

1                   **BEFORE THE BOARD OF SUPERVISORS, COUNTY OF SAN BENITO**

2   A RESOLUTION OF THE SAN BENITO COUNTY BOARD       )   Resolution No. 2017-\_\_\_\_\_  
3   OF SUPERVISORS APPROVING A COMPATIBLE USE       )  
4   REQUEST ON AN AGRICULTURAL PRESERVE UNDER       )  
5   CONTRACT NUMBER 73-19 (MANNING FAMILY TRUST)    )  
6   TO REACTIVATE A QUARRY                               )

7   **WHEREAS**, Counties are authorized to establish agricultural preserves and to establish local  
8   procedures for creating, altering and terminating agricultural preserves, under the California Land  
9   Conservation Act (Cal. Government Code section 51200 et seq.); and

10   **WHEREAS**, the Board of Supervisors of the County of San Benito adopted an ordinance  
11   implementing the California Land Conservation Act in the County of San Benito, now codified in the  
12   San Benito County Code, title 19, chapter 19.01, article II, commencing with section 19.01.020; and

13   **WHEREAS**, certain compatible uses may be allowed on agricultural preserves, if Counties make  
14   findings set forth in Government Code section 51238.1 and San Benito County Code section  
15   19.01.023(F)(1); and

16   **WHEREAS**, County Code section 19.01.023 specifies categories of compatible uses allowed on  
17   agricultural preserves and required findings associated with compatible use requests, consistent with  
18   the requirements of Government Code section 51238.1; and

19   **WHEREAS**, County Code section 19.01.023(B)(1)(a) provides that the mining of minerals,  
20   petroleum products, rock, sand, gravel and clay, and the processing only of materials mined on-site,  
21   are deemed to be compatible uses; and

22   **WHEREAS**, Government Code section 51238.1(a) and County Code section 19.01.023(F) require  
23   that compatible uses be consistent with the following principles of compatibility:

- 24       1.     The use will not significantly compromise the long-term productive agricultural capability  
25       of the subject agricultural preserve or on other surrounding agricultural preserves;
- 26       2.     The use will not significantly displace or impair current or reasonably foreseeable  
27       agricultural operations on the subject agricultural preserve or on other surrounding  
28       agricultural preserves[,] [although] [u]ses that significantly displace agricultural  
operations on a portion of the subject agricultural preserve may be deemed compatible if  
they relate directly to the production of commercial agricultural products on the  
remaining portion of the agricultural preserve or on neighboring lands, including  
activities such as harvesting, processing or shipping;
3.     The use will not result in the significant removal of adjacent agricultural preserves from  
agricultural or open-space use; and

1 **WHEREAS**, County Code section 19.01.023(H) (criteria for non-prime land) and (I) (compatible  
2 uses; mineral extraction) and Government Code section 51238.2 provide that a use that does not  
3 conform to the principles of compatibility set forth in section 19.01.023(F) and Government Code  
4 section 51238.1 may nonetheless be approved as compatible if the Board of Supervisors is able to  
5 document that the underlying contractual commitment to preserve prime agricultural land or non-  
6 prime land for open-space will not be significantly impaired and if it approves the compatible use  
7 application conditionally with findings based on substantial evidence in the record, demonstrating the  
8 following:

1. Conditions have been required for, or incorporated into the use that mitigate or avoid those  
onsite and offsite impacts so as to make the use consistent with the principles set forth in  
[section] (F)(1) and (2) ... to the greatest extent possible while maintaining the purpose of the  
use;
2. The productive capability of the subject land has been considered as well as the extent to  
which the use may displace or impair agricultural operations;
3. The use is consistent with the purposes of ... article [II (Agricultural Preserves)] to preserve  
agricultural and open space land ... or the use and conservation of natural resources, on the  
subject agricultural preserve or on other surrounding agricultural preserves [and] the use of  
mineral resources shall comply with [section] (I) ...;
4. The use does not include a residential subdivision; and

13 **WHEREAS**, the owners of six (6) Assessor's Parcels comprising 545 acres of land under  
14 agricultural preserve, Contract Number 73-19, requested a compatible use determination to allow  
15 the reactivation of the old Nyland Quarry, which was active in the 1960's and 1970's, on  
approximately 25 acres of land, with grading of approximately seven (7) acres; and

16 **WHEREAS**, the Agricultural Preserve Advisory Committee considered the compatible use request,  
17 found it to meet the criteria of San Benito County Code section 19.01.023(B), (F), (H) and (I), and  
18 Government Code sections 51238.1 and 51238.2, and recommends that the Board of Supervisors  
approve the compatible use request; and

19 **WHEREAS**, the Board of Supervisors held a duly noticed public hearing to consider the revised  
20 compatible use request; and

21 **WHEREAS**, at the public hearing, the Board of Supervisors heard and received all oral and written  
22 testimony and evidence that was made, presented, or filed, and all persons present at the hearing  
23 were given ample opportunity to hear and be heard with respect to any matter related to the revised  
compatible use request; and

24 **WHEREAS**, at the conclusion of public testimony, the Board closed the public hearing, deliberated  
and considered the merits of the revised compatible use request.

