

4.11 Land Use and Planning

This section describes the land use and planning context for the Project Area, including the associated regulatory framework. The impact analysis presents the criteria used to evaluate the significance of potential impacts on identified land use and planning considerations as a consequence of implementing the Project and alternatives and the results of the impact assessment based on the applied significance criteria.

4.11.1 Setting

Section 2.2, *Project Location*, provides general information about the Project's regional and local setting. This Section 4.11.1 provides setting information specific to land use and planning. The study area relevant to land use and planning is the Project Area, which is located in an unincorporated area of the County. Consequently, the County's land use and planning requirements and standards apply.

A portion of the Project Area also falls within the unincorporated Urban Service Area boundary of the City of Cupertino. However, because no land use permit or other approval would be required from the City of Cupertino to implement the Project, the city's General Plan and Municipal Code are not described in detail in this section. Trucks delivering reclamation materials to the Project Area would traverse roadways within the municipal boundary of Cupertino and noise resulting from Project activities would be audible from residential areas in Cupertino. Accordingly, the city's ordinances are described and Project impacts relative to them are evaluated with respect to those issues (see Section 4.13, *Noise*, and Section 4.17, *Traffic and Transportation*).

4.11.1.1 Regional and Local Setting

The Project Area is located in an unincorporated area of the County west of the City of Cupertino, in the eastern foothills of the Santa Cruz Mountains. The site is bordered by large open space areas to the north, south, and west, and is in close proximity to urban areas to the east. To the south, the nearest non-Applicant-operated land use is the Stevens Creek Quarry, another mining operation. Further south and to the west of Stevens Creek Quarry are several rural residential uses and small agricultural operations, including vineyards and a winery. To the north are open space and recreational uses associated with Rancho San Antonio County Park, and to the east are the Gates of Heaven Cemetery and residential subdivisions. The closest residence is approximately 1,800 feet east of the EMSA; additional residences are located in the vicinity of the site in the cities of Cupertino, Los Altos, Palo Alto, and Saratoga, in the Town of Los Altos Hills, and in the unincorporated community of Loyola. In addition to the area where active surface mining operations occur, the Project Area includes existing, undisturbed buffer areas where no mining-related work occurs, as well as reclaimed areas.

Parks and Open Space

The Project Area is bordered to the north, west, and south by the Rancho San Antonio, Monte Bello, Saratoga Gap, Picchetti Ranch, and Fremont Older open space preserves, each of which is

owned and managed by the Midpeninsula Regional Open Space District (MROSD) (MROSD, 2008). A portion of the Rancho San Antonio preserve is owned by the County Parks and Recreation Department and managed by MROSD through a lease agreement (County of Santa Clara, 2011a). Additionally, the County owns and manages Stevens Creek County Park, a 1,077-acre park adjacent to Monte Bello and Saratoga Gap open space preserves (County of Santa Clara, 2011b).

Surface Mining Operations

The County General Plan identifies eight quarrying sites in unincorporated areas of the County, including the Permanente Quarry (County of Santa Clara, 1994). The Stevens Creek Quarry is located adjacent to the Project Area to the southeast.

4.11.1.2 Regulatory Setting

State of California

Surface Mining and Reclamation Act (SMARA)

SMARA and its implementing regulations require surface mining operations to have an approved reclamation plan. SMARA states, “in judging the adequacy of a particular reclamation plan in meeting the requirements described herein and within the Act, the lead agency shall consider the physical and land-use characteristics of the mined lands and their surrounding area” (14 Cal. Code Regs. §3502).

County of Santa Clara

General Plan

The Project Area is located within lands designated in the County General Plan as Hillside and Other Public Open Lands, as well as some unincorporated lands under County land use jurisdiction, but within the Urban Service Area boundary of the City of Cupertino (County of Santa Clara, 1994, 2008). The following land use policies contained in the General Plan are applicable to the Project:

Hillside

Policy R-LU 16: Hillside: Mountainous lands and foothills unsuitable and/or unplanned for annexation and urban development. Lands so designated shall be preserved largely in natural resource related and open space uses in order to:

- a. support and enhance rural character;
- b. protect and promote wise management of natural resources;
- c. avoid risks associated with the natural hazards characteristic of those areas; and
- d. protect the quality of reservoir watersheds critical to the region’s water supply.

