b)(3) (General Rule Exemption).

**Project Summary:** The applicant is requesting a required two-year review of the Martis Valley Quarry mining operations and conditions of approval. The original Conditional Use Permit for the Martis Valley Quarry required a review every five years following approval of the mine operations. The most recent 5-Year Review was held in 2017. The Planning Commission adopted several new conditions of approval, one of which requires the Martis Valley Quarry to return for an annual review for two subsequent years (Condition of Approval #32 Resolution 2017-01). At the November 19, 2019 Planning Commission meeting the applicant and Town agreed to one additional 1-Year review, further modifying Condition of Approval #32 (Resolution 2019-25). The final 1-year review was heard on October 20, 2020 and the applicant and Town agreed to an additional 2-year review in 2020 and 2022. This report constitutes the last required 2-Year review. The overall purpose of these reviews is to determine if the Quarry remains in compliance with the underlying permit conditions and to check in on the monitoring program for the Quarry. As part of this current review, the applicant has also requested to allow the quarry review process to return to a five-year cycle and staff supports this request, as discussed below.

**Planning Commission's Role:** While the original 1983 Conditional Use Permit identified that the Planning Commission may "add, delete or modify the conditions of approval," the judicial decisions issued since 1983 make it clear that the Planning Commission is limited with respect to imposing new or changed conditions it can unilaterally impose. In general, new or modified conditions can be required if the operation of the Martis Valley Quarry under the existing conditions is shown to be detrimental to public health, safety, or welfare. At a minimum, the Planning Commission would need to have substantial evidence of such detrimental impacts to support a decision to impose new or changed conditions. That being said, these restrictions and requirements do not apply if the applicant agrees to the imposition of new or revised conditions.

**Location/Setting:** The project site is located at 13879 Joerger Drive. The property is northeast of the Truckee-Tahoe Airport. Access to the quarry is from Joerger Drive, a partially private roadway owned by Tahoe-Truckee Sanitation Agency (TTSA), which connects with Highway 267 east of Martis Drive. The

property is bounded to the north by the Legacy Trail and Truckee River, to the east by open space, to the south by open space/Placer County, and to the west by the TTSA treatment plant.

### **Project Site Information:**

General Plan Designation: Resource Conservation/Open Space  
Zoning District: RC (Resource Conservation)  
Project Site Size: 184 acres

### **Discussion/Analysis:**

#### **Background**

The Martis Valley Quarry was initially permitted by Nevada County for limited aggregate processing in the mid 1950's. Use Permits were granted to allow for harvesting and crushing of enough aggregate to construct the Martis Creek Reservoir Dam, and at a future date, for the construction of an access road into the Tahoe-Truckee Sanitation Agency plant site. Attempts at that time to obtain a Use Permit for full-scale mining operations were unsuccessful due to the lack of suitable access to the site.

On May 5, 1981, a Use Permit was approved by the Nevada County Board of Zoning Administration, permitting the removal of no more than 25,000 tons of aggregate that had been partially processed and stockpiled on the site by the previous permitted operation. The limited amount of permitted aggregate to be removed from the site was exhausted and in August of 1983, the current Teichert operation (discussed below) was conditionally approved by the Nevada County Planning Commission.

Conditional Use Permit U83-10 allowed for an open-pit dry harvest mining operation with materials to be sold from the site, an asphalt batch plant, and a reclamation plan for the operation. Subsequent Use Permit amendments were approved by Nevada County as summarized below.

#### **Use Permit U83-10 Amendments**

- **Original Permit approval (U83-10), August 11, 1983:** This Conditional Use Permit (Use Permit) allows for an open pit dry harvest mining operation with materials to be sold from the site, an asphalt batch plant, and a reclamation plan. The permit was subject to 32 Conditions of Approval for managing the operational environment at the site. These conditions relate to regulation of water usage, sewerage type, provisions for utility service, traffic flow and safety, aesthetics, air quality, and site reclamation.
- **Use Permit amendment (U83-10.1), April 12, 1984:** This amendment allowed hauling of raw material from the site to Teichert's Coldstream facility for processing for the 1984-construction season.
- **Use Permit amendment (U85-62), October 10, 1985:** This amendment expanded the allowable surface acreage of the operation to include 60 acres of the TTSA's land. In addition, Condition of Approval #2 was modified to allow for the installation and use of a permanent sewage holding tank.
- **Use Permit modification, December 15, 1988:** The Planning Commission added two new Conditions of Approval to the permit. These conditions required the asphalt plant operator to monitor and comply with the noise standards set forth in the Nevada County General Plan Noise Element.
- **Use Permit amendment (U88-91), April 12, 1989:** This amendment allows for the use of a portable crusher/conveyor system at the site.

