

Appendix A

Scoping Report

PERMANENTE CREEK RESTORATION PROJECT

Scoping Report
File No. PLN17-2250

Prepared for
County of Santa Clara
Department of Planning and
Development

July 2021



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TABLE OF CONTENTS

Permanente Creek Restoration Project Scoping Report

	<u>Page</u>
1. Introduction	1
2. Description of the Project	2
Project Summary	2
Project Location	2
3. Opportunities for Public Comment	4
Notification	4
Public Scoping Meeting	4
4. Summary of Scoping Comments	5
Air Quality	5
Biological Resources	5
Cultural and Tribal Cultural Resources	6
Hydrology and Water Quality	7
Mineral Resources	7
Other Topics	8

Exhibits

A. Notice of Preparation and Mailing List	A-1
B. Electronic Access.....	B-1
C. Newspaper Notification	C-1
D. Public Scoping Meeting Presentation	D-1
E. Scoping Comment Letters	E-1

List of Figures

Figure 1 Project Overview.....	3
--------------------------------	---

List of Tables

Table 1 Parties Submitting Comments During the Permanente Creek Restoration Project SEIR Scoping Process	5
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SCOPING REPORT

Permanente Creek Restoration Project

1. Introduction

This report provides an overview of the comments received by the Santa Clara County Planning Department (County) during the public scoping period for the Supplemental Environmental Impact Report (SEIR) to the 2012 Lehigh Permanente Quarry Reclamation Plan Amendment EIR that the County is preparing for the Permanente Creek Restoration Plan (PCRP), File No PLN17-2250.¹

CEQA Guidelines Section 15083 provides that a “Lead Agency may...consult directly with any person... it believes will be concerned with the environmental effects of the project.” Scoping is the process of early consultation with affected agencies and the public prior to completion of a Draft EIR. Section 15083(a) states that scoping can be “helpful to agencies in identifying the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in an EIR and in eliminating from detailed study issues found not to be important.” Scoping is an effective way to bring together and consider the concerns of affected State, regional, and local agencies, the project proponent, and other interested persons (CEQA Guidelines §15083(b)). Scoping is not conducted to resolve differences concerning the merits of a project or to anticipate the ultimate decision on a proposal. Rather, the purpose of scoping is to determine the scope of information and analysis to be included in an EIR and, thereby, to ensure that an appropriately comprehensive and focused EIR will be prepared that provides a firm basis for informed decision-making. Comments not within the scope of CEQA will not be addressed through the CEQA process.

This report is intended for use by the County in preparing the SEIR as formal documentation of initial input received from governmental agencies, the public, and other stakeholders regarding the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the SEIR. It also provides access for other agencies and members of the public to review comments received during the scoping period.

¹ The County of Santa Clara Planning Office is the lead agency pursuant to the California Environmental Quality Act (CEQA) for the preparation of an SEIR for the Project.

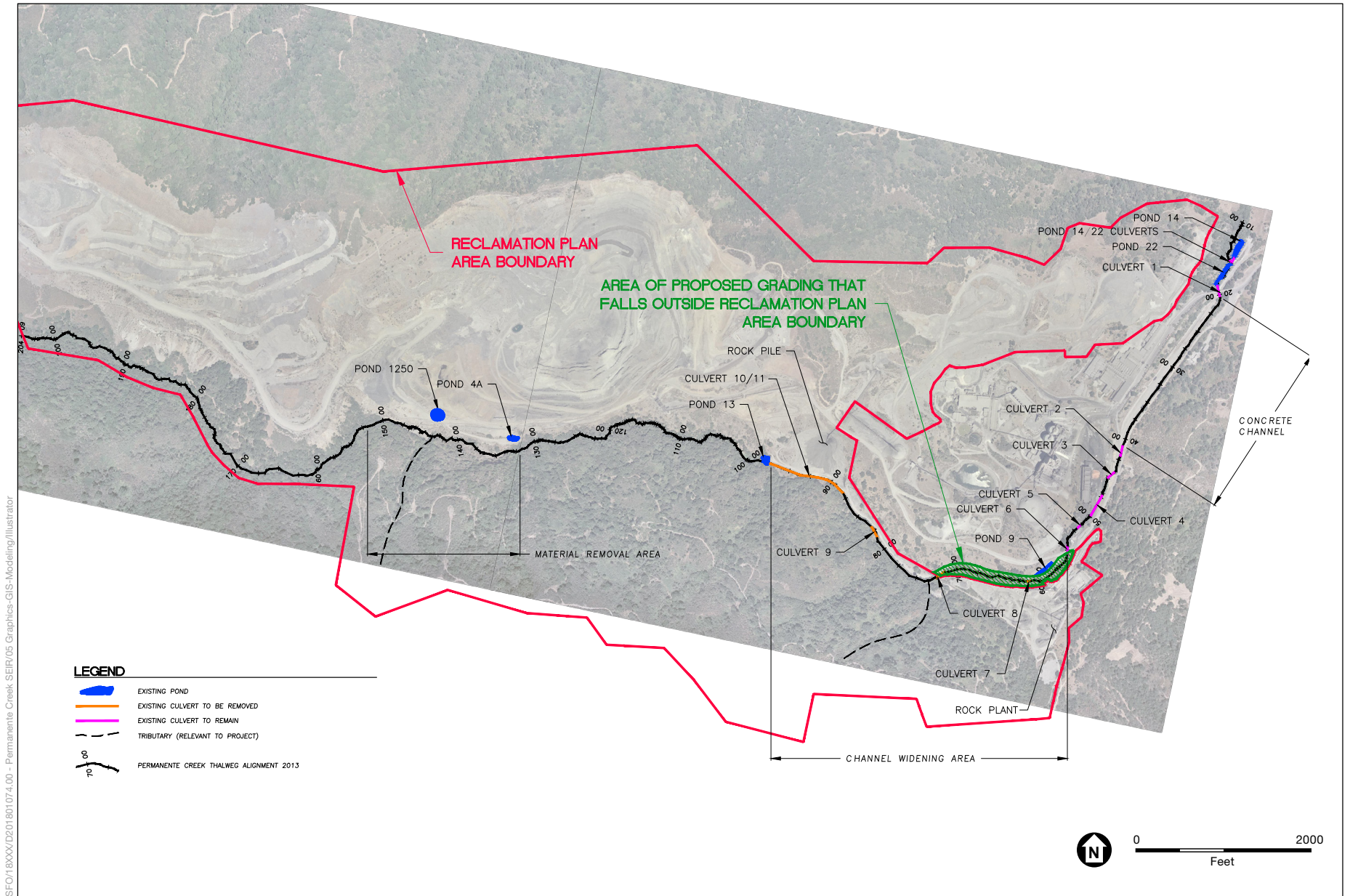
2. Description of the Project

Project Summary

The PCRP would restore and modify specific segments of Permanente Creek located within and outside of the existing reclamation plan boundary for the Lehigh Permanente Quarry. In accordance with a Cleanup and Abatement Order issued by the San Francisco Bay Regional Water Quality Control Board (RWQCB) (RWQCB Order No. 99-018), RWQCB and Lehigh spent a number of years developing the scope of a Permanente Creek restoration plan. Ultimately, the agreed upon terms of the Permanente Creek restoration plan were included in an Amended Consent Decree (Consent Decree) between the Sierra Club and Lehigh, entered by the U.S. District Court, Northern District, on May 11, 2016. The Consent Decree identified reach-specific and site-specific restoration recommendations, identified optional restoration design alternatives, contained implementation schedules, and updated prior reports submitted to the RWQCB based on more recent field reconnaissance. It focused on the long-term removal of structures in and adjacent to the creek and the restoration of the creek's riparian zone. Some of the activities that would occur under the Consent Decree overlapped with the activities analyzed in the 2012 Lehigh Permanente Quarry Reclamation Plan Amendment EIR; others would occur outside the existing reclamation plan boundary.

Project Location

The Lehigh Southwest Cement Company (Lehigh) owns and operates two adjacent facilities located in the Santa Clara County foothills west of the City of Cupertino in an unincorporated area of Santa Clara County: Permanente Quarry and the Lehigh Cement Plant. These facilities are located along the east branch of Permanente Creek within the Permanente Creek watershed (**Figure 1**). Permanente Creek's main channel is approximately 13.1 miles long, with its headwaters rising on the southeast side of Black Mountain approximately 0.6-mile west of the western boundary of Lehigh's property. Approximately 4.2 miles of Permanente Creek traverse Lehigh's property, and includes portions of the creek that have been re-aligned into a straight channel or placed in underground culverts through the cities of Los Altos and Mountain View and discharges into the San Francisco Bay through the Mountain View Slough or Stevens Creek and the Whisman Slough via the Permanente Creek Diversion Channel. The area evaluated in the 2012 EIR included a 49.2-acre area of disturbance along Permanente Creek and the adjacent hillsides that had been affected by mining activities, erosion events, and activities to control erosion in that area. The PCRP would restore the streambed, banks, and floodplain along an approximately 3.7-mile extent of the portion of Permanente Creek within Lehigh's ownership, partly within and partly outside of the area analyzed in the 2012 EIR.



SFO18XXX/D201801074.00 - Permanente Creek SER/05 Graphics-GIS-Modeling/Illustrator

SOURCE: Waterways Consulting, Inc., Permanente Creek Restoration Plan 90% Level Submittal Design Basis Technical Memorandum, October 31, 2019.

Permanente Creek Restoration Project Grading Approval Notice of Preparation

Figure 1
Project Overview



3. Opportunities for Public Comment

Notification

On April 13, 2021, the County published and distributed a Notice of Preparation (NOP) to advise interested local, regional, state, and federal agencies, as well as the public, that an SEIR would be prepared for the project. The NOP also was emailed to recipients on the “Lehigh interested parties” list. The NOP, a copy of the email notification, and the email list are provided in **Exhibit A**, *Notice of Preparation*.

Additionally, an electronic copy of the NOP was posted on the County’s website at: <https://www.sccgov.org/sites/dpd/Programs/SMARA/PermanenteQuarry/Pages/PermanenteCreekRestoration.aspx>. The NOP solicited comments on the scope and content of the SEIR. Agencies and members of the public were encouraged to submit their comments to the County by U.S. mail or e-mail. Screenshots of the County’s website showing the NOP are provided in **Exhibit B**, *Electronic Access*.

In addition to the NOP, the County notified the public about the public scoping meeting through a newspaper legal advertisement published in the Cupertino Courier on April 23, 2021. The legal notice is provided in **Exhibit C**, *Newspaper Notification*. The notification provided basic project information, the date, time, and participation information for a virtual public scoping meeting, and a brief explanation of the public scoping process.

Public Scoping Meeting

The County conducted a virtual public scoping meeting on Thursday, April 29, 2021, that was scheduled from 6 p.m. to 8 p.m. The presentation (**Exhibit D**) included an overview of the project, the environmental review process, and public participation instructions.

A total of 24 people participated in or attended the scoping meeting. Panelists included: Robert Salisbury and Manira Sandhir of Santa Clara County Department of Planning and Development; Claudia Garcia of Ascent Environmental, planning consultant to the County; and Janna Scott of Environmental Science Associates (ESA), CEQA consultant to the County. Erika Guerra of Lehigh Southwest Cement Company presented an overview of the project. Three members of the public and a representative from the Midpeninsula Regional Open Space District spoke at the scoping meeting. A summary of the comments and related discussion is included in Exhibit D. Briefly, commenters had questions regarding the interaction of the proposed project with the Yaeger Yard area; biological resources relating to changes since the 2012 EIR; and the potential for air quality and associated health impacts.

4. Summary of Scoping Comments

All scoping comments received on or before end of the scoping period are documented in this Scoping Report and will be considered in the SEIR. Nine comment letters were received during the scoping period. Table 1 lists the names of commenting parties in the order in which the comments were received. The County has reviewed and relied upon the full text of the comment letters in preparing the SEIR; summaries of the environmental issues raised are provided below for ease in review by other agencies and members of the public. The letters are provided in **Exhibit E, Scoping Letters**.

**TABLE 1
PARTIES SUBMITTING COMMENTS DURING
THE PERMANENTE CREEK RESTORATION PROJECT SEIR SCOPING PROCESS**

Name	Organization/Affiliation	Letter ID	Date
Written Comments			
Susan Murphy	None	A	April 13, 2021
Nancy Gonzalez-Lopez, Cultural Resources Analyst	Native American Heritage Commission	B	April 14, 2021
Jeremy Loh, Assistant Planner	Town of Los Altos Hills	C	May 6, 2021
Carol E. Atkins, Manager, Environmental Services Unit	California Department of Conservation, Division of Mine Reclamation	D	May 7, 2021
Libby Lucas	None	E	May 10, 2021
Aaron Hebert, Senior Resource Management Specialist	Midpeninsula Regional Open Space District	F	May 10, 2021
Katja Irvin	Sierra Club	G	May 10, 2021
Gregg Erickson, Regional Manager, Bay Delta Region	California Department of Fish and Wildlife	H	May 13, 2021
Shree Dharasker, Associate Engineer	Santa Clara Valley Water District	I	May 14, 2021

Scoping input received by the County identifies potential impacts in the areas summarized below:

Air Quality

Input regarding the project's potential impact on air quality was submitted by the Town of Los Altos Hills (Letter C) and by a member of the public (Letter A). Emissions from both trucks serving the project site and the facility itself were described as contributing to asthma and other health concerns, especially for children.

Biological Resources

Letter H, from the California Department of Fish and Wildlife (CDFW), states that CDFW engineering staff provided comments on the revised 90% engineering designs and determined that implementation of the project could potentially result in post-construction instability of the creek bed and bank, which could result in impacts to the sensitive riparian community and special-

status species habitat. A long-term post-construction monitoring and adaptive management plan should be developed and described in the SEIR.