Policy R-LU 17: These lands also contain such important resources as grazing lands, mineral deposits, forests, wildlife habitat, rare or locally unique plant and animal communities, historic and archeological sites, and recreational and scenic areas of regional importance, which serve to define the setting for the urbanized portions of the County. Given the importance of these lands to the County’s overall quality of life, allowable uses shall be

consistent with the conservation and wise use of these resources and levels of development shall be limited to avoid increased demand for public services and facilities.

Policy R-LU 18: All allowable uses must be consistent with the basic intent of the 'Hillside' designation. The range of allowable uses shall be limited to:

- a. agriculture and grazing;
- b. mineral extraction;
- c. parks and low-density recreational uses and facilities;
- d. land in its natural state;
- e. wildlife refuges;
- f. very low density residential development; and
- g. commercial, industrial, or institutional uses, which by their nature
 - 1) require remote, rural settings; or
 - 2) which support the recreational or productive use, study or appreciation of the natural environment.

Policy R-LU 29: The nature and duration of an open space or conservation easement shall be commensurate with:

- a. the nature of the land use;
- b. the duration to which that use has been entitled through County permitting procedures; and
- c. the extent of alterations made to the natural landscape.

Policy R-LU 30: Land uses which do not receive a permanent entitlement should not be required to dedicate open space or conservation easements of permanent nature, unless required as a mitigation for alterations made to the natural landscape.

Other Public Open Lands

Policy R-LU 54: While some areas so designated may be open to public access, others are not available for access or use by the general public, except on a permit basis.

Urban Unincorporated Areas

Policy U-LM 6: County land use and development regulations within a city Urban Service Area shall be generally compatible with the applicable city's general plan designations and accompanying policies.

Policy U-LM 8: County zoning, land development, and building regulations should be designed and administered to:

- a. preserve and enhance the quality of existing urban unincorporated areas; and
- b. maintain community identity, through heritage resource preservation, conservation of historic structures and places, and other similar measures.

The General Plan identifies a number of Special Area Policies, of which only one is applicable to the Project Area. The West Valley Hillside Joint Planning Review, a collaborative effort of the cities of Cupertino, Monte Sereno, Saratoga, Los Gatos and the County, has developed joint land use principles and objectives to minimize the visual impacts of hillside development and to

provide mechanisms for resolution of future hillside land use issues. The primary purpose of this Special Area Policy within the County General Plan is to limit the expansion of urban development into hillside areas. However, the following policies are applicable to the Project:

West Valley Hillside Preservation Area

Policy R-LU 197: The natural beauty of the West Valley hillsides area should be maintained for its contribution to the overall quality of life of current and future generations.

Policy R-LU 201: The West Valley cities and the County should work cooperatively to maintain the natural appearance of the West Valley hillsides and should establish procedures for resolving interjurisdictional land use issues that may arise in this area.

Policy R-LU 203: The County will maintain current General Plan land use designations and prohibit uses of an urban density, intensity or nature outside the long term growth boundaries and in lands within the long term growth boundaries that are outside the urban service area.

Additionally, the General Plan addresses land use and reclamation issues for mineral resource sites such as the Project Area, specifically identifying “the need to minimize adverse environmental impacts of extraction operations and transport, as well as the need to adequately plan for and execute reclamation plans for sites no longer used for extraction” (County of Santa Clara, 1994). The General Plan identifies reclamation of extraction sites after discontinuing mining activities as major aspect of environmental impact mitigation, restoring the site for appropriate subsequent uses and reducing the potential for long-term environmental damage.