#### **5-Year Annual Review**

As part of the conditions of approval for the original 1983 Conditional Use Permit, the Nevada County Planning Commission required a condition that the quarry be reviewed every five years. The Town began

its last five-year review on October 17, 2016 and scheduled the review for the February 21, 2017 Planning Commission meeting. Due to inclement weather, Teichert was unable to attend the February 21, 2017 hearing and the Planning Commission continued the hearing. Prior to returning to the Planning Commission, the applicant team saw benefit in holding a series of neighbor meetings with the adjacent property owners and the public. Teichert held three neighbor meetings. The meetings allowed residents to voice their concerns and issues directly to Teichert. Teichert asked the residents to voice specific concerns so that Teichert could formulate a strategy for eliminating or mitigating these concerns. As a result of the neighbor meetings, Teichert offered a tour of their facilities, and proposed to add eight new conditions and revise seven existing conditions to help alleviate the neighbor concerns expressed during these meetings. During the February 21, 2017, Planning Commission meeting, concerns were expressed by members of the public and the Planning Commissioners regarding several aspects of the quarry related to air quality, dust, odor, noise, and water quality.

It was evident from the neighbor meetings and Planning Commission hearing that the adjacent residents had three major areas of concern: odor, noise, and dust. Teichert agreed to several conditions of approval to minimize the effects of the quarry on the adjacent residents and to address their concerns. This staff report will focus on ongoing compliance with specific final conditions of approval, and complaints received during the 2023 and 2024 mining seasons.

#### Resolution 2017-01, 2020-20, and 2022-15 Conditions of Approval

Resolution 2017-01, 2020-20 and 2022-15 conditions which require ongoing compliance are provided below along with staff's summary of compliance with each condition. Some of the conditions modified by Resolution 2017-01 and 2020-20 have been in effect since 1983 and may have gone through several modifications over the years. For reference, deletions are shown in ~~strikethrough~~, the June 20, 2017, October 20, 2020 and January 17, 2023 Planning Commission's additions are shown in underlined italic text, and previous edits are shown in **bold**.

Condition of Approval #3: File for and obtain a waste discharge permit from the Regional Board. The operator shall forward to the Town of Truckee, concurrently with submittal to the Regional Board, all annual reports submitted to the Regional Board pursuant to the waste discharge permit for the facility. (As modified by the Planning Commission on June 20, 2017)

Staff recommended modifying this condition because it originally required Teichert to submit waste discharge permits to Nevada County, the original permitting/review agency. Due to the Town's incorporation in 1993, the Town is now the review authority for the quarry. Following approval of the Martis Valley Quarry, Teichert obtained a waste discharge permit from the Lahontan Regional Water Quality Control Board (LRWQCB) in 1983. The permit has been updated as needed based on changing site conditions. Teichert submitted the required 2023 and 2024 quarterly monitoring reports (Attachment #2) to the Town and LRWQCB and remains compliant with its waste discharge permit. It is staff's opinion that Teichert is in compliance with this condition and no further action is warranted at this time.

Condition of Approval #13: All plant operations shall comply with the Noise standards as set forth in the Noise Element in the Nevada County General Plan and **Chapter 18.44 of the Town of Truckee Development Code**. Further the plant operator shall ~~contract with~~ reimburse the Town of Truckee for quarterly (three times/year, excluding winter) testing of noise generated on this site to be conducted by a qualified noise consultant selected by the Town of Truckee, to be conducted and submit to Nevada County Planning Department the Town of Truckee Community Development ~~yearly quarterly annual testing for noise generated on this site. The date of testing shall be at the discretion of the Nevada County Planning Department~~ **Town of Truckee Community Development Department. If it is found that the noise levels are the same or lower for all four quarters in two consecutive years, then the**

~~Town Planner may reserve the right to allow for bi-annual or annual monitoring. The annual noise monitoring report shall be completed and submitted with the Annual Report every year. Failure to complete the annual noise monitoring report and/or~~ The Town shall decide, in consultation with the noise consultant, when monitoring shall occur to ensure that monitoring occurs within a range of days and nights when the facility is fully operational. In addition, the Town, in consultation with the noise consultant, shall assess noise monitoring locations to determine whether any changes to such locations are required to ensure that monitoring captures the “worst case” residential noise exposure from the facility. **Non-compliance of mining operations with the Town of Truckee’s Noise Standards is a violation of this condition. In addition to any other remedies that may be available to the Town of Truckee, non-compliance may result in the re-issuance of quarterly noise compliance testing or additional conditions to ensure compliance with the Town of Truckee’s Noise Standards.** (As modified by the Planning Commission on June 20, 2017)