CDFW recommends that analysis of riparian vegetation impacts include trees less than 12-inches in diameter, or based on area calculations for seedlings, saplings, and understory vegetation, as smaller trees are important to riparian vegetation structural complexity and habitat succession. Removal of approximately 30 larger trees as indicated in the 90% design plans also could impact special-status and sensitive bat species (e.g., Pallid bat and Hoary bat).

Other input provided suggests that the SEIR should discuss design modifications or alternate outfall sites (specifically in regard to Pond 1250) to ensure the project does not adversely impact aquatic and riparian habitats or special-status species (e.g., California giant salamander and California red-legged frog) resulting from direct or indirect changes in the creek hydrology.

CDFW recommends the SEIR should include focused species and nesting bird surveys; nest buffers; and avoidance, minimization, and mitigation measures, to reduce potential impacts to special-status species to less-than-significant levels. In order to avoid impacts to rare plant species, CDFW recommends the SEIR include a special-status plant habitat assessment, focused plant surveys, and plant avoidance measures.

The Midpeninsula Regional Open Space District (Letter F) notes that the 2012 EIR relied on the inclusion of Applicant Proposed Measures in the Final EIR or the Project Description to reduce impacts to California red-legged frog and other species to less-than-significant levels, which may conflict with the subsequent decision in *Lotus v. Department of Transportation* (2014). The letter further indicates that new information regarding California red-legged frog (and other species such as mountain lions) that was not available at publication of the 2012 FEIR should be incorporated into the SEIR analyses. The District noted that special-status plant surveys should be updated from the 2012 EIR and that mitigation should include periodic surveys to address potential for plant establishment over the duration of the project. The District also suggests the SEIR should consider potential impacts to any Sensitive Natural Communities as defined by NatureServe's Heritage Methodology, which is the same system used to assign global and state rarity ranks for plant and animal species in the California Natural Diversity Database.

A member of the public (Letter E) suggests the SEIR include establishment of a native plant nursery that only uses plants from the watershed, and prohibition of the use of chemicals for weed suppression. The commenter questions whether current protocols are being followed regarding the gathering of seeds of oaks and other preferred trees in preparation for initiation of the Permanente Creek Restoration Plan.

Cultural and Tribal Cultural Resources

The Native American Heritage Commission (NAHC) (Letter B) references the CEQA Guidelines sections that are applicable to potential impacts to historical resources as well as the requirements of Assembly Bill 52 (AB 52) and Senate Bill 18 (SB 18) pertaining to tribal cultural resources. The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of the proposed project as early as possible in order to

avoid inadvertent discoveries of Native American human remains and to best protect tribal cultural resources. Summaries of the requirements of AB 52 and SB 18 are provided as well as NAHC recommendations for cultural resources assessments.

The Midpeninsula Regional Open Space District (Letter F) states that a qualified archaeologist should review the excavation work through the Phase II analysis and discuss findings with the State Historic Preservation Officer (SHPO). If an archaeologist and SHPO has already been consulted pursuant to Section 106, then the appropriate measures can be borrowed.

A letter from a private citizen (Letter E) indicates that an Ohlone Indian village has been unearthed just downstream by the Santa Clara Valley Water District. Therefore, the species of wetlands vegetation selected for reaches of Permanente Creek should reflect Native American-era plants conducive to supporting resident trout and California red-legged frog. Specifically, the establishment of tule in Reach #6 should be encouraged. A special pallet of wetlands vegetation could be temporarily grown in ponds adjacent to reaches of the creek where they could be used for restoration efforts. The commenter stressed the importance of a restoration plan reflecting Ohlone Indian occupation of Upper Permanente Creek for centuries, including a trail that Ohlone used to reach Monte Bello Ridge and the Pacific Ocean.

Hydrology and Water Quality

The Town of Los Altos Hills (Letter C) states that the SEIR should include detailed and specific mitigation measures for the restoration and demolition activities so that pollutants and sediments are not released into the creek, and that the activities be limited to dry months to further reduce potential impacts on water quality. Potential impacts beyond the Reclamation Plan Area should be identified, with particular focus on potential downstream impacts.

Letter I from the Santa Clara Valley Water District states that any changes to the hydrology/hydraulics of the proposed restored channel should not result in impacts to the Permanente Flood Protection Project, particularly as it pertains to the functioning of the San Antonio detention basins. Furthermore, any increase in the 100-year flows and volumes due to the proposed improvements must be mitigated to pre-improvement conditions.

A member of the public (Letter E) expressed concern with haul roads and impacts on the creek and the Yeager Yard landslide. Concern also was expressed regarding the stability of mining waste and potential effects on the watershed.

Mineral Resources

The California Department of Conservation, Division of Mine Reclamation (Letter D), stated that its primary focus is on active surface mining operations, but the Division also addresses issues related to abandoned legacy mines and has review responsibilities associated with lead agency implementation of the Surface Mining and Reclamation Act of 1975 (SMARA). Staff had no specific comments on the proposed project at this time.

Other Topics

Project Description

CDFW (Letter H) states that the project description in the NOP does not discuss the nexus of the proposed project to the proposed amendments to the Lehigh Permanente Quarry Reclamation Plan dated May 2019. CDFW recommends that the SEIR discuss the association between the project and the Reclamation Plan and explain whether the project will be further described and analyzed in any future CEQA documentation for the Reclamation Plan.

The Sierra Club (Letter G) states that the NOP project description should be revised to indicate that the provisions of the 2016 Amended Consent Decree, particularly paragraphs 33 through 42, reflect mandatory, minimum restoration duties imposed on Lehigh and are therefore necessary minimum elements of any “Project Description” applicable to the SEIR. For each activity in the Project Description, the SEIR should describe in detail and by reach which actions and impacts are covered in the 2012 Lehigh Permanente Quarry Reclamation Plan Amendment EIR and identify sections and page numbers for easy reference. Trees should only be removed if necessary to secure the long-term restoration of the creek, and to the extent native trees are removed, they should be replaced with 15-gallon trees at appropriate ratios rather than 24-inch box trees.

Alternatives

The Sierra Club states that alternatives to the restoration requirements in the Consent Decree that entail additional costs are still enforceable as restoration requirements if they fit within the cost escalation values in Decree paragraph 49.

EXHIBIT A

Notice of Preparation and Mailing List

County of Santa Clara
Department of Planning and Development
County Government Center, East Wing
70 West Hedding Street, 7th Floor
San Jose, California 95110



**NOTICE OF PREPARATION OF A
SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT
FOR THE
PERMANENTE CREEK RESTORATION PROJECT**

Project Applicant: Lehigh Southwest Cement Company and Hanson Permanente Cement Inc.
File Number: PLN17-2250
Application For: Grading Approval

The County of Santa Clara (“County”) will be the Lead Agency and will prepare a Supplemental Environmental Impact Report (SEIR) to the 2012 Lehigh Permanente Quarry Reclamation Plan Amendment EIR for the Permanente Creek Restoration Project (“PCRP” or “project”). The County requests your input on the scope and content of the environmental information to be included in the SEIR that is germane to your agency’s statutory responsibilities in connection with the proposed project. A brief description of the project, its site boundary, and a summary of the potential environmental effects are provided on the following pages. Approval of the project will require actions by the County of Santa Clara, including the preparation and certification of an SEIR and a Grading Approval. The SEIR also may be used by your agency when considering approvals for the project.

A Public Scoping/Community Meeting to solicit comments for the Notice of Preparation will be held virtually via Zoom (<https://sccgov-org.zoom.us/j/92372836537>) on **Thursday, April 29, 2021, from 6:00 p.m. to 8:00 p.m.** The deadline for your response is Monday, May 10, 2021 at 5:00 p.m.; however, an earlier response, if possible, would be appreciated. Please send your response to:

County of Santa Clara Planning Office
Attention: Robert Salisbury
County Government Center
70 West Hedding, 7th Floor, East Wing, San Jose CA 95110
E-mail: Robert.Salisbury@pln.sccgov.org

Prepared by:
Robert Salisbury, Senior Planner

DocuSigned by:
Robert Salisbury
C140DFC4F748456...
Signature

April 12, 2021
Date

Approved by:
Manira Sandhir
Principal Planner, AICP

DocuSigned by:
Manira Sandhir
6BD23CC8C7554B3...
Signature

April 12, 2021
Date

Introduction

As the lead agency, the County plans to analyze the potential environmental impacts associated with a Grading Approval application submitted by Lehigh Southwest Cement Company (Lehigh) for the PCRPP pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code §21000 et seq.) and its implementing regulations, the CEQA Guidelines (14 Cal. Code Regs. Section 15000 et seq.). The PCRPP would restore and modify specific segments of Permanente Creek located within and outside of the existing reclamation plan boundary for the Lehigh Permanente Quarry. The entirety of the project will be evaluated in the SEIR.

A lead agency may choose to prepare a supplement to an existing environmental impact report (EIR) if any of the conditions described in CEQA Guidelines Section 15162 would require the preparation of a subsequent EIR, and if only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation. The County evaluated the impacts of the PCRPP within seven subareas collectively identified as the Permanente Creek Restoration Area (PCRA) in the 2012 EIR. Lehigh now proposes to implement the PCRPP with the modifications described below relative to the original description of the work as provided in the 2012 EIR.

Project Location

Hanson Permanente Cement, Inc. owns, and Lehigh Southwest Cement Company operates (hereinafter, jointly, referred to as “Lehigh”) the Permanente Quarry in the County foothills west of the City of Cupertino. The Quarry is located along the East Branch of Permanente Creek within the Permanente Creek watershed (**Figure 1**). Permanente Creek’s main channel is approximately 13.1 miles long. Its headwaters rise on the southeast side of Black Mountain. Approximately 4.2 miles of Permanente Creek traverse Lehigh’s property before flowing through the cities of Los Altos and Mountain View and discharging into the South San Francisco Bay through the Mountain View Slough or Stevens Creek through the Stevens Creek Diversion Channel. The area evaluated in the 2012 EIR included a 25.9-acre area of disturbance along Permanente Creek and the adjacent hillsides referred to in the EIR as the PCRA. The PCRA had been affected by mining activities, erosion events, and activities to control erosion in that area. The PCRPP would restore the streambed, banks, and floodplain along an approximately 3.7-mile extent of the portion of Permanente Creek within Lehigh’s ownership.

Project Description

In accordance with a Cleanup and Abatement Order issued by the San Francisco Bay Regional Water Quality Control Board (RWQCB) (RWQCB Order No. 99-018), RWQCB and Lehigh staffs spent a number of years developing the scope of a Permanente Creek restoration plan. Ultimately, the agreed upon terms of the Permanente Creek restoration plan were included in an Amended Consent Decree (Decree) between the Sierra Club and Lehigh, entered by the U.S. District Court, Northern District, on May 11, 2016 (with an updated Exhibit D entered on May 18, 2016) (2016 Creek Restoration Plan). The 2016 Creek Restoration Plan identified reach-specific and site-specific restoration recommendations, identified optional restoration design alternatives, contained implementation schedules, and updated prior reports submitted to the RWQCB based on more recent field reconnaissance. It focused on the long-term removal of structures in and adjacent to the creek and the restoration of the creek’s riparian zone. Some of the activities that would occur under the 2016 Creek Restoration Plan overlapped with the activities analyzed in the 2012 EIR. Where that was true, the 2012 EIR described and analyzed the associated environmental effects as direct and indirect impacts of the project under consideration. Where there was no overlap, the 2012 EIR described and analyzed the impacts of the Creek Restoration Plan as part of the cumulative scenario.

The proposed creek restoration activities are reflected in the current PCRCP, including the following major project components:

Concrete Channel (Reach 6)

- Encourage development of mature riparian canopy along the southern bank to shade the concrete channel to reduce solar heat gain on instream flow and discourage the establishment of tules;
- Preservation of existing native vegetation;
- Removal of non-native species and suppression of weeds around existing native seedlings and smaller native plants to encourage their establishment; and
- Installation of native vegetation.

Channel Widening Area (Reaches 8-10)

- Removal of concrete road segments;
- Construction of floodplain bench areas with habitat elements and reduction of access road width;
- Removal of 260 linear feet of culverts, including a road crossing, and daylighting the creek to improve fish passage conditions and ecological complexity;
- Installation of large woody debris (LWD) at the Culvert 7 and Culvert 8 removal sites.
- Removal of old tractor tires along streambanks at a culvert removal site;
- Removal of imported sediment from the bed and banks of a tributary reach;
- Select removal of rock slope protection (RSP) and concrete rubble bank protection at an area that now has adequate mature riparian vegetation that is providing root reinforcement to bank soils;
- Removal of the idled Rock Plant conveyor system and associated infrastructure; and
- Installation of native vegetation.

Rock Pile Area (Reaches 11 through 13)

- Removal of concrete road segment and road-related fill material;
- Removal of 930 linear feet of culverts and daylighting of the creek that would help improve fish passage conditions and ecological complexity;
- Construction of a new channel with floodplain bench areas with habitat elements that would help improve fish passage conditions and ecological complexity;
- Removal of Rock Pile and idled Rock Plant conveyor system and associated infrastructure;
- Removal of Pond 13 dam infrastructure;
- Construction of a restored channel through abandoned Pond 13; and
- Installation of native vegetation.

“Old Crusher Foundation” (Reach 17)

- Cutting back the concrete block that is projecting into the channel to better conform to the natural creek bank.

Material Removal Area (Reaches 17 and 18)

- Removal of overburden/fill and a relic concrete structure, and moving the north toe of slope northward, in accordance with the Decree, to retain Pond 4A in its current location;
- Construction of a new channel with floodplain bench areas with habitat elements that would help improve fish passage conditions and ecological complexity, and
- Installation of native vegetation.

Required Project Approvals

In addition to County certification of an SEIR and issuance of Grading Approval, the project would require authorizations from the RWQCB, including Clean Water Act Section 401 certification and waste discharge requirements; the California Department of Fish and Wildlife (“CDFW”), including a Fish & Game Code Section 1602 Streambed Alteration Agreement; U.S. Fish and Wildlife Service (“USFWS”), including Endangered Species Act Section 7 consultation regarding the California red legged frog or other relevant species; and the U.S. Army Corps of Engineers (the “Corps”), including a nationwide Section 404 permit.