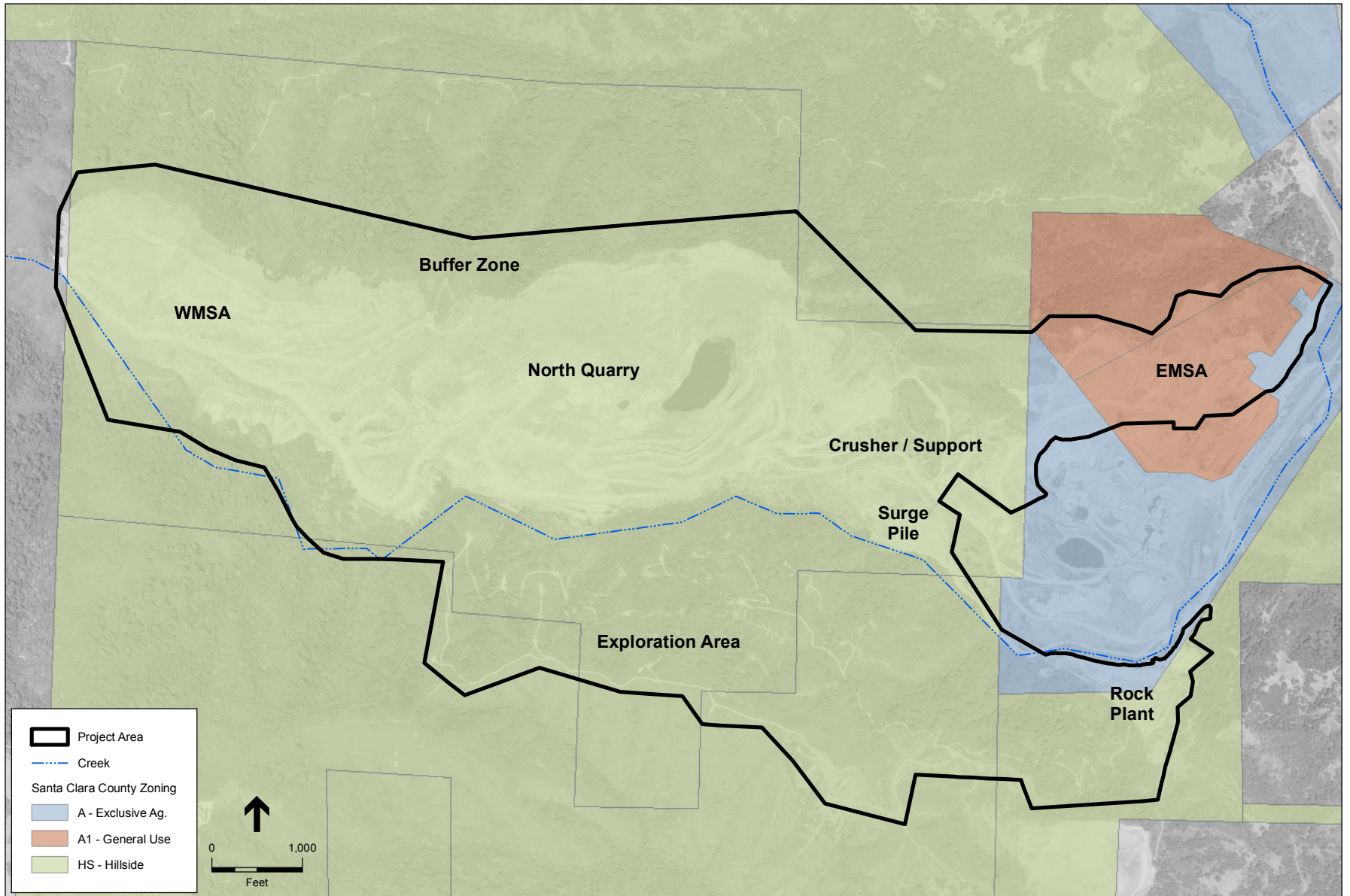
Zoning Code

The County zoning designations for the parcels within the Project Area are listed in **Table 4.11-1** and shown in **Figure 4.11-1**. Several parcel numbers are listed under multiple zoning designations because they fall partially within each designation.

**TABLE 4.11-1
 COUNTY OF SANTA CLARA ZONING DESIGNATIONS AT THE PROJECT AREA**

Zoning Designation	Definition	Assessor's Parcel Numbers
A-d ₁	Exclusive Agriculture, Santa Clara Valley Viewshed	351-10-005, 351-10-033, 351-10-038
A1-d ₁	General Use, Santa Clara Valley