With prior reviews, Teichert contracted with Bollard Acoustical Consultants (BAC) to provide quarterly noise monitoring during the spring, summer, and fall quarters. Since there are no mining activities during the winter months, noise monitoring during the winter quarter is not required. In 2017, the former Community Development Director reduced quarterly monitoring to annual monitoring as allowed by the condition of approval. The Director made this decision because the quarry complied with the Town’s noise standards every quarter since 2002. However, during the previous 5-Year Review, neighbors and Commissioners expressed concern that Teichert contracted directly with the noise consultants rather than the contract being established through the Town. The Commission then modified the condition, re-requiring quarterly monitoring and required that the testing dates and locations be determined by Town staff. In addition, staff was responsible for contracting with BAC and organizing the quarterly monitoring.

Following the 5-year update, staff worked directly with BAC to determine the noise monitoring locations and dates. BAC has completed all required noise monitoring over the 2023 and 2024 mining season and found the quarry and operations to be in compliance with the Town’s noise standards for each quarter monitored. The noise monitoring reports are enclosed as Attachment 3. It is staff’s opinion that Teichert is in compliance with this condition.

Condition of Approval #14: The plant operator shall notify adjacent residential property owners/residents **within 500 feet from APN 49-011-73 49-330-06, in addition to the Town of Truckee**, of any night operations, ~~which shall extend~~ **that will occur** after 8:00 p.m. in the evening, **with estimated start and end dates, or other operational changes that may affect such residents. In addition, the operator shall add any property owners/residents beyond 500 feet of APN 49-330-06 to the notification list upon request. The operator shall update the list every year to ensure that names, addresses, and contact information are current. The notice shall state the dates and hours of nighttime activities, in addition to a contact name and phone number.** ~~The notices shall be sent out to the property owners no less than one week in advance of the nighttime activity. Teichert shall notice the Town of Truckee and property owners/residents upon the receipt of a request for materials requiring nighttime operation of the Martis Valley Quarry.~~ (As modified by the Planning Commission on June 20, 2017 and October 20, 2020)

This condition was updated to allow e-mail notifications of nighttime operations or other quarry-related information. In addition, Teichert was required to allow residential property owners beyond 500 feet the ability to submit their contact information and receive notices. Staff did not receive any complaints regarding improperly noticed night operations during the 2023 and 2024 mining season. Staff also received nighttime operation emails and finds the applicant in compliance with COA#14.

Condition of Approval #20: The applicant shall submit a comprehensive dust suppression plan to be approved by the Town Planner to address the effects of the dust that is generated from the mining operation. The applicant shall submit a proposed revised plan in connection with any change in operations that would change the amount, location, or nature of dust generated by the mining operation. (As modified by the Planning Commission on June 20, 2017)

Teichert submitted an updated Dust Suppression Plan in May 2018 (Attachment 4). The Dust Suppression Plan ("Plan") identified that the asphalt plant and quarry operate under Northern Sierra Air Quality Management District (NSAQMD) minor source Air Quality Operating Permit #88-36-01 ("Permit"), which includes all applicable state and federal requirements for the Martis Valley Quarry. These regulations limit opacity to a maximum of 20 percent for emissions from any equipment on the site. Some equipment is further restricted to 10 percent opacity. The Permit addresses the three general categories of emission sources at the Martis Valley Quarry: Stationary Sources, Mobile Sources, and Fugitive Sources.

According to the Plan, most of the Stationary Source emissions occur when material is transferred from one piece of equipment to another (a transfer point). The aggregate plant has emission controls on most of the material transfer points and each control is defined by NSAQMD in the Permit. While limiting the vertical drop at transfer points help minimize emissions the Martis Valley Quarry transfer points also have at least one of three standard controls:

1. Water sprays which help keep the fine particles clumped or adhered to larger particles and less likely to become airborne.
2. Enclosing the transfer point as much as possible, which limits exposure of fugitive dust to wind and turbulence and allows the fine particles to settle.
3. Wet Processes. There is a system within the aggregate plant that produces clean washed aggregate and sand. This material is completely saturated and has most of the fine material removed. Emissions from the washed aggregate system are minimal.