Potential Environmental Effects of the Project

An electronic copy of the 2012 EIR is available online:

https://www.sccgov.org/sites/dpd/DocsForms/Documents/Lehigh_DEIR_201112.pdf. The 2012 EIR retains informational value, and only minor additions or changes would be necessary to make the 2012 EIR adequately apply to the PCRCP as modified. Therefore, the County will prepare a supplement to the 2012 EIR (SEIR).

Pursuant to CEQA Guidelines Section 15163, the SEIR need only contain the information necessary to analyze the project modifications, changed circumstances, or new information that triggered the need for additional environmental review. The purpose of an SEIR is to explore environmental impacts that were not considered in the original environmental document. That the project has changed is not an occasion to revisit environmental concerns addressed in the original analysis - only the changed circumstances are at issue. Therefore, the SEIR will evaluate only those geographic areas that were not analyzed as part of the 2012 EIR and those environmental resource areas in which modifications to the PCRCP could cause new or more severe significant impacts relative to those analyzed in the 2012 EIR. Aspects of the PCRCP that were known at the time of the 2012 EIR are not subject to reconsideration, and the SEIR will not reconsider impacts that were approved as part of the certification of the 2012 EIR.¹

Although all of the environmental considerations in the CEQA Guidelines Appendix G checklist will be considered, the SEIR is expected to focus on the following specific environmental topics:

- **Air Quality** – The air quality analysis presented in the SEIR will present applicable air quality conditions and air-pollutant sensitive land uses or activities in the vicinity of the project area and determine whether the PCRCP, as revised, has the potential to result in a new or more significant air quality impact than disclosed in the 2012 EIR. The County will prepare an Air Quality and Greenhouse Gas Emissions Technical Study and will seek input from the Bay Area Air Quality Management District (BAAQMD) as part of the SEIR process.
- **Biological Resources** – The SEIR will present information on applicable biological resources in the project area, including special-status wildlife and plant species, natural communities, and wetlands; describe impact conclusions of the 2012 EIR; and evaluate potential for the PCRCP, as modified, to result in a new or more significant impact to biological resources than disclosed in the 2012 EIR. The County will seek input from CDFW and USFWS as part of this effort.
- **Cultural Resources** – The SEIR will present relevant cultural resources information, including data from a cultural resources inventory and evaluation report, and will assess the potential for the PCRCP, as revised, to result in a new or more significant impact to historical resources, archaeological and unique

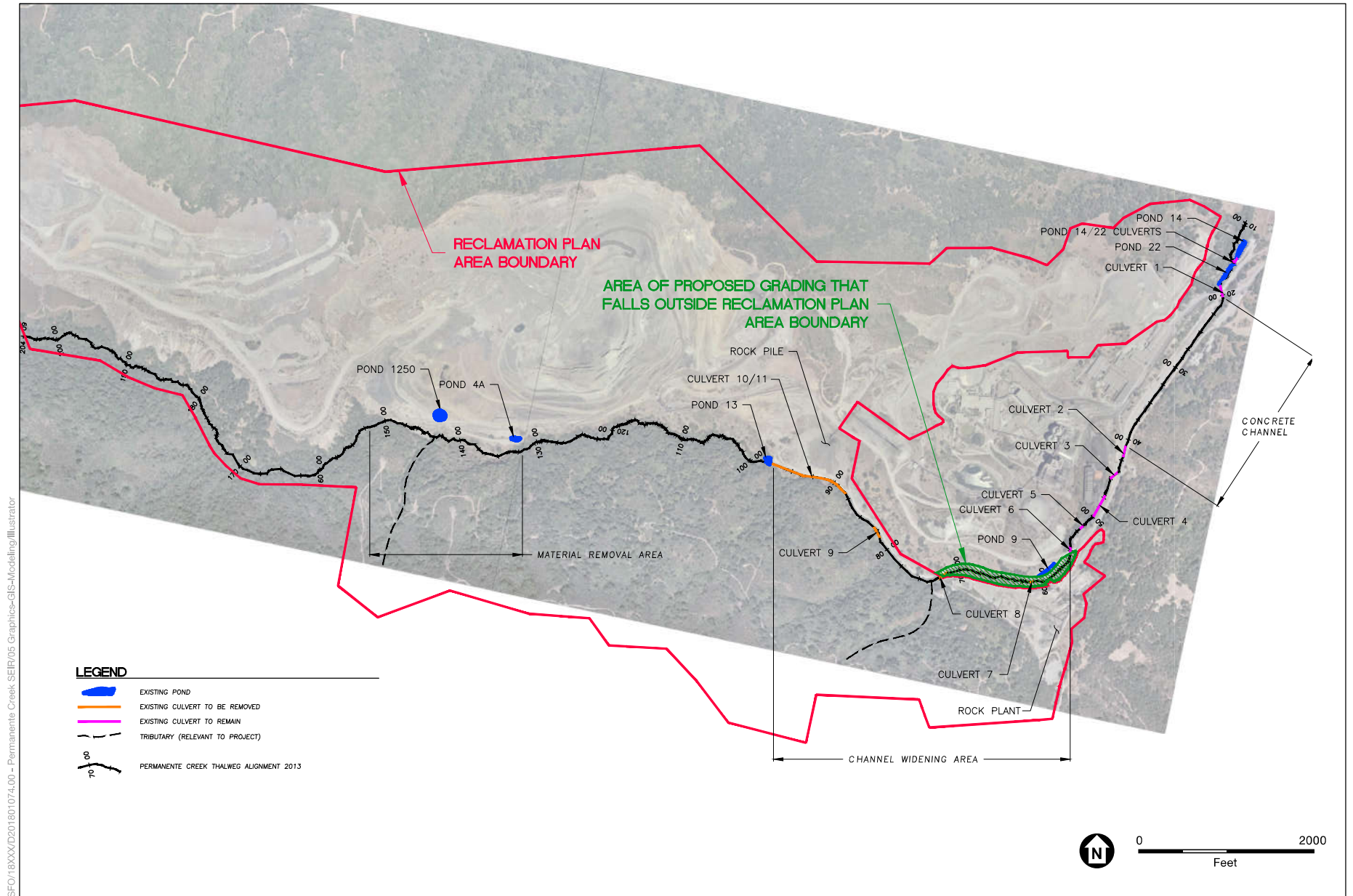
¹ Focusing the scope of the SEIR in this way is consistent with CEQA. See, for example, *City of Irvine v. County of Orange* (2015) 238 Cal.App.4th 526, 539, and the California Supreme court’s decision in *Friends of the College of San Mateo Gardens v. San Mateo County Community College District* (2016) 1 Cal.5th 937, 949.

paleontological resources, tribal cultural resources, or potential disturbance of human remains than disclosed in the 2012 EIR.

- **Energy Conservation** – The SEIR will evaluate the potential energy impacts of operation, construction, and transportation of the PCRCP, as revised, to determine whether they could result in a new or more significant impact to energy than disclosed in the 2012 EIR.
- **Geology and Soils** – The SEIR will present relevant information on the geology and geomorphology of Permanente Creek and will evaluate the potential for the PCRCP, as revised, to result in a new or more significant impact to geology and soils than disclosed in the 2012 EIR.
- **Greenhouse Gas Emissions** – The SEIR will report greenhouse gas (GHG) emissions associated with the PCRCP, as revised, and will assess whether changes in the project that have been made since the 2012 EIR could cause a new or more significant impact relating to GHG emissions. The County will prepare an Air Quality and Greenhouse Gas Emissions Technical Study and will seek input from BAAQMD as part of the SEIR process.
- **Hydrology and Water Quality** – The SEIR will generally describe hydrology and water quality conditions in and around Permanente Creek in the project area and will evaluate the potential for the PCRCP, as revised, to result in a new or more significant impact to hydrology and water quality than disclosed in the 2012 EIR. The County will seek input from the RWQCB, the Corps, and the Santa Clara Valley Water District as part of this effort.
- **Cumulative Impacts** – To the extent the SEIR identifies any new or more significant impact than disclosed in the 2012 EIR, the SEIR will evaluate, on an issue-by-issue basis, the potential for the incremental change caused by the PCRCP, as revised, to cause or contribute to new or more significant cumulative effects.
- **Alternatives.** CEQA requires an EIR to describe a range of reasonable alternatives to a project (or project location) that would feasibly attain most of the objectives and that could avoid or reduce at least one significant environmental impact (see CEQA Guidelines §15126.6). The SEIR will evaluate a No Project Alternative and will consider any new or more significant impact caused by the PCRCP, as modified, in considering other potential alternatives.

The County welcomes all input on the scope and content of the SEIR in response to this Notice of Preparation, and especially welcomes responses that will assist the County in:

1. Identifying significant environmental issues raised by the proposed modifications to the PCRCP as its activities were described in the 2012 EIR;
2. Identifying and evaluating potential alternatives to the proposed modifications or mitigation measures that could avoid or reduce new or more significant impacts of the proposed creek restoration activities than disclosed in the 2012 EIR; and
3. Confirming which agencies will be a responsible and/or trustee agency for this project and providing information germane to these agencies' statutory responsibilities as they relate to the County's analysis of potential effects of the PCRCP, as revised.



SOURCE: Waterways Consulting, Inc., Permanente Creek Restoration Plan 90% Level Submittal Design Basis Technical Memorandum, October 31, 2019.

Permanente Creek Restoration Project Grading Approval Notice of Preparation

Figure 1
Project Overview



From: Salisbury, Robert <Robert.Salisbury@PLN.SCCGOV.ORG>
Sent: Tuesday, April 13, 2021 2:20 PM
Subject: Notice of Preparation for Permanente Creek Supplemental Environmental Impact Report
Attachments: FINAL_PCRP_NOP_with_Figure_1 (signed).pdf

To all Lehigh interested parties:

The County Santa Clara Department of Planning and Development is commencing work on a Supplemental Environmental Impact Report (“SEIR”) for the Permanente Creek Restoration Project. The County has scheduled an EIR scoping meeting/community meeting on Thursday, April 29 from 6 – 8 PM.

Please be aware that this SEIR is for the Permanente Creek Restoration Project (PLN17-2250) only, not for Lehigh’s proposed Reclamation Plan Amendment (PLN19-0106) that the County is also processing.

The Notice of Preparation for the SEIR describing the project and providing details and a Zoom link for the scoping meeting is attached to this email. We look forward to your comments and hope you all will consider attending the scoping meeting on April 29.

Kind regards,

Robert Salisbury, Senior Planner
County of Santa Clara Planning Office
70 W. Hedding Street, East Wing, 7th Floor
San Jose, CA 95110
email: Robert.Salisbury@pln.sccgov.org
Phone: (408) 299-5785



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EXHIBIT B

Electronic Access



County of Santa Clara Department of Planning and Development





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[Permanente Quarry \(Lehigh/Hanson\)](#)
[Permanente Creek Restoration Project \(File PLN17-2250\)](#)

Permanente Creek Restoration Project (File PLN17-2250)

Project Description:

Lehigh submitted a Grading Approval application for the Permanente Creek Restoration Project (PCRP) on November 2, 2017. The PCRP would restore and modify specific segments of Permanente Creek located within and outside of the existing Reclamation Plan boundary for Lehigh Permanente Quarry. The proposed PCRP includes the following significant modifications:

- Removal of non-native species, installation of native vegetation, and preservation of existing native vegetation;
- Removal of concrete road segments, tractor tires, imported sediment, 260 linear feet of culverts in the channel widening area, 960 linear feet of culverts in the Rock Pile Area, and retired Rock Plant conveyor system;
- Construction of floodplain bench areas with habitat elements and reduction of access road width;
- Construction of new channel with floodplain bench areas;
- Removal of overburden/fill, and a relic concrete structure;
- Re-alignment of the centerline of Permanente Creek to the north, which will push the toe of the restored streambank approximately 25 feet northward, except near Pond 4A where it will move 16 feet northward.

Project Status

Lehigh's proposed PCRP is currently undergoing environmental review through the preparation of a Supplemental Environmental Impact Report (SEIR). The County is currently in the process of finalizing the scope and bid of the SEIR. Once the scope and bid have been finalized, the County will prepare and circulate a Notice of Preparation (NOP) and post the NOP to the project website. The County provides periodic updates to interested members of the community. If you are interested in receiving information from the County about this project, please consider signing up to be added to the [Lehigh Interested parties list](#).

Project Materials

- [Complete Letter](#)
- Resubmittal
 - [Cover Letter](#)
 - [Permanente Creek Restoration Plan 90% Level Submittal - Design Basis Technical Memorandum and Grading Plan](#)
 - [Geologic and Geomorphic Assessment \(Golder Technical Memorandum\)](#)
- Superseded - Plans
- Superseded - Design Basis Technical Memorandum
 - [Appendices](#)
- [Response Letter to March 5, 2018 Incomplete Letter](#)
- [Response Letter to February 14, 2019 Grading Application Incomplete Letter](#)
- [Notice of Preparation of a Supplemental Environmental Impact Report for the Permanente Creek Restoration Project](#)

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EXHIBIT C

Newspaper Notification

FRIDAY, APRIL 23, 2021

182 SILICON VALLEY COMMUNITY NEWSPAPERS 11

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Will the Real Estate Market Still Have Seasonality in 2021?

Dave Wetzel
President and CEO,
MLSListings

California is well-renowned for our delightful, temperate year-round climate. While other regions of the country suffer from harsh winters and muggy summers each year, we have subtle, yet beautiful California seasons. Now we are starting to see signs of spring in the air, which typically signal the start of the peak real estate season. Many are asking if COVID-19 has impacted the traditional real estate cycle, and if spring will remain the traditional peak of sales activity in 2021.