25 **NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of the County of San  
26 Benito that it hereby finds that the proposed reactivation of a quarry on approximately 25 acres of  
27 land out of the 545 acre agricultural preserve, under Contract Number 73-19, approximately five  
percent (5%) of the total acreage, is a compatible use under San Benito County Code section  
28 19.01.023(B)(1)(a), because it involves the mining of natural resources identified in  
section 19.01.023(B)(1)(a); and

1 **BE IT FURTHER RESOLVED** by the Board of Supervisors of the County of San Benito that it  
2 hereby finds that the proposed reactivation of a quarry on approximately 25 acres of land out of the  
3 545 acre agricultural preserve, under Contract Number 73-19, approximately five percent (5%) of  
4 the total acreage, satisfies the following criteria of compatibility set forth in Government Code  
5 section 51238.1(a) and San Benito County Code section 19.01.023(F), except as specified below:

- 6 1. The proposed reactivation of a quarry on approximately 25 acres of land out of the 545  
7 acre agricultural preserve, approximately five percent (5%) of the total acreage, will not  
8 significantly compromise the long-term productive agricultural capability of the subject  
9 agricultural preserve or on other surrounding agricultural preserves;
- 10 2. The proposed reactivation of a quarry on approximately 25 acres of land out of the 545  
11 acre agricultural preserve, approximately five percent (5%) of the total acreage, will not  
12 significantly displace or impair current or reasonably foreseeable agricultural operations  
13 on the subject agricultural preserve or on other surrounding agricultural preserves, but it  
14 will significantly impair or displace agricultural operations on the 25-acre portion of the  
15 agricultural preserve; and
- 16 3. The proposed reactivation of a quarry on approximately 25 acres of land out of the 545  
17 acre agricultural preserve, approximately five percent (5%) of the total acreage, will not  
18 result in the removal of adjacent agricultural preserves from agricultural or open-space  
19 use.

20 **BE IT FURTHER RESOLVED** by the Board of Supervisors of the County of San Benito that it  
21 hereby finds that the proposed reactivation of a quarry on approximately 25 acres of land out of the  
22 545 acre agricultural preserve, under Contract Number 73-19, approximately five percent (5%) of  
23 the total acreage, will not significantly impair the underlying contractual commitment to preserve  
24 prime agricultural land or non-prime land for open-space is approved with the following findings and  
25 conditions of approval, consistent with San Benito County Code section 19.01.023(H) and (I) and  
26 Government Code section 51238.2:

- 27 1. Conditions will be required for, or incorporated into the use that mitigate or avoid onsite and  
28 offsite impacts so as to make the use consistent with the principles set forth in County Code  
section 19.01.023(F) to the greatest extent possible while maintaining the purpose of the use;
2. The productive capability of the subject land has been considered as well as the extent to  
which the use may displace or impair agricultural operations;
3. The use is consistent with the purposes of article II (Agricultural Preserves) of the San Benito  
County Code, to preserve agricultural and open space land and the use and conservation of  
natural resources, on the subject agricultural preserve or on other surrounding agricultural  
preserves and the use of mineral resources shall comply with section 19.01.023(I); and
4. The use does not include a residential subdivision.

1 **BE IT FURTHER RESOLVED** by the Board of Supervisors of the County of San Benito that it  
2 hereby approves the requested compatible use of land in an agricultural preserve, under Contract  
3 Number 73-19, based on its findings and determinations and conditions of approval set forth above,  
4 and supported by substantial evidence in the record, and the Agricultural Preserve Advisory  
5 Committee's recommendation.

PASSED AND ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO THIS 21<sup>st</sup> DAY OF FEBRUARY, 2017 BY THE FOLLOWING VOTE:

Ayes: Supervisor(s):  
Noes: Supervisor(s):  
Absent: Supervisor(s):  
Abstain: Supervisor(s)

By: \_\_\_\_\_  
Jaime De La Cruz, Chair

**ATTEST:**  
Chase Graves, Clerk of the Board

**APPROVED AS TO LEGAL FORM:**  
San Benito County Counsel's Office

By: \_\_\_\_\_

By: Shirley L. Murphy  
Shirley L. Murphy, Deputy County Counsel

Date: \_\_\_\_\_

Date: Feb. 14, 2017