Mobile Sources refer to mining equipment and dump trucks. The Permit requires the Martis Valley Quarry to maintain all facility equipment using the manufacturer's recommended maintenance programs in order to minimize air pollution. However, Teichert acknowledges that many trucks onsite are not Teichert trucks and not under their control. At times, these third-party trucks constitute the majority of heavy equipment operating. It is unknown how NSAQMD manages emissions from non-Teichert equipment involved in purchasing asphalt or aggregate on site.

The two major sources of fugitive dust are vehicular traffic and, on windy days, fugitive dust from stockpiles. The main controls in place include limiting vehicle speeds, graveling the main access routes, using dust palliatives, and watering. The Permit requires that equipment operating areas, stockpile areas, and haul roads be watered six to eight times per day, or as necessary, to maintain the surface in a damp condition. The Permit also limits the on-site vehicular traffic speed to 15 miles per hour.

The Plan further identified three additional measures to reduce dust emissions:

- Surfactant/dust suppressant
  - The surfactant/dust suppressant is a product that can be applied to unpaved roads to inhibit dust formation and entrainment. Surfactant would be used in place of water trucks. Weather conditions can reduce the amount of time water trucks are effective, which could lead to more frequent watering. This product would replace or reduce the amount of watering needed to reduce dust formation.
- Vehicle wheel washer
  - A vehicle wheel washer would be placed near the exit of the site and wash vehicle wheels prior to leaving so that material is not tracked off-site. When material is tracked off-site, it dries and can be ground into very fine particles by vehicle traffic and lifted into the air. Martis Valley Quarry has a wheel washer for Teichert equipment, but the updated Dust Suppression Plan recommends adding a vehicle wheel washer to the scalehouse for trucks leaving the

site. These are typically third-party vehicles that enter the site for material pick-up or drop-off and stop at the scalehouse for administrative purposes prior to exiting.

- Rock crusher curtains
  - Teichert looked into additional ways to reduce noise generated from the rock crusher. Teichert has installed rubber curtains to reduce noise generated from the process of crushing rock, which also tends to emit dust. The curtains could also act as a barrier and help to enclose and control fugitive dust from the rock crusher.

At this time, these are additional steps Teichert has previously expressed a willingness to implement separate from the requirements of their Use Permits; though there are no conditions which require them to implement or maintain these measures on a consistent basis. With that being said, the rock crusher curtains were previously installed and can be enforced through Condition of Approval #43. Teichert is currently required to water unpaved roads, conveyor belts and stockpiles, which is enforced through NSAQMD and the Permit to Operate. The vehicle wheel washer would provide additional benefit in controlling fugitive dust from the site, but it is staff's opinion this would not substantially reduce fugitive dust emissions. Teichert previously installed additional spray bars for the jaw crusher and on the conveyor belt to further reduce dust emissions at transfer points. Teichert has also installed and currently maintains a vehicle wheel washer for the scalehouse. Lastly, for the 2020 mining season, Teichert installed a tent over the asphalt chip storage area. The tent keeps the material dry and prevents additional fugitive dust created when the chips are heated in the plant (additional moisture causes microexplosions that generate additional fugitive dust).

NSAQMD has informed staff that there have been no air quality or emission violations, however staff is not aware of NSAQMD staff conducting unscheduled inspections, as mentioned in the compliance section of the Plan. The last two source testing reports indicated that NSAQMD staff were not present onsite during testing. Staff is also unable to verify whether Teichert waters 6-8 times a day or how the large stockpiles are frequently watered.

At the time of writing this staff report, one dust complaint was received during each of the two operating seasons. With the limited complaints regarding dust, staff believes that Teichert remains in substantial compliance with the Dust Suppression Plan. Staff recommends that all dust complaints be submitted to NSAQMD to allow District staff to determine if Teichert remains in compliance with their NSAQMD permit.