"With COVID-19 in 2020, that traditional spike in spring real estate activity got pushed into the summer and fall. The disruption in seasonality stemmed from the seismic shift of children going to school online and adults working from home. Without summer camps, summer vacations, and the typical start of a school year, families had more leeway in terms of timing to purchase a home. Suddenly, it could hinge on finding just the right one or waiting until when it was most convenient, rather than everything being dictated by the calendar. But now, with vaccines being deployed, schedules will come into play again. School and sports will resume more normal patterns, and more typical seasonality including traditional real estate cycles will return," said MLSListings partner economist Elliot Eisenberg in a [recent episode of MLSListings Live](#).

"The 2021 real estate market may benefit from a number of additional positive factors," remarked Karl Lee, Chair of the MLSListings Board of Directors.

"Millennials are getting married, having babies, and buying homes. Low interest rates are also a huge driver. Many have been amassing savings during the pandemic and those funds could be unleashed as part of the release of pent-up demand."

Local tech companies are thriving and have benefited from the increased need for technology for work, school, telehealth, entertainment, socializing, and shopping. With almost every aspect of daily life shifting online, these companies have become more important than ever in our lives. With the tech industry as a major local employer, our region's economy is able to benefit from this significant economic driver and contributor.

Housing supply and demand is also a factor as the greater Bay Area and Monterey Bay region benefit from a finite supply of homes to choose from in the area. There is also a greater appreciation for houses due to the pandemic. Suddenly we know what it's like to spend a lot more time in our homes. The concept of a house is fundamentally more valuable than it was before COVID.

As our new world slowly inches toward normalcy and real estate seasonality gradually makes it return, one thing becomes clear: now is a good time to buy or sell a home here. Remember that your Realtor® is a guiding star. Armed with MLSListings data, your Realtor® can point the way forward in 2021.

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NOTICE OF ENVIRONMENTAL IMPACT REPORT SCOPING MEETING

BY VIRTUAL TELECONFERENCE ONLY

(<https://sccgov-org.zoom.us/j/92372836537>)

Thursday, April 29, 2021, from 6:00 p.m. to 8:00 p.m.

NOTICE IS HEREBY GIVEN that the County of Santa Clara ("County") Department of Planning and Development has scheduled a public scoping meeting to request input and comments on the scope and content of the environmental information to be included in the Supplemental Environmental Impact Report for the Permanente Creek Restoration Project (PCRP). The County will be the Lead Agency for this project and will prepare a Supplemental Environmental Impact Report (SEIR) to the 2012 Lehigh Permanente Quarry Reclamation Plan Amendment EIR for the Permanente Creek Restoration Project.

The Public Scoping Meeting to solicit comments for the Notice of Preparation (NOP) will be held virtually via Zoom (<https://sccgov-org.zoom.us/j/92372836537>) on Thursday, April 29, 2021, from 6:00 p.m. to 8:00 p.m.

The public review period for the Notice of Preparation for the PCRP SEIR closes on May 14, 2021, however, an earlier response, if possible, would be appreciated. Written comments on the PCRP SEIR NOP should be addressed to Robert Salisbury at robert.salisbury@pln.sccgov.org and Claudia Garcia at Claudia.Garcia@ascentenvironmental.com.

Project documents are currently available online at:
<https://www.sccgov.org/sites/dpd/Programs/SMARA/PermanenteQuarry/Pages/PermanenteCreekRestoration.aspx>

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EXHIBIT D

Public Scoping Meeting Presentation



Permanente Creek Restoration Project Scoping Meeting

County File No. PLN17-2250

VIRTUAL MEETING

APRIL 29, 2021 - 6:00 TO 8:00 PM

ROBERT SALISBURY, SENIOR PLANNER

Meeting Agenda

1. Introductions
2. Project Overview
3. CEQA Process Overview
4. Public Participation
5. Virtual Meeting Logistics
6. Public Comments on Scope of Supplemental Environmental Impact Report

Introductions

Roles and Responsibilities

- Lead Agency – County of Santa Clara
- Responsible Agencies and agency permits
 - Regional Water Quality Control Board
 - California Department of Fish and Wildlife
 - U.S. Army Corps of Engineers
- Trustee Agencies
 - California Department of Fish and Wildlife

Project Overview

Notice of Preparation

SUPPLEMENTAL ENVIRONMENTAL
IMPACT REPORT

PERMANENTE CREEK RESTORATION
PROJECT.

PERMANENTE CREEK RESTORATION PROJECT

Project Setting

Project Setting

- East Branch of Permanente Creek within the Permanente Creek watershed
- The Permanente Creek Restoration Project (PCRP) will restore specified areas of streambed, banks, and floodplain along an approximately 3.7-mile portion of Permanente Creek adjacent to Lehigh's Permanente facility



PERMANENTE CREEK RESTORATION PROJECT

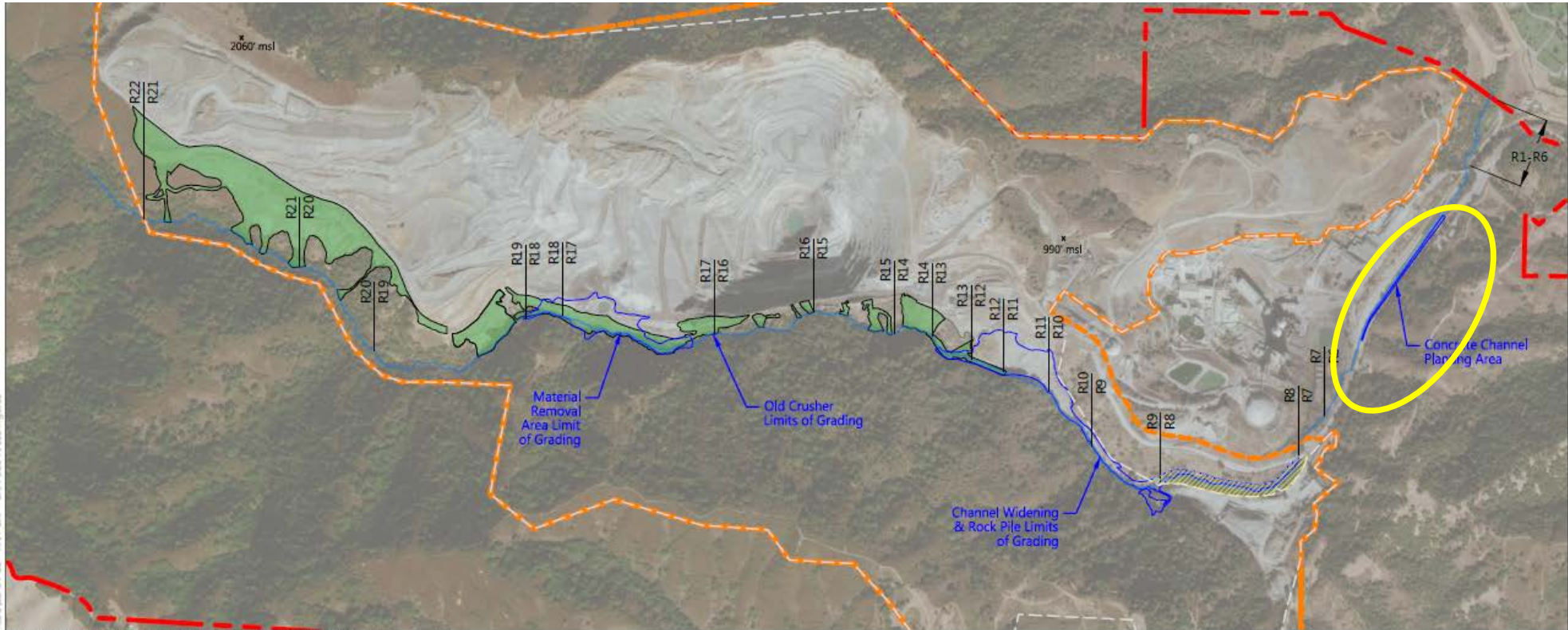
Project Development

Project Development

- PCRP developed after several years of discussion with:
 - Regional Water Quality Control Board
 - California Department of Fish & Wildlife
 - United States Fish & Wildlife Service
 - Sierra Club
- Memorialized in May 2016 agreement
- Watershed improvement project
 - Removes outdated flood control features
 - Lessens roads to reduce operational intensity near creek
 - Widens natural creek channel, restores habitat and removes legacy materials

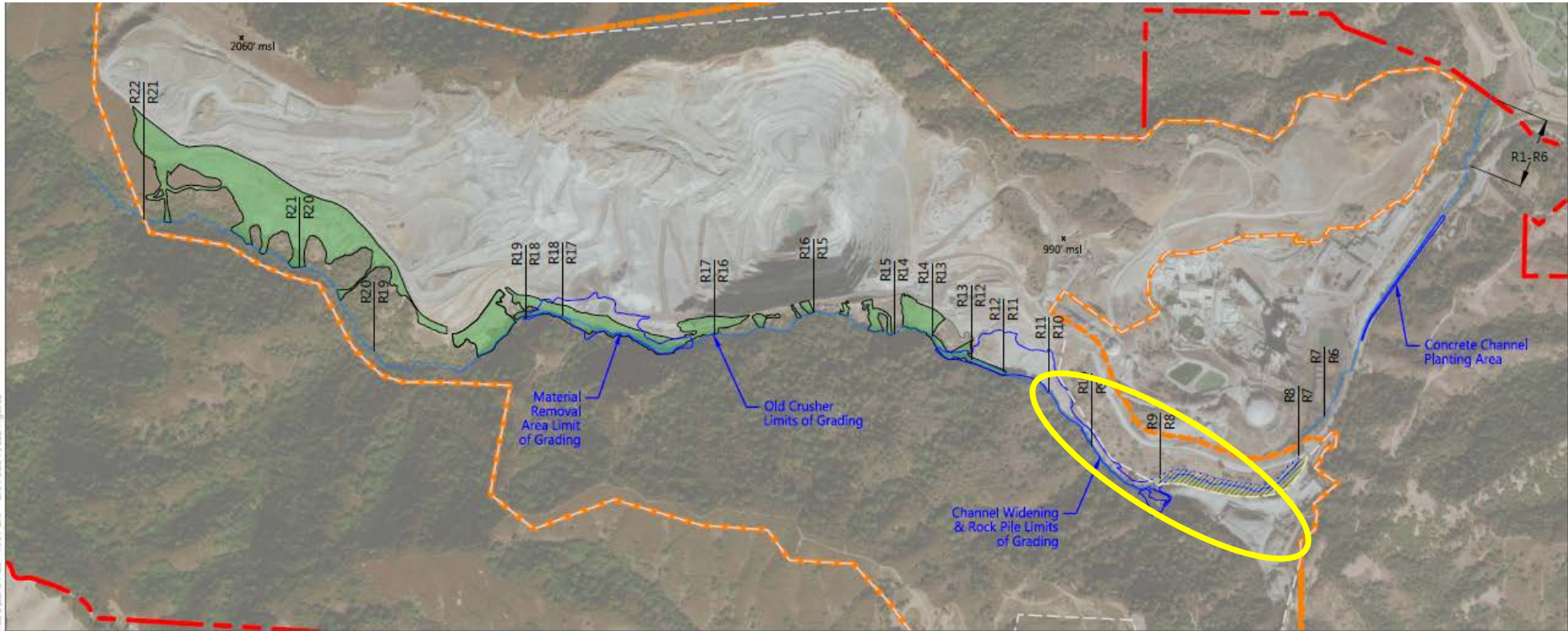


Project Elements



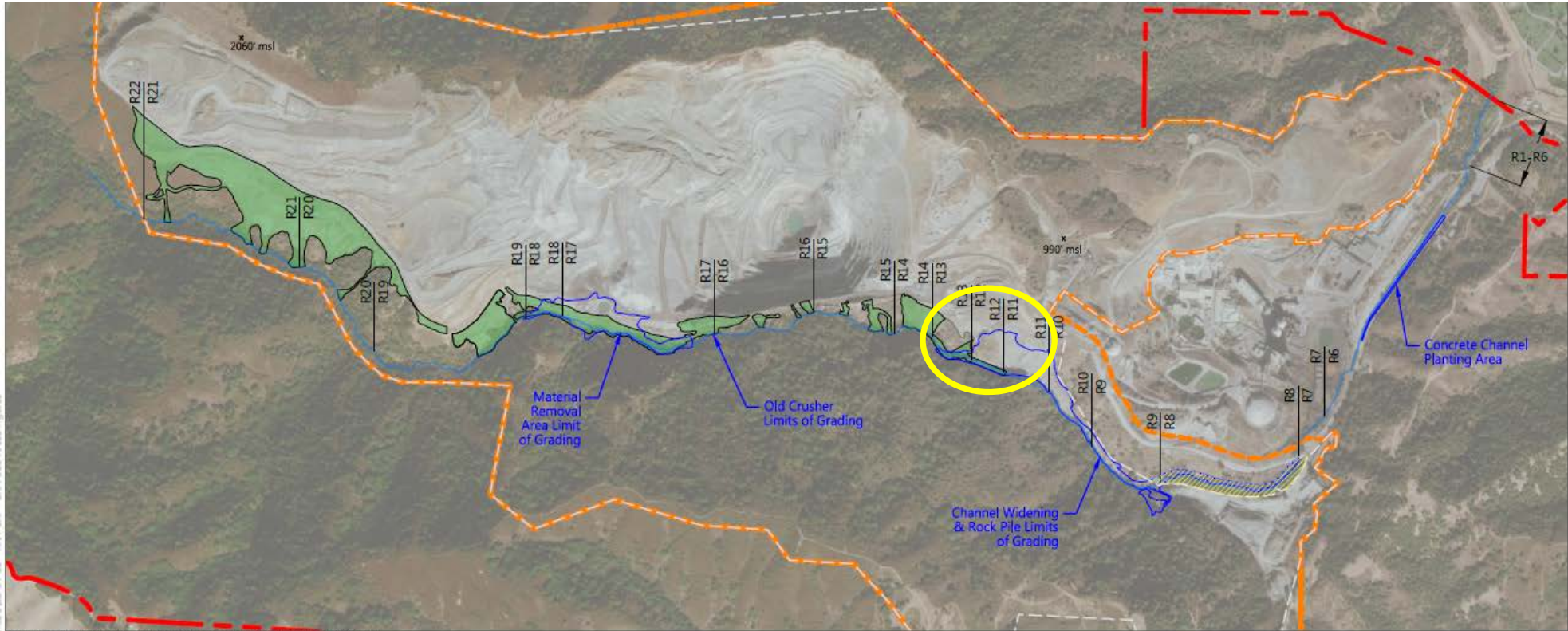
SOURCES: AERIAL: MAXAR, dated 11-4-2019; SITE BOUNDARY/RECLAMATION

Project Elements



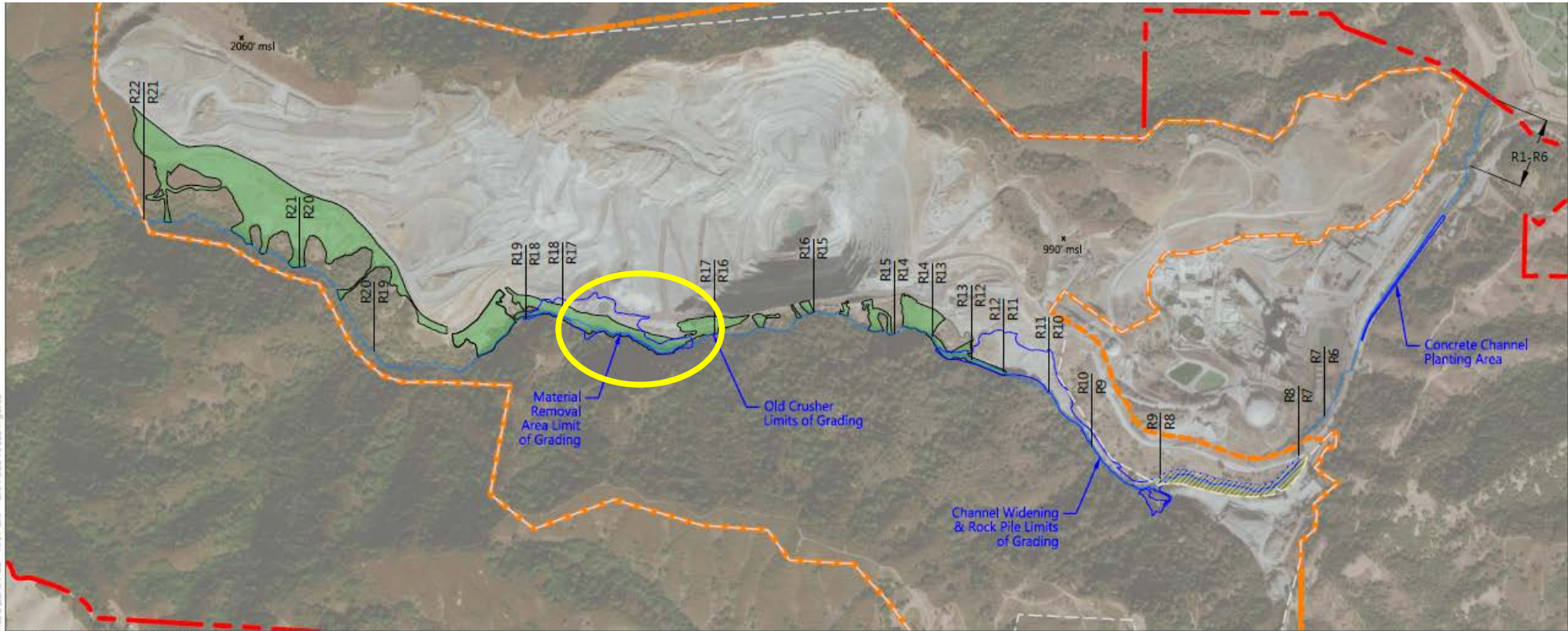
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Project Elements



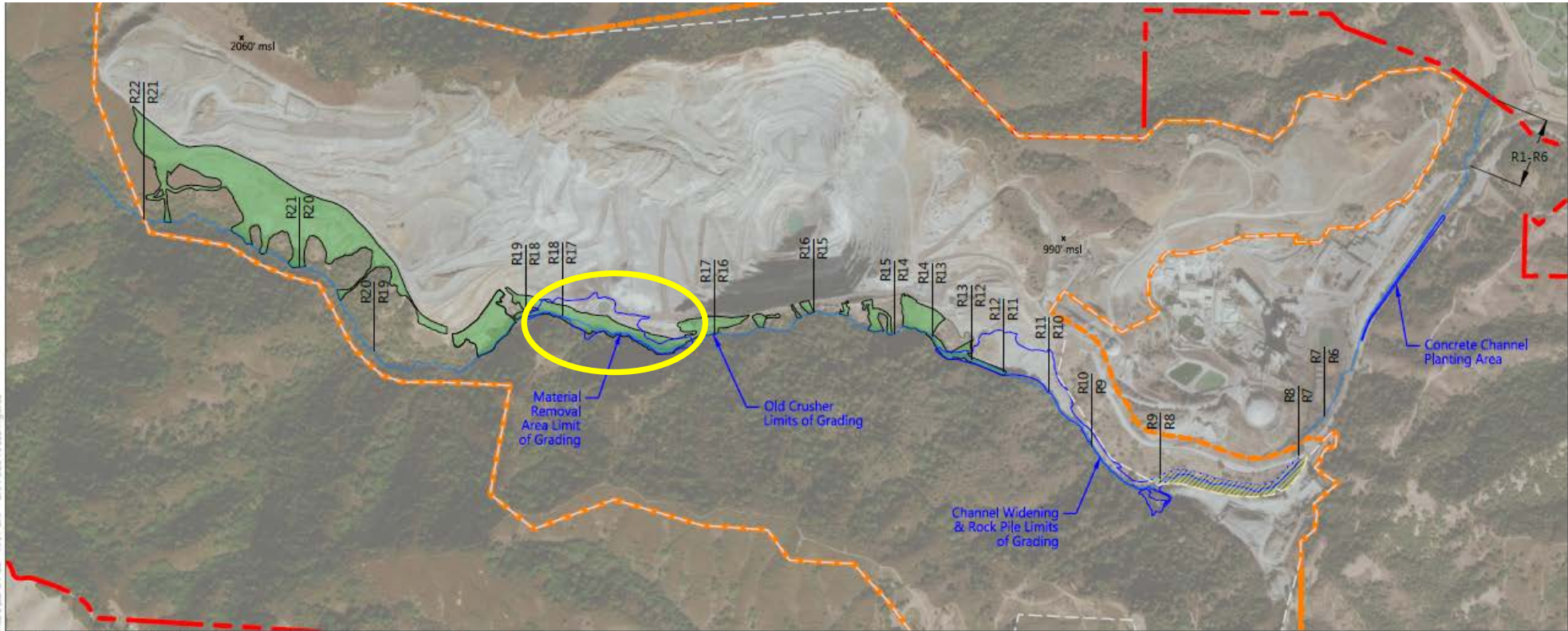
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Project Elements



SOURCES: AERIAL: MAXAR, dated 11-4-2019; SITE BOUNDARY/RECLAMATION

Project Elements



SOURCES: AERIAL: MAXAR, dated 11-4-2019; SITE BOUNDARY/RECLAMATION

PERMANENTE CREEK RESTORATION PROJECT

Project Schedule/Purpose of Supplemental EIR

Project Schedule

- Five (5) consecutive construction seasons after environmental review complete and all permits issued

Purpose of Supplemental EIR

- Early creek restoration project was considered in 2012 Reclamation Plan EIR
- Supplemental EIR needed to address additions or changes to conform to the PCRCP as modified.



CEQA Process Overview

2012 Reclamation Plan Amendment Environmental Impact Report

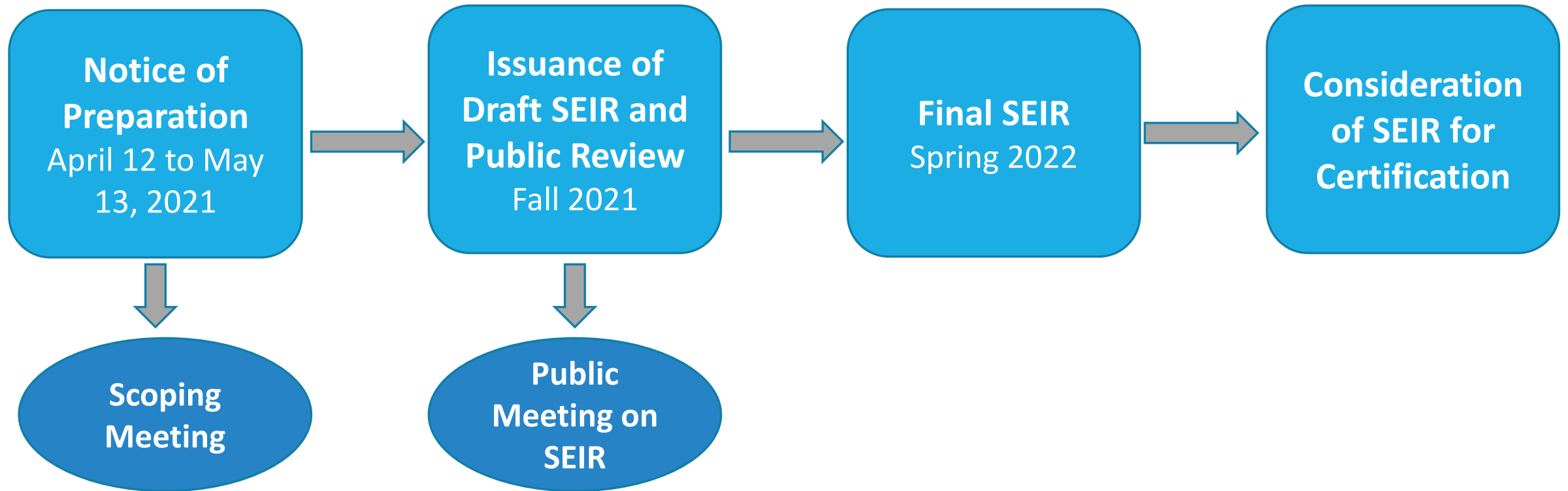
- Evaluated the impacts of the Permanente Creek Restoration Project (PCRP) within the Permanente Creek Restoration Area

Supplemental Environmental Impact Report (SEIR)

- An SEIR contains only the information necessary to make an EIR adequate for the project as revised if only minor additions or changes are necessary to make the original EIR adequate
- Will focus on the changes proposed within and immediately adjacent to the PCRA
- Will inform the County's decision-making about the potential environmental consequences of the PCRP

CEQA Process Overview

SEIR Schedule



CEQA Process Overview

- Aesthetics
- Agriculture and Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire

Anticipated Focus Areas

- Air Quality
- Biological Resources
- Cultural Resources
- Energy Conservation
- Geology and Soils
- Greenhouse Gas Emissions
- Hydrology and Water Quality
- Cumulative Impacts
- Project Alternatives

CEQA Process Overview

Project Alternatives

- CEQA requires the lead agency to evaluate a reasonable range of alternatives to the project that attain most basic objectives and avoid or lessen significant impacts

Potential PCRPs Alternatives

- No Project Alternative required by CEQA - will assume continued use of the project site in accordance with the reclamation plan
- Additional Project Alternatives may include design variations to avoid or reduce potential impacts

Public Participation

Participation at Scoping Meeting

- Provide comment during tonight's scoping meeting

Written Scoping Comments

- Submit written comments via email to: Robert.Salisbury@pln.sccgov.org

- Or mail to:

County of Santa Clara Planning Division

Attention: Robert Salisbury

70 West Hedding Street, 7th Floor, East Wing

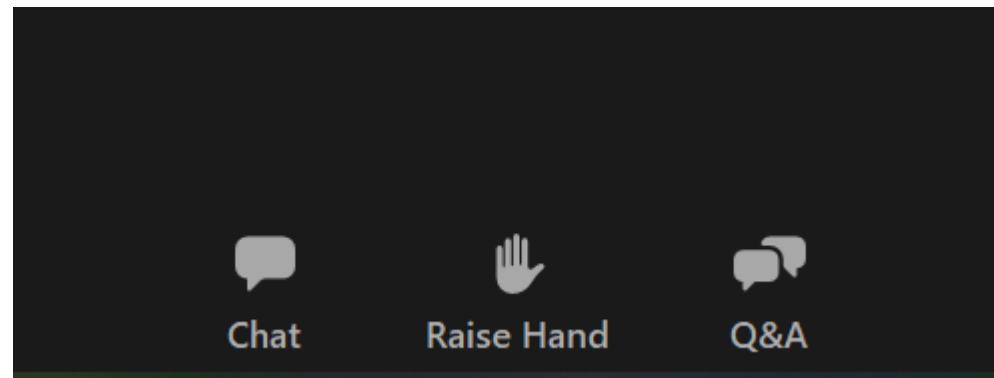
San Jose CA 95110

Provide Comment on Draft SEIR

- During the 45-day public review period of Draft SEIR (Fall 2021)
- Comments on the completed environmental analysis

Virtual Meeting Logistics

- Press *9 or use the “Raise Hand” button to be placed in the comment queue
- Comments will be heard live following the presentation
- The Q&A and chat functions have been disabled for this meeting
- This meeting is being recorded



Thank you!