Condition of Approval #32: ~~Every two years following the 2022 2-Year review~~ Every two years following the 2020 1-Year review For the next three years following the 2017 five-year review, the application **Conditional Use Permit** shall be brought back by the applicant for an annual a Planning Commission public hearing review of the conditions. ~~The 2-year review shall be held on or before December 1st of that year.~~ The 2-year review shall be held on or before November 1st of that year **The 2018, 2019 and 2020 annual reviews shall be held on or before June 1st of each year.** During the 2-year ~~their its annual~~ five-year reviews, the Planning Commission may modify, eliminate and/or add new conditions necessary to continue the Use Permit **if the Commission determines the operation of the Martis Valley Quarry under the existing conditions is shown to be detrimental to public health, safety, or welfare.** The mining operation will not be required to stop during the review. **The operator shall submit a request for each annual review to the Town of Truckee on or before February 1st of each year. Failure to submit a timely annual review request shall result in cessation of operations until such a request is submitted to the Town of Truckee.** ~~At the 2020 annual review, the Planning Commission shall determine the frequency of subsequent Planning Commission reviews of this Conditional Use Permit.~~ **(As modified by the Planning Commission on January 17, 2023)**

This condition was modified at the 2022 2-Year Review to allow for a December 1st deadline for the compliance review. This item was scheduled for the regularly scheduled November Planning Commission meeting on November 18, 2024. However, the meeting was canceled due to lack of quorum and then agendaized for the next regularly scheduled Planning Commission meeting on December 17, 2024.

The applicant is requesting that this Condition of Approval be modified to return to a five-year review cycle. Staff notes that the quarry remains in compliance with all outside agency permits and Use Permit Conditions of Approval. While odor issues remain to be the primary complaint from surrounding residents, the agency which regulates nuisance odors, NSAQMD, has not identified that the odor violates any permit conditions, state or federal laws. Staff continues to recommend that residents contact NSAQMD and the California Air Resources Board (CARB) when experiencing issues with odors from the plant. If at any time the quarry is not in compliance with outside agency requirements or Use Permit Conditions of Approval, staff can request to bring the Use Permit back to the Planning Commission for review prior to the five-year timeline. For the reasons discussed above, staff supports the return to a five-year review cycle. This change is reflected in Exhibit A (Attachment 1).

Condition of Approval #34: **Teichert Aggregates shall provide the Town of Truckee and the residents within 500 feet of APN 49-011-73 49-330-06 with a 24 hour contact name, e-mail address, and phone number in order to allow citizens a mechanism to voice concern or lodge a complaint over any aspect of the mining operation. In addition, Teichert shall provide this information to residents who live more than 500 feet from APN 49-011-73 49-330-06 upon request. E-mail complaints received shall be forwarded to the Town of Truckee by the end of the next business day. Summaries of phone complaints shall be forwarded to the Town of Truckee on a weekly basis. ~~Teichert Aggregates shall log, date, and briefly describe the nature of the calls. A copy of the log shall be forwarded to the Town of Truckee on the first of every month.~~ (As modified by the Planning Commission on June 20, 2017)**

In 2018, Teichert created a Martis Valley Quarry specific e-mail and has provided two phone numbers (Martis Valley Quarry plant line (530) 587-3811; Scalehouse Clerk Mobile (530) 205-8512) to provide a mechanism for voicing concerns or complaints. In addition, Teichert maintains a compliant log for any complaints received by either phone or e-mail and has forwarded Town staff the log on a weekly basis. As of the writing of this staff report, over the last two mining seasons, the Teichert and the Town complaint logs have approximately 23 total complaints from six households. Many of these complaints referred to multiple days of odor impacts. The 2023 and 2024 complaints are discussed in further detail in the "Complaints Received" section below. It is staff's opinion that Teichert is in compliance with this condition and no further action is warranted at this time.

Condition of Approval #39: The operator shall ensure that an odor and fume neutralizer, such as Ecosorb 806 or its equivalent, is added, in accordance with manufacturer's recommendations, to all asphalt delivered to the facility. (As modified by the Planning Commission on June 20, 2017)

This condition and product were recommended by an adjacent resident and agreed to by Teichert in 2017 and continues to be used. In discussions with adjacent property owners and during neighbor meetings, the neighbors previously stated that there is a unique smell associated with Ecosorb and that at times, it effectively reduces unpleasant odors. Even with the use of this product, Teichert continues to receive odor complaints, which appear to suggest that Ecosorb is not completely effective at eliminating the odor. Odor complaints are discussed in further detail in the "Complaints Received" section below. Due to the characteristics of this condition, staff cannot verify full compliance. Through past correspondence and discussions during the neighbor meetings, staff believes that Teichert has complied with this condition.