Stay Informed

- Status updates on the PCRCP are available on the County website <https://www.sccgov.org/sites/dpd/Programs/SMARA/PermanenteQuarry/Pages/PermanenteCreekRestoration.aspx>

Robert Salisbury, Senior Planner
Robert.Salisbury@pln.sccgov.org



public scoping meeting notes

project	Permanente Creek Restoration Project	project no.	PLN17-2250
date	April 29, 2021	time	6 p.m.
present	(Identified below)	route to	File
subject	Scoping Meeting: Summary of Public Input Received		

Four people provided oral input at the April 29, 2021, public scoping meeting regarding the Permanente Creek Restoration Project Supplemental Environmental Impact Report (SEIR). Input and related discussion is summarized below:

1. Rhoda Fry:
 - a. The Yaeger yard landslide, which is moving toward Permanente Creek, has been determined to be a health and safety risk to homes downstream. When will it be fixed? Rob Salisbury responded on behalf of the County that the County is continuing to monitor the Yaeger Yard, including the area where sediment occurred, and that Lehigh has installed equipment to monitor the speed at which the mass is moving. Current data showed significant movement at one brief time, but not outside what is considered “geologically normal” outside that time.
 - b. How project being changed and why?
 - c. What information is available now that was not available in 2012? Erika Guerra responded on behalf of Lehigh that, chronologically, information developed in 2016 and otherwise since the 2012 EIR are now available.
 - d. How long is a “construction season”?
 - e. The 90% plan available on the County’s website seems most comprehensive thing posted there. Will there be a 100% plan?
 - f. Will the Draft SEIR incorporate the elements of the 2012 plan so members of the public can easily see the comparison?

2. Aaron Hebert (Midpeninsula Regional Open Space District):
 - a. Are you intending to reanalyze some of biological resources in the context of the SEIR? Rob Salisbury responded on behalf of the County that biological resources definitely will be a focus of the SEIR with a focus on impacts arising due to the change relative to the 2012 design.

3. Katja Irvin:

- a. Is the original EIR available anywhere? And the reclamation plan? Rob Salisbury responded on behalf of the County that both the 2012 EIR and the existing reclamation plan are available on County's website.
- b. Who is the deciding body for the grading permit? Rob Salisbury responded on behalf of the County that this an interesting project. Usually EIRs are associated with a Planning Commission or Board of Supervisors approval. However, here the County is only issuing a grading authorization and permit, which is a staff level approval, so certification of the SEIR also would be done at the staff level. Manira Sandhir confirmed on behalf of the County that the requested grading approval decision-maker would be Department staff, and that such a decision could be appealed to Planning Commission and then to the Board of Supervisors.

4. Caroline Kim

- a. What is the general timeframe in which decisions will be made? Ms. Kim lives close to the quarry and is starting to realize and become concerned about potential health impacts. Cars etc. constantly are covered in limestone dust. How much does resident feedback weigh in on decisions? Rob Salisbury responded on behalf of the County that Lehigh has a vested right to quarry, but that the Project that being discussed in this meeting is a creek restoration project unrelated to the broader quarrying operation. Lehigh has a reclamation plan amendment in process at the County that anticipates changes to the current plan; however, we are not at the EIR process for that. When we get there, the County will have a scoping meeting for that project much like this meeting for this project.

EXHIBIT E

Public Scoping Comment Letters

Subject: FW: [EXTERNAL] Re: Notice of Preparation for Permanente Creek Supplemental Environmental Impact Report

From: Susan Murphy <somurphy@earthlink.net>

Sent: Tuesday, April 13, 2021 4:22 PM

To: Salisbury, Robert <Robert.Salisbury@PLN.SCCGOV.ORG>

Subject: [EXTERNAL] Re: Notice of Preparation for Permanente Creek Supplemental Environmental Impact Report

Dear Robert,

Since 1971, I have been a resident down-wind from the cement quarry. Over the years, I have witnessed hundreds of trucks coming down from the quarry and cement plant, spewing polluting emissions; and have inhaled polluted air from the quarry/cement plant itself which have contributed to years of asthma and compromised lung function in my family. I am not interested in having these kinds of detrimental health conditions continue, especially since they affect quality of life and life expectancy in both children and adults. Recently, there has been a significant number of new families with very young children moving into this neighborhood. I would not want them to have to experience them health effects that my family has experienced from this cement business over 50 years.

Please describe how the plans in this report will reduce the environmental pollution for those who live down-wind from the quarry. If there is someone else with whom I should communicate to stop the spread of pollutants from this business, please give me the information so I can communicate with them directly.

Dr. Susan Murphy
somurphy@earthlink.net
2043 El Sereno Avenue
Los Altos, CA 94024

On Apr 13, 2021, at 2:20 PM, Salisbury, Robert <Robert.Salisbury@PLN.SCCGOV.ORG> wrote:

To all Lehigh interested parties:

The County Santa Clara Department of Planning and Development is commencing work on a Supplemental Environmental Impact Report ("SEIR") for the Permanente Creek Restoration Project. The County has scheduled an EIR scoping meeting/community meeting on Thursday, April 29 from 6 – 8 PM.

Please be aware that this SEIR is for the Permanente Creek Restoration Project (PLN17-2250) only, not for Lehigh's proposed Reclamation Plan Amendment (PLN19-0106) that the County is also processing.

The Notice of Preparation for the SEIR describing the project and providing details and a Zoom link for the scoping meeting is attached to this email. We look forward to your comments and hope you all will consider attending the scoping meeting on April 29.

Kind regards,

Robert Salisbury, Senior Planner
County of Santa Clara Planning Office

70 W. Hedding Street, East Wing, 7th Floor
San Jose, CA 95110
email: Robert.Salisbury@pln.sccgov.org
Phone: (408) 299-5785

<image001.jpg>

InSite, our new digital permit system is now operational. What to expect: customers will be able to initiate request or apply for a permit online or on site; check the status of your project, submit digital documents, and make payments online or on site; get better customer service through smooth & efficient internal routing. To register for an InSite account, click [here](#).

<image002.png>

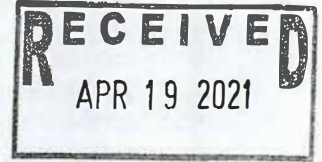
<FINAL_PCRP_NOP_with_Figure_1 (signed).pdf>



STATE OF CALIFORNIA

Gavin Newsom, Governor

NATIVE AMERICAN HERITAGE COMMISSION



April 14, 2021

Robert Salisbury
 County of Santa Clara, Department of Planning and Development
 70 W. Hedding Street, East Wing, 7th Floor
 San Jose, CA 95110

CHAIRPERSON
Laura Miranda
 Luiseño

Re: 2021040331, Permanente Creek Restoration Project, Santa Clara County

VICE CHAIRPERSON
Reginald Pagaling
 Chumash

Dear Mr. Salisbury:

SECRETARY
Merri Lopez-Keifer
 Luiseño

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, § 15064.5 (b) (CEQA Guidelines § 15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines § 15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

PARLIAMENTARIAN
Russell Attebery
 Karuk

COMMISSIONER
William Mungary
 Paiute/White Mountain Apache

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

COMMISSIONER
Julie Tumamait-Stenslie
 Chumash

COMMISSIONER
[Vacant]

COMMISSIONER
[Vacant]

COMMISSIONER
[Vacant]

EXECUTIVE SECRETARY
Christina Snider
 Pomo

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

NAHC HEADQUARTERS
 1550 Harbor Boulevard
 Suite 100
 West Sacramento,
 California 95691
 (916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

- 1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
- 2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).

 - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
- 3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

 - a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
- 4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:

 - a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
- 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** ~~With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).~~
- 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

 - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- a. Avoidance and preservation of the resources in place, including, but not limited to:
 - i. Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i. Protecting the cultural character and integrity of the resource.
 - ii. Protecting the traditional use of the resource.
 - iii. Protecting the confidentiality of the resource.
 - c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - d. Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - e. Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address: Nancy.Gonzalez-Lopez@nahc.ca.gov.

Sincerely,

Nancy Gonzalez-Lopez
Cultural Resources Analyst

cc: State Clearinghouse



May 6, 2021

County of Santa Clara Planning Office
Attention: Robert Salisbury
70 West Hedding Street, 7th floor, east wing
San Jose, CA 95110

**RE: Notice of Preparation of Supplemental Environmental Impact Report for
Permanente Creek Restoration Project**

Dear Mr. Salisbury:

The Town of Los Altos Hills has reviewed the Notice of Preparation (NOP) for a Supplemental Environmental Impact Report (SEIR) to the 2012 Lehigh Permanente Quarry Reclamation Plan Amendment EIR for the Permanente Creek Restoration Project ("Project") and has the following comments:

1. The SEIR should consider the impacts of the proposed creek restoration activities with regards to all environmental considerations in CEQA Guidelines Appendix G, with special attention being paid to water quality, air quality, and biological resources.
2. While the restoration activities will improve the health of the riparian corridor, the SEIR should include detailed and specific mitigation measures for the restoration and demolition activities so that pollutants and sediments are not released into the creek or air. Specifically, the SEIR should require that the restoration and demolition activities be limited to dry months to further reduce potential impacts on water quality.
3. The SEIR should assess potential impacts beyond the area identified as the Reclamation Plan Area, with particular focus on potential downstream impacts.

Beyond the SEIR, the County should ensure that all listed authorizations and approvals are obtained for the Project; with no approvals deferred or any exceptions granted. Finally, the Town requests that the County continue to closely monitor the activities of the Lehigh Quarry and Cement Plant operations to ensure compliance with all Regional, State, and Federal regulations.

The support and ongoing work of regulatory agencies and County Planning Staff on this Project is greatly appreciated. If you have any questions, please contact me at (650) 947-2544 or by email at jloh@losaltoshills.ca.gov.

Robert Salisbury
Permanente Creek Restoration Project
May 6, 2021
Page Two

Sincerely,

Jeremy Loh
Assistant Planner

CC: Carl Cahill, City Manger
Zachary Dahl, Planning and Building Director



May 7, 2021

Robert Salisbury
County of Santa Clara Planning Office
County Government Center
70 West Hedding, 7th Floor, East Wing
San Jose, CA 95110

Copy sent via email: Robert.Salisbury@pln.sccgov.org

SUBJECT: PREPARATION OF A SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR THE
PERMANENTE CREEK RESTORATION PROJECT – STATE CLEARINGHOUSE
NUMBER 202104331

Dear Mr. Salisbury:

Thank you for including the Department of Conservation's Division of Mine Reclamation (Division) in the environmental review process for the preparation of the Supplemental Environmental Impact Report (SEIR) for the 2012 Lehigh Permanente Quarry Reclamation Plan Amendment EIR for the Permanente Creek Restoration Project (Proposed Project) Notice of Preparation (NOP). The NOP indicates that the County of Santa Clara (County), as lead agency under the California Environmental Quality Act (CEQA), will prepare a Supplemental Environmental Impact Report (SEIR) for the Proposed Project.

As described in the NOP, the SEIR will analyze the potential environmental impacts associated with a grading approval application submitted by Lehigh Southwest Cement Company (Lehigh) for the Proposed Project. The Proposed Project makes modifications to a previously considered restoration project that would restore specific segments of Permanente Creek located within and outside of the existing reclamation plan boundary for the Lehigh Permanente Quarry. The County evaluated the impacts of the Proposed Project within seven subareas collectively identified as the Permanente Creek Restoration Area (PRCA) in the 2012 EIR. Lehigh is proposing modifications that are in accordance with the Cleanup and Abatement Order issued by the San Francisco Bay Regional Water Quality Control Board (RWQCB; RWQCB Order No. 99-018) and an Amended Consent Decree entered by the U.S. District Court, Northern District on May 11, 2016 (with an updated Exhibit D entered on May 18, 2016) between the Sierra Club and Lehigh. The SEIR will evaluate only those geographic areas that were not analyzed as part of the 2012 EIR and those environmental resource

areas in which modifications to the Proposed Project would cause new or more severe significant impacts relative to those analyzed in the 2012 EIR.

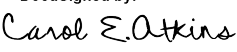
The Division's primary focus is on active surface mining operations; however, the Division also addresses issues related to abandoned (pre-1976) legacy mines. Additionally, the Division has review responsibilities associated with lead agency implementation of the Surface Mining and Reclamation Act of 1975 (SMARA). SMARA provides a comprehensive surface mining and reclamation policy to assure that:

- Adverse environmental effects of surface mining operations are prevented or minimized and mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses.
- Production and conservation of minerals are encouraged, while considering values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.
- Residual hazards to the public health and safety are eliminated.

Division staff has reviewed the subject NOP pursuant to the CEQA statutes and Guidelines and offers no comments at this time. The Division will provide comments, as warranted, on documents prepared and submitted in accordance with SMARA.

The Division requests to be included on the distribution list for this Proposed Project. Additionally, the Division requests that any subsequent project documents (e.g., the Draft SEIR, hearing notices for the Draft and Final SEIRs, and any supplemental environmental documents), as well as a copy of the certified Final SEIR, be sent to the Division at DMR-Submittals@conservation.ca.gov or the mailing address on the bottom of page 1 of this letter. If you have any questions, please contact me at (916) 323-9198.

Sincerely,

DocuSigned by:

73ECCB6738194DA...

Carol E. Atkins
Manager
Environmental Services Unit

ec: State Clearinghouse, state.clearinghouse@opr.ca.gov
Department of Conservation, Office of Legislative and Regulatory Affairs,
OLRA@conservation.ca.gov

Janna Scott

Subject: FW: [EXTERNAL] Supplemental Environmental Impact Report for Permanente Creek Restoration Project PLN17-2250

From: Jack Lucas <jlucas1099@aol.com>

Sent: Monday, May 10, 2021 4:11 PM

To: Salisbury, Robert <Robert.Salisbury@PLN.SCCGOV.ORG>

Subject: [EXTERNAL] Supplemental Environmental Impact Report for Permanente Creek Restoration Project PLN17-2250

County of Santa Clara Planning Office
Attention: Robert Salisbury, County Government Center
70 West Hedding, 7th Floor, East Wing San Jose, CA 95110

May 10, 2021

Dear Robert Salisbury,

In regards the NOP of a Supplemental Environmental Impact Report for Permanente Creek Restoration Project there appear to be areas in the plan which need to more fully address recent environmental issues.