Condition of Approval #40: To help alleviate odor and fume effects from the asphalt batch plant and facility operations, the operator shall implement appropriate best management practices measures to the maximum extent possible. These measures shall be incorporated into the operations of the facilities and shall include but not be limited to the following:

- Scheduling asphalt plant operations to minimize the generation of odor and fumes.
- Avoidance, to the maximum extent possible, of asphalt production during early morning, evening, or periods of weather inversion.
- Utilization of the asphalt storage tanks to minimize the amount of nighttime asphalt production. (As modified by the Planning Commission on June 20, 2017)

This condition was proposed by Teichert as a best management practice approach to help minimize odor generated from asphalt production, storage, and transport. Due to the characteristics of this condition, staff cannot fully verify compliance. Staff met with Teichert representatives in November and it appears that the plant operates when required to do so for asphalt orders, regardless of timing, inversion or otherwise. Teichert did confirm that the storage tanks are used to minimize the amount of nighttime asphalt production.

Two additional best management practices were brought online for the 2020 mining season. A Blue Smoke filtration system was added to the asphalt plant. This system traps emissions which escape during truck loading, filters these emissions and reduces the odor upon release. In addition, Teichert relined all of the asphalt oil tanks for further emissions reduction. Though the Blue Smoke system and Ecosorb additive were used throughout the 2023 and 2024 mining seasons, the odor complaints persisted. The applicant states that they are utilizing all available odor management techniques.

Condition of Approval #42: The operator shall employ and use a water truck operator or other effective method as needed to control fugitive dust during non-operational days, including, but not limited to, days in which wind speeds are projected to exceed 25 mph. (As modified by the Planning Commission on June 20, 2017)

As previously mentioned, Teichert routinely relies on water trucks as a method of controlling fugitive dust. One complaint regarding dust was recorded over each operating season. Though staff cannot verify the use of water trucks, it is staff's opinion that Teichert is in substantial compliance with this condition.

Condition of Approval #43: Prior to the end of the 2017 operational season, on or before November 30, 2017, the operator shall, in coordination with a qualified noise consultant, conduct a noise audit of the facility to determine whether additional noise reduction measures may be feasibly implemented at the facility to ensure compliance with the Town of Truckee's noise standards. Such measures may include, but are not limited to:

- Site layout improvements to minimize the need to back up mobile equipment or trucks.
- The use of berms and/or sound walls to reduce transmission of noise from mining and processing to nearby residential uses.
- Modification of mining and/or processing equipment (i.e. jaw crusher, conveyor system, etc.) to reduce noise generation.
- Other feasible measures to reduce noise generation at the site.

Prior to December 31, 2017, the operator shall provide the Town of Truckee with a copy of a report that summarizes the noise audit and any additional measures recommended by the noise consultant to reduce noise generation or transmission from the facility and shall promptly implement all



recommended measures. (As modified by the Planning Commission on June 20, 2017)

In 2017, Teichert hired Bollard Noise Consultants to conduct a noise audit of the site and identify any possible measures that could further reduce noise emissions from the quarry. BAC conducted a site visit on September 12, 2017 and monitored noise at 23 specific locations. BAC identified that the Martis Valley Quarry has been in compliance with the Town's noise standards for numerous prior years. As part of the audit, BAC investigated further noise reduction for two pieces of equipment, the jaw crusher and the asphalt batch plant.

The jaw crusher generates the loudest noise volumes on-site, approximately 7-29dB louder than any other piece of equipment. Due to the size of the jaw crusher, a considerably larger localized noise barrier would be required adjacent to that equipment. However, the jaw crusher is already substantially shielded in the eastern and southern directions by stockpiles. Because there are no sensitive receptors located immediately west of the jaw crusher, this analysis concluded that a solid noise barrier erected as close as possible to the north side of the jaw crusher would likely result in a clearly noticeable decrease in jaw crusher sound levels at the nearest residences to the east and northeast. Such a barrier could take the form of a solid wall, suspended acoustic curtains, the stacking of shipping containers, or other materials which would essentially provide additional shielding of jaw crusher operations in the direction of the residences to the east and northeast. Staff previously raised aesthetic concerns on several of the potential noise barrier recommendations (e.g. stacking of shipping containers). It is important to note that the stockpiles were previously re-configured in areas of existing stockpiles and remain within the approved stockpile location area. For the 2020 operating season, the jaw crusher was relocated further from the residences. As required by Condition of Approval #43, Teichert previously re-configured the stockpile and it is currently functioning as the recommended noise barrier.