First, would hope this SEIR mandates establishment of a native plant nursery that uses only species from this watershed, and includes a directive to avoid chemicals in weed suppression.

In consideration of a sizable Ohlone Indian village which has been unearthed just downstream by Valley Water refocus needs to be made on species of wetlands vegetation selected for reaches of Permanente Creek that reflect historical Indian era plants ideal to support resident trout and colony of red-legged frog. (Believe these species were husbanded by Ohlone for food source).

In reach #6 this would mean efforts should be made to 'encourage' establishment of tules not discourage them. It could also indicate that a special pallet of wetlands vegetation could be temporarily grown in ponds adjacent to reaches of creek where they will be used for restoration of riparian corridor canopy and wetlands.. An on site nursery would hasten restoration efforts and provide verisimilitude of elevation and soils of ultimate habitat.

As according to present protocols are seeds of oaks and preferred trees of this watershed being gathered and grown in a contractor's nursery in preparation for initiation of the Permanente Creek Restoration Plan? What timeline will this SEIR envision?

Wish to stress the importance of a restoration plan reflecting Ohlone Indian occupation of Upper Permanente Creek for centuries. This would include trail that Ohlone used to reach Monte Bello Ridge and Pacific Ocean.. This was old County road alignment..

The recent creation of rather massive haul road needs to be added to this environmental review for all reaches of Permanente Creek that it effects. It appears to cross from the Yeager Yard to Pond 4A to existing road that parallels creek and then across creek again to rock pile near culverts #6 and #8. Have no confidence in this analysis of trajectory but would expect SEIR to make adjustment to environmental impacts to these reaches in clear maps and descriptions in text.

Yeager Yard landslide needs to be mentioned with mitigation measures and preventive structures.

Lastly would like to request that further consideration be given to removal of rock pile conveyor system What was its historical use and can it still be considered in alternative measures for plant operation? Is avoidance of mention of the existence or usability of the rail line that runs to heart of operations another lost alternative use?

In consideration of global warming projections of an increase in storm intensities and in review of rainfall data which cites 7 inches in a 48 hour period in February of 1998 for this slope of Black Mountain which is underlain by the Berrocal Fault, I continue to have grave misgivings about stability of WMSA and EMSA in Permanente Creek's watershed. If these rather toxic masses of mining waste are not to be shipped elsewhere by rail and recycled for some beneficial use then think retaining walls need be included as an alternative in this SEIR.

Thank you for consideration of these concerns relative to proposed SEIR for Permaanente Creek Restoration.

Libby Lucas, 174 Yerba Santa Ave., Los Altos, CA 94022

Rob,

I am glad to see the restoration work on the creek moving forward. Please accept the following comments to guide the County and its consultants in evaluating the prior EIR's mitigations, per the NOP notice:

“2. Identifying and evaluating potential alternatives to the proposed modifications or **mitigation measures that could avoid or reduce new or more significant impacts of the proposed creek restoration activities than disclosed in the 2012 EIR”**

In summary, in order to avoid and reduce potentially significant impacts, the County should modify its mitigations under the biological resources section.

California red-legged frog

First, I'd like to note the prior analysis on the federally threatened California red-legged frog (CRLF). The draft EIR asserted that CRLF are “not expected within the project area” and therefore the project would have less-than-significant impacts. So no mitigation for the species was developed. The Final EIR was revised, after a number of comments raised this concern, to include “three Applicant Proposed Measures” for the Basin40A stormwater pond, including limiting grading between May 1 and October 15th, pre-construction surveys prior to construction, and to limit work to daylight hours and outside of rain events. The County determined that these Applicant Proposed Measures, in addition to a stormwater mitigation measures, provided “sufficient protection for CRLF in the Project Area and this impact is considered less than significant.” Later, the County's Conditions of Approval from the Planning Commission included similar measures for the Permanente Creek Restoration subareas 4-7.

The prior analysis relies on the incorporation of Applicant Proposed Measures in lieu of mitigation in order to make a finding of a less-than-significant impact. Rather than analyzing a potential impact of the project and creating an appropriate mitigation, the FEIR incorporated those measures into the analysis. The analysis is not the project description.

The 2014 Lotus v. Department of Transportation case (which occurred after adoption of the 2012 EIR) examined a scenario where CEQA lead agencies circumvent the standard process of (1) defining the project, (2) analyzing the project, and (3) developing appropriate mitigation minimize impacts resulting from activities identified in the project description. In that case, DOT incorporated an “environmental protection feature” into the project description and thus concluded that no mitigation was necessary, because that feature was part of the project. The courts determined that “an environmental protection feature must be credible as a true component of the project plan or design, rather than a mitigating action that is . . . responsive to the project's impacts” (borrowing from Ascent's white paper on the topic). The Applicant Proposed Measures included in the prior FEIR were developed for the sole purpose of responding to the project's impacts and were not part of the project.

By committing to those measures in the FEIR analysis and not the project description or via mitigation measures, what is the mechanism for ensuring compliance? How can the public be sure the Applicant Proposed Measures will be applied? By not incorporating these measures as mitigation measure, the County's oversight was also removed. The County's annual monitoring

reports indicate the Conditions of Approval related to CRLF mitigation near the Permanente Creek Restoration Area was monitored, whereas the Applicant Proposed Measure in the analysis appear not to have been.

The other tenet of the analysis was that CRLF stay close to their breeding ponds, so the potential for them to be elsewhere in the project area was limited (“While CRLF movement and habitat use would be limited through most of the Project Area, frogs could move into vegetated upland areas directly surrounding Pond 13.”). That conclusion was, respectfully, incorrect at the time. Peer reviewed literature has demonstrated red-legged frogs move many miles overland between breeding areas and as far as 1,600 feet from water (see Bulger et al 2002 or Fellers and Kleeman 2007).¹ The FEIR analysis notes that frogs move overland after rain events. This is consistent with Midpen’s monitoring experience: the odds of observing a CRLF in the relatively drier uplands increases dramatically in response to rain. After rains, frogs could be in many parts of the project area.

The EIR also concluded that CRLF would only be present in select ponds and not the creek itself. Adult CRLF may move between isolated pools in intermittent or ephemeral streams. CRLF adults and sub-adults are often observed in Midpen’s streams. Case in point, a CRLF was observed in the project area in 2017 in the stream. The addition of the Conditions of Approval from the Planning Commission related to CRLF in subareas of the Creek Restoration adds to this conclusion. CRLF could be present in the creek during their larval stage, depending on the water year and creek conditions, and a typical work window to avoid potential disruption of the larval stage is August 15 to Oct 15. Additionally, the new flood-detention basin downstream created an ideal breeding habitat for the species and dozens of CRLF were relocated as part of that project. The idea that CRLF are not present in these creeks is not accurate, that they stay solely within the areas they’ve been observed is not based on the best available information and is inconsistent with permits issued in the region. CRLF are increasingly present in the area and the prior analysis did not have this information at the time of the 2012 FEIR.

US Fish and Wildlife Service issued a permit for the flood detention project using a mitigation that required a biological monitor during ground-disturbing activities and they correctly describe “riparian” areas as frog-sensitive areas. Temporary and permanent impacts to their habitat need to be accounted for.

That the 2012 FEIR concluded the Permanente Creek restoration work would not have a potential impact on frogs is not consistent with the available science or biological opinions in the area (and the County’s Conditions of Approval). As you know, take (including adverse modification of habitat) of a federally listed species would be a significant impact under CEQA. Therefore, a mitigation to avoid potential impacts or take is required. I understand USFWS provided information to the applicant regarding the Permanente Creek Restoration Project and determined the project is “likely to adversely affect the California red-legged frog.” That seems inconsistent with the determination used in the FEIR. The expansion of scope in a sensitive habitat (as defined by USFWS) adds to the potential impact that the County needs to consider in

¹ A number of peer reviewed papers are available here, including those mentioned:
http://www.elkhornsloughctp.org/training/show_train_detail.php?TRAIN_ID=EcUZQK3

its analysis. Please add an appropriate mitigation for frogs using the US Fish and Wildlife Service permit for the flood basin project, or, if the permit for creek restoration project has them, to use those.

Other Wildlife

A similar approach was used for migratory birds and San Francisco dusky footed woodrat, but in this case incorporated the Applicant Proposed Measure in the Project Description (as in the Lotus case); please create mitigation measures instead. Protected bat species were mitigated through a blend of Applicant Proposed Measures in the project description and additional mitigation measures; please add the Application Proposed measures into those the mitigation measures. Riparian areas are more likely to have migratory birds, bats, and woodrats. The expansion of scope adds to the potential impact.

Last year, Mountain Lions were listed as a candidate species by CDFW, requiring analysis under CEQA. The 2012 EIR did not consider mountain lions, as they were not a candidate species at the time. Rancho San Antonio Open Space has been monitoring mountain lions with wildlife cameras and through a research project with the Puma Lab at UC Santa Cruz. There are several hundred observations and many lions that regularly use Rancho San Antonio. You can see tracking data on the Puma Project's website showing lions moving within the Lehigh property. Mountain lions are present in the project area and qualified biologists should develop appropriate mitigation(s).

Special Status Plants and Plant Communities

The prior EIR determined that 81 special status plants were potentially present but surveys determined they did not occur in the project area and no mitigation was required. Industry protocol is that botanical surveys are good for approximately 5 years due to changing ecological conditions over time; the prior analysis is now outdated. For example, there are 28 occurrences of western leatherwood in Rancho San Antonio, just north of the Lehigh quarry. Qualified biologists should resurvey the project area for special status species. Given the lengthy time associated with these plans, it seems appropriate to include mitigations that include periodic re-surveys as conditions naturally change over time. The FEIR's conclusion that no special status plants could ever occur during a 30-year period of operation does not reflect the biology of plants. An appropriate mitigation measure should include the periodic survey for special status plants. I'd also note that plants can establish within the 5-year period of the construction activities and that ground disturbance can often generate plant establishment that would not otherwise occur.

Another emerging area of CEQA practice in the biological resources section are consideration of Natural Communities. Natural Communities are evaluated using NatureServe's Heritage Methodology, the same system used to assign global and state rarity ranks for plant and animal species in the California Natural Diversity Database. VegCAMP has been ranking California Natural Communities by their rarity and threat since the inception of the program. However, since 2012 the ranking methodology has become more transparent and defensible through the

advent of a rank calculator.² VegCAMP and the California Native Plant Society's Vegetation Program now use this calculator to rank Natural Communities; rankings are reviewed by both programs..

Natural Communities with ranks of S1-S3 are considered Sensitive Natural Communities to be addressed in the environmental review processes of CEQA and its equivalents. The analysis in the SEIR should identify all Natural Communities within the project footprint using the best means possible, for example, keying them out in the Manual of California, Second Edition (Sawyer et al. 2009) or in classification or mapping reports from the region, available on VegCAMP's Reports and Maps page. Refer to the current standard list of Natural Communities to determine if any of these types are ranked Sensitive (S1-S3 rank); if so, see CEQA Guidelines checklist at IVb. Again, I assume agency permits for the project incorporate some plant survey requirements that come to a different conclusion than the FEIR. The expansion of scope in a sensitive habitat merits additional plant surveys.

Cultural Resources

A qualified archaeologist should review the excavation work through Phase II analysis and discuss their findings with the State Historic Preservation Officer. If an archaeologist and SHPO has already been consulted pursuant to Section 106, then the appropriate measures can be borrowed.

Thank you,

Aaron Hebert, Senior Resource Management Specialist

Midpeninsula Regional Open Space District

² <https://www.natureserve.org/conservation-tools/conservation-rank-calculator>



Serving San Mateo, Santa Clara, and San Benito Counties

May 10, 2021

Mr. Robert Salisbury
County of Santa Clara
Department of Planning and Development
70 W. Hedding Street, East Wing, 7th Floor
San Jose, CA 95110

RE: Supplemental Environmental Impact Report for the Permanente Creek Restoration Project, Comments on Notice of Preparation

Dear Mr. Salisbury,

Please take into account the following comments from the Sierra Club Loma Prieta Chapter regarding your Notice of Preparation (NOP) of a Supplemental Environmental Impact Report (SEIR) to the 2012 Lehigh Permanente Quarry Reclamation Plan Amendment EIR for the Permanente Creek Restoration Project (“PCR” or “project”).

Project Description:

First, the Project Description at NOP pp. 2-3 should be revised to state that the provisions of the 2016 Amended Consent Decree (Decree), particularly paragraphs 33 through 42, reflect mandatory, minimum restoration duties imposed on Lehigh and are therefore necessary minimum elements of any “Project Description” applicable to the SEIR. For example, where paragraph 35 of the Decree that states Lehigh “shall layback and re-grade the north overburden slope to provide a stable slope no steeper than 2:1 (50% grade) and shall remove sufficient material to move the north toe of the slope at least 25 feet northward from its current location and elevation,” that statement is a minimum requirement, not simply a recommendation. ^[1]To the extent any such requirement in the Decree does not obtain legally necessary agency approval(s) after issuance of the SEIR the provisions of Decree paragraph 52 shall apply.

Second, for each activity in the Project Description, please describe in detail and by reach which actions and impacts are covered in the 2012 Lehigh Permanente Quarry Reclamation Plan Amendment EIR and identify sections and page numbers for easy reference. Likewise, please identify what new impacts not covered will be evaluated in this SEIR and reference the sections where this analysis is presented.

Mitigation:

The creek restoration objectives and activities described in the Decree are themselves mitigation requirements to resolve decades of Lehigh's Clean Water Act violations. Applicable measures to mitigate the impacts of the mitigation itself should be viewed in light of the ultimate restorative objective. That said, adequate mitigation for restoration project impacts is important, especially related to impacts on species and habitats. Trees form the backbone of what is left of the riparian habitat in this section of Permanente Creek and should only be removed if necessary, to secure the long-term restoration of the creek. To the extent native trees are removed, they should be replaced with 15-gallon trees at appropriate ratios, rather than 24-inch box trees. 15-gallon trees adapt better in the long run because they have not lived for as long in a box in the nursery environment.