The other noise source which has been cited as a source of audibility and concern by some nearby residents is the rapid opening and closing of the asphalt plant batcher gates at the end of an asphalt production cycle. This procedure, which is required to clean the gates of asphalt at the end of each run, results in the creation of several consecutive impact sounds. Because the asphalt plant must periodically operate at night to satisfy the requirements of nighttime paving projects, this impulsive sound is sometimes generated during late night or early morning hours. The asphalt plant batcher gates are located at the top of the asphalt silos. As a result, the most logical approach for reducing noise generated by the gate cleaning process would be to suspend acoustic curtains as close as possible to those gates along the north, east and south sides. As required by Condition of Approval #43, Teichert previously installed the acoustic curtains. As indicated by the attached BAC noise audit, Teichert is in compliance with this condition and no further action is warranted at this time.

Condition of Approval #44: The operator shall develop, implement, and enforce a program to provide independent truck drivers accessing the facility with operational rules and best practices for minimizing noise generation. The operator shall inform the Town of the details of the program, and the program shall include signage and a handout to inform independent truck drivers the rules and practices of the facility. Such rules and practices shall include, but are not limited to:

- Prohibiting trucks from entering the facility prior to open.
- Limiting speeds to 15 mph on unpaved roads.
- Use of "squawkers," radar-based backup warning systems, or other OSHA- and MSHA-compliant backup warning systems in lieu of backup beepers during nighttime operations, i.e., 7 p.m. to 7 a.m.
- Avoiding unnecessary backing up. (As modified by the Planning Commission on June 20, 2017)

Teichert previously created a pamphlet identifying the rules and practices of the facility. The pamphlet is typically handed to drivers at the scalehouse prior to exiting the facility. In addition, Teichert has installed

on-site signage stipulating the above four bullet points listed within Condition of Approval #44. In addition, Teichert previously installed squawkers on all Teichert owned equipment so that their vehicles would not generate back up beeping noise when reversing. Squawkers are a low frequency broadband warning device used in lieu of back-up beepers. It is staff's opinion that Teichert is in compliance with this condition and no further action is warranted at this time.

### Complaints Received in 2023-2024

As required by Condition of Approval #34, Teichert maintains a log for complaints received either by phone call or e-mail and forwards the log to Town staff on a regular basis. In addition, Town staff also maintains a log for complaints made directly to the Town. Complaints were reduced in the 2023 and 2024 mining season as compared to the last two-year review period. During the 2023/2024 mining season, a total of 23 complaints were received, with three complaints surrounding dust and 20 complaints regarding the asphalt odor. No noise complaints were submitted. During the 2021 and 2022 mining seasons, the Town and Teichert identified 39 total complaints from nine households. Of these complaints, 35 were related to odor created during the operation of the quarry and asphalt plant, one regarding dust and three related to noise.. Below is a brief overview of each type of complaint received in 2021 and 2022.

#### *Odor*

During the five-year review process, Teichert agreed to several conditions intended to minimize odor effects from the asphalt batch plant. During the 2018 mining season, Teichert installed an infiltration system; utilized Ecosorb, a chemical additive intended for industrial odor control; and used a best management practice approach to minimize odors generated from the production, storage, and transport of asphalt. Teichert held a neighbor meeting on July 18, 2018 to learn if these measures had been effective. A few adjacent residents identified that they believed these measures had helped and some improvements had been made but maintained asphalt odor was still evident at times. Other residents stated that they felt no odor improvements had been made. In 2020, Teichert installed the Blue Smoke emissions capture system and relined the asphalt oil tanks. The Town has continued to receive odor complaints from residents on the ridge above the plant.

California Health and Safety Code Air Resources Section 41700 addresses odor emissions. Enforcement of these provisions are delegated to the California Air Resources Board (CARB) and the regional Air Quality Management Districts. Rule 205 of NSAQMD's regulations mirrors Section 41700, stating:

*A person shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons, or to the public, or which endanger the comfort, repose, health or safety of any such persons, or the public, or which cause to have a natural tendency to cause injury or damage to business or property. Exception: The provisions of Rule 205 do not apply to odors emanating from agriculture operations necessary for the growing of crops or raising of fowl or animals.*

Over the last seven years, staff collaborated with Teichert and Town residents to work towards a solution to address odors from the asphalt plant. Staff acknowledges that Teichert has taken steps to reduce odors, however, odor nuisance complaints persist. As NSAQMD is responsible for investigating stationary sources of odors, staff will continue to direct residents to contact NSAQMD and/or CARB to request that they investigate nuisance odors to determine if the asphalt plant is operating in compliance with California Health and Safety Code and NSAQMD's regulations. Staff notified NSAQMD of this change in 2023. As discussed earlier, the Town's purview is limited to ensuring that the Conditions of Approval are being met, and compliance with NSAQMD is one of those conditions. This change in complaint notification will help staff determine if the odor produced by the asphalt plant and experienced by the neighboring residents are in compliance with State regulations. Staff reached out to concerned residents to ask if they have notified NSAQMD of the odor issues and at time of writing of this staff report, no residents have confirmed contacting NSAQMD or CARB.