Alternatives:

Alternatives to the restoration requirements in the Decree that entail additional costs are still enforceable as restoration requirements under the Decree if they fit within the cost escalation values in Decree paragraph 49. Moreover, nothing in the Decree limits any agency from imposing additional restoration requirements.

Please contact us with any additional design information about the preferred project and any proposed alternatives as soon as possible so we can respond as needed in relation to the requirements of the Decree.

We continue to urge the Department of Planning and Development to pursue this restoration project with all deliberate speed. Although the Decree was initially signed over eight years ago, not one shovel of mining waste has been removed from the creek and impacts of Lehigh's illegal disposal activities persist unabated.

Thank you for your consideration of these comments.

Sincerely,



Katja Irvin, AICP
Water Committee Co-Chair
Sierra Club Loma Prieta Chapter

cc: Reed Zars, Attorney at Law
James Eggers, Executive Director, Sierra Club, Loma Prieta Chapter



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



May 13, 2021

Mr. Robert Salisbury
County of Santa Clara
70 West Hedding, 7th Floor, East Wing
San Jose CA 95110
Robert.Salisbury@pln.sccgov.org

Subject: Permanente Creek Restoration Project, Notice of Preparation of a Supplemental Draft Environmental Impact Report, SCH No. 2021040331, Santa Clara County

Dear Mr. Salisbury:

The California Department of Fish and Wildlife (CDFW) received the Notice of Preparation (NOP) of a Supplemental Draft Environmental Impact Report (SDEIR) from the County of Santa Clara (County) for the Permanente Creek Restoration Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife resources. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is a Trustee Agency with responsibility under CEQA §15386 for commenting on projects that could impact fish, plant and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our jurisdiction, CDFW has the following concerns, comments, and recommendations regarding the Project.

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Mr. Robert Salisbury
County of Santa Clara
May 13, 2021
Page 2

PROJECT DESCRIPTION SUMMARY

Proponent: Lehigh Southwest Cement Company

Objective: Specific reaches of Permanente Creek within the Project proponents land ownership will be restored. This includes activities such as removal of roads or reduction in the size of roads, removal of culverts, sediment, rock and concrete debris, construction of floodplain, restoration of creek channel, installation of large woody debris, removal of invasive plants, and planting native vegetation.

Location: The Project is located at the Permanente Quarry, west of the City of Cupertino, in Santa Clara County. The Assessor's Parcel Numbers are 351-10-038, 351-09-022, 342-64-003, 351-10-033, 351-10-035, 351-10-034, 351-10-008, 351-10-011, 351-11-001.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

Project Description

The NOP, on page 2, in the Project Description, does not discuss the nexus of the proposed Project to the proposed amendment to the Lehigh Permanente Quarry Reclamation Plan (Reclamation Plan), currently dated May 2019. CEQA guidelines §15124(d)(1)(C) state that an EIR Project Description should list related environmental review and consultation requirements required by state laws, regulations, or policies, which may apply to this issue. CDFW reviewed and provided comments on the proposed May 2019 Reclamation Plan amendment, however, the proposed Project was not discussed in the amendment. CDFW recommends that the DSEIR for the proposed Project discuss the association between the proposed Project and the Reclamation Plan and explain whether the proposed Project will be further described and analyzed in any future CEQA documentation for the Reclamation Plan.

Biological Resources, Long-term Impacts to Riparian Sensitive Community

Stability of Permanente Creek Bed and Bank

CEQA Guidelines Section 15126.2(a) state that long-term significant effects of a project should be considered and discussed. CDFW engineering staff reviewed and provided comments on the revised 90% engineering designs and supporting documents for the Project. CDFW engineering staff determined that implementation of the Project as designed could potentially result in post-construction instability of the creek bed and

Mr. Robert Salisbury
County of Santa Clara
May 13, 2021
Page 3

bank. For example, unstable conditions may occur due to steep 1.5:1 or 1:1 creek bank slopes, lack of in-channel sub-surface geologic investigation, lack of rock weirs in reaches with very steep gradients, and inclusion of large woody debris in reaches where it could become dislodged due to steep gradients. Creek bed and bank instability could result in significant impacts to the sensitive riparian community and special-status species habitat. The SDEIR should therefore include a thorough analysis of the current designs, and any necessary modifications to the designs to prevent adverse effects to the sensitive habitat types. To avoid or reduce potential long-term impacts of the Project to a less-than-significant level, CDFW recommends that a long-term (e.g., 10-year) post-construction monitoring and adaptive management plan be developed and described in the SDEIR. The SDEIR should include monitoring of the creek geomorphology, consultation with CDFW and other resource agencies and identification of corrective and remediation actions in the event that creek bed or bank instability is detected.

Riparian Vegetation Impacts

The revised 90% engineering designs appear to indicate that approximately 30 trees will be removed during Project construction. However, only larger trees to be removed were included in the designs (e.g., non-oak trees equal to or greater than 12-inch diameter). Sapling (1-inch to 4-inch diameter) and pole sized (5-inch to 11-inch diameter) trees are important to riparian vegetation structural complexity and habitat succession. Based on the current designs, impacts of the Project to riparian habitat may be underestimated. CDFW recommends that analysis of riparian vegetation impacts include trees less than 12 inches in diameter or based on area calculations for seedlings and saplings and understory vegetation. As discussed in the previous section of this letter, the long-term (e.g., 10-year) post-construction monitoring and adaptive management plan should include monitoring of revegetated areas and include performance standards to ensure establishment or maintenance of riparian habitat.

Biological Resources, Impacts to Special-Status Species

The revised 90% engineering designs appear to indicate that the treated water outfall located at Pond 1250 may be moved to a different location, however, the alternate location was not described in the NOP. Changing the outfall location could potentially result in significant hydrological impacts to stream reaches that would no longer receive water, and consequently adversely impact riparian vegetation or aquatic special-status species (e.g., California giant salamander (*Dicamptodon ensatus*, State Species of Special Concern) and California red-legged frog [CRLF, *Rana draytonii*, Federally Threatened and State Species of Special Concern]). CDFW recommends that the SDEIR clearly demarcate the proposed new outfall location on a map and discuss the significance of the treated water contribution from the outfall to this stream reach, and any potential effects on riparian habitat and special-status species resulting from relocation of the outfall. The SDEIR should discuss design modifications or alternate

Mr. Robert Salisbury
County of Santa Clara
May 13, 2021
Page 4

outfall sites to ensure the Project results in less-than-significant impacts to aquatic and riparian habitats from either direct or indirect changes in creek hydrology.

The NOP does not discuss potential occurrences of special-status and sensitive bat species within the Project area. As discussed in the *Riparian Vegetation Impacts* section above, the revised 90% engineering designs did appear to indicate the removal of approximately 30 trees. Removal of trees could impact special-status and sensitive bat species such as Pallid bat (*Antrozous pallidus*, State Species of Special Concern) and Hoary bat (*Lasiurus cinereus*) that may roost in woodland and riparian habitats.

The California Natural Diversity Database (CDFW 2021) shows occurrences of CRLF, California giant salamander, and Santa Cruz black salamander (*Aneides niger*, State Species of Special Concern) within the Project area. There may also be potential presence of San Francisco dusky-footed woodrat (SFDWR, *Neotoma fuscipes annectens*, State Species of Special Concern).

To reduce impacts to less-than-significant levels, CDFW recommends the measures below be included in the SDEIR.

1. Focused Surveys: The Project location and tree removal locations should be surveyed for Species of Special Concern and sensitive bat species by a qualified biologist following protocol-level surveys. In the absence of protocol-level surveys being performed, focused surveys for Species of Special Concern presence or indicators of presence (e.g., bat guano and acoustic surveys) should be conducted.
2. Avoidance, Minimization, and Mitigation: If Species of Special Concern or sensitive bat species are found within or adjacent to the Project site, the qualified biologist should establish a no-disturbance buffer appropriate for the species and conduct on-site monitoring during all Project-related activities. The SDEIR should include additional minimization and mitigation measures for each species that could be potentially impacted by Project activities.

Biological Resources, Bird Nest Measures

The NOP does not include a discussion of wildlife that may be present within the Permanente Creek riparian area. However, in CDFW review of aeriels, there is a potential for avian species to nest within the riparian area. In order to avoid significant impacts to nesting avian species, CDFW recommends that the following protective measures be included in the SDEIR:

1. Nesting Bird Surveys: If Project-related work is scheduled during the nesting season (typically February 15 to August 30 for small bird species such as passerines; January 15 to September 15 for owls; and February 15 to September

Mr. Robert Salisbury
County of Santa Clara
May 13, 2021
Page 5

15 for other raptors), a qualified biologist will conduct two surveys for active nests of such birds within 14 days prior to the beginning of Project construction, with a final survey conducted within 48 hours prior to construction. Appropriate minimum survey radii surrounding the work area are typically the following: i) 250 feet for passerines; ii) 500 feet for small raptors such as accipiters; and iii) 1,000 feet for larger raptors such as buteos. Surveys will be conducted at the appropriate times of day and during appropriate nesting times.

2. Active Nest Buffers: If the qualified biologist documents active nests within the Project area or in nearby surrounding areas, an appropriate buffer between the nest and active construction will be established. The buffer will be clearly marked and maintained until the young have fledged and are foraging independently. Prior to construction, the qualified biologist will conduct baseline monitoring of the nest to characterize "normal" bird behavior and establish a buffer distance which allows the birds to exhibit normal behavior. The qualified biologist will monitor the nesting birds daily during construction activities and increase the buffer if the birds show signs of unusual or distressed behavior (e.g., defensive flights and vocalizations, standing up from a brooding position, and/or flying away from the nest). If buffer establishment is not possible, the qualified biologist or construction foreman will have the authority to cease all construction work in the area until the young have fledged and the nest is no longer active.

Biological Resources, Rare Plant Species

The NOP does not include a discussion of special-status or rare plants that may be present within the impact area. In review of the California Natural Diversity Database (CNDDDB, CDFW 2021), there are rare plant species that are located within 2 miles of the Project site, including woodland woollythreads (*Monolopia gracilens*, California Rare Plant Rank 1B.2) and western leatherwood (*Dirca occidentalis*, California Rare Plant Rank 1B.2). In order to avoid significant impacts to rare plant species within the impact area, CDFW recommends that the following protective measures be included in the SDEIR:

1. Special-Status Plant Habitat Assessment: A qualified botanist should conduct an assessment of the plant communities/land cover (e.g., chaparral, cismontane woodland, riparian forest) that provide habitat for these rare plant species.
2. Special-Status Plant Focused Surveys: If plant communities/land cover suitable for rare plants are determined to be present, the Project location should be surveyed for rare plant species by a qualified biologist following protocol-level surveys. Protocol-level surveys, which are intended to maximize detectability, may include identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period.

Mr. Robert Salisbury
County of Santa Clara
May 13, 2021
Page 6

3. Special-Status Plant Avoidance: Rare plant species should be avoided through delineation and establishment of a no-disturbance buffer of at least 50 feet from the outer edge of the plant population or specific habitat type required by rare plant species.

ENVIRONMENTAL DATA

CEQA requires that information developed in draft environmental impact reports be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form, online field survey form, and contact information for CNDDDB staff can be found at the following link: <https://wildlife.ca.gov/data/CNDDDB/submitting-data>. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the County in identifying and mitigating Project impacts on biological resources. CDFW appreciates the County's past coordination on this Project and offers continued guidance on project design and environmental review.

Questions regarding this letter or further coordination should be directed to Ms. Kristin Garrison, Environmental Scientist, at (707) 944-5534 or by email at Kristin.Garrison@wildlife.ca.gov; or Ms. Brenda Blinn, Senior Environmental Scientist (Supervisory), at (707) 944-5541 or by email at Brenda.Blinn@wildlife.ca.gov.

Sincerely,

DocuSigned by:

BE74D4C93C604EA...
Gregg Erickson
Regional Manager
Bay Delta Region

Mr. Robert Salisbury
County of Santa Clara
May 13, 2021
Page 7

cc:

Office of Planning and Research, State Clearinghouse, Sacramento
Brian Wines, Regional Water Quality Control Board, brian.wines@waterboards.ca.gov
Joseph Terry, US Fish and Wildlife Service, Joseph_terry@fws.gov

LITERATURE CITED

California Department of Fish and Wildlife (CDFW). 2021. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed May 5, 2021.



Subject: FW: Notice of Preparation of a Supplemental Environmental Impact Report for the Permanente Creek Restoration Project

From: Shree Dharasker <sdharasker@valleywater.org>

Sent: Friday, May 14, 2021 4:26 PM

To: Salisbury, Robert <Robert.Salisbury@PLN.SCCGOV.ORG>

Cc: Usha Chatwani <uchatwani@valleywater.org>

Subject: [EXTERNAL] Notice of Preparation of a Supplemental Environmental Impact Report for the Permanente Creek Restoration Project

Hi Robert:

The Santa Clara Valley Water District (Valley Water) has reviewed the Notice of Preparation (NOP) of a Supplemental Environmental Impact Report (SEIR) for the Permanente Creek Restoration Project (PCRP), received on April 13, 2021, and has the following comments:

- 1) The SEIR must address any changes to the hydrology/hydraulics of the proposed restored channel so it doesn't have any negative impacts on the Permanente Flood Protection Project (Project), particularly as it pertains to the functioning of the San Antonio detention basins. Valley Water would like to ensure that this comment is covered under "Cumulative Impacts" and/or "Hydrology and Water Quality" sections.
- 2) Any increase in the 100-year flows and volumes due to the proposed improvements must be mitigated to pre-improvement conditions.
- 3) Valley Water would like to review the SEIR when complete to ensure our concerns have been addressed.

Please contact me if there are any questions.

Shree Dharasker
Associate Engineer-Civil
Community Projects Review Unit
(408)630-3037