#### *Dust*

Three dust complaints were received during the 2023-2024 mining season. Dust suppression is required as part of Teichert's Conditional Use Permit and Permit to Operate. Dust created by the operation of the Martis Valley Quarry is specifically regulated by the NSAQMD. Staff believes that dust indicates a lack of compliance with the Dust Suppression Plan, however, with only three complaints, staff acknowledges that this situation may be isolated incidents and not be indicative of true non-compliance. Staff will encourage residents to report dust issues to NSAQMD for evaluation.

#### Request to Modify Condition of Approval #32/Project Amendment

With Teichert's biennial review submittal in 2023, Teichert included a request to return to the five-year review cycle rather than the recent biennial cycle imposed in 2020 and 2023 by the Commission. As discussed above, this timeframe was reduced in response to community concerns. Following the 2017 5-year review process, Teichert made several changes to their operational characteristics and many of these changes have largely been effective. Though persistent odor complaints remain, without an indication of a finding of nuisance odor or permit non-compliance by NSAQMD, staff does not have the required data to request changes to or revocation of the underlying Use Permit. Staff feels confident that the quarry becomes non-compliant with outside agency permitting and/or Conditions of Approval, the permit can be reviewed by the Planning Commission, regardless of the upcoming review date. Staff supports a change to a five-year review period, noting that staff will continue to monitor the quarry through the yearly SMARA inspection process and the review of submitted documentation from LRWQB and NSAQMD.

**Environmental Review:** Staff recommends that the Planning Commission find the project exempt from the California Environmental Quality Act (CEQA) Guidelines per Section 15061(b)(3) (General Rule Exemption).

**Public Communication:** Notice of the public hearing was published in the *Sierra Sun* on December 6, 2024 and mailed to property owners within 1500 feet of the project site, as listed on the current Nevada County Assessor Tax Roll. Notice of the public hearing was also emailed to a list of residents who have provided their email address to the Town when filing complaints about the quarry.

**Staff Summary and Recommendation:** While the original 1983 Conditional Use Permit identified that the Planning Commission may "add, delete or modify the conditions of approval," the judicial decisions issued since 1983 make it clear that the Planning Commission is limited with respect to imposing new or changed conditions it can unilaterally impose. In general, new or modified conditions can be required if the operation of the Martis Valley Quarry under the existing conditions is shown to be detrimental to public health, safety, or welfare. At a minimum, the Planning Commission would need to have substantial evidence of such detrimental impacts to support a decision to impose new or changed conditions. Water quality and air quality testing reports do not indicate conditions shown to be detrimental to public health, safety, or welfare. However, it is unknown if the odor emissions are detrimental to public health, safety, or welfare and staff hopes that by connecting the Air District with the neighboring residents, the District will have an opportunity to provide additional information on the Martis Valley Quarry odor emissions and how they relate to State Air Quality nuisance regulations.

As previously mentioned, staff supports a return to the five-year review period. Staff notes that odor and dust emissions from the Martis Valley Quarry are regulated under the California Health and Safety Code Air Resources Section and compliance and enforcement of these provisions lies with local Air Quality Districts, in this case, NSAQMD. Staff believes increased involvement of the NSAQMD with resident concerns will provide additional insight on compliance with NSAQMD permits and rules. If staff is notified that the odor is not compliant with state air quality laws, staff will request that the permit be reviewed prior to the end of the five-year period.

#### **Alternative Actions:**

Other actions that the Planning Commission may take as an alternative to the recommended action include:

1. Continue the public hearing to a date and time certain. The Planning Commission may request additional information from the applicant and/or staff. (If new information is presented at the next meeting, the public portion of the hearing must be reopened on the new information submitted.)
2. Deny the requested Project Amendment.

**Attachments:**

1. Draft Planning Commission Resolution 2024-16
2. 2022 and 2023 LRWQB Waste Discharge Permit Quarterly Monitoring Reports
3. 2023 and 2024 BAC Noise Monitoring Reports
4. 2018 Dust Suppression Plan
5. 2022 Source Test – NSAQMD (most recent test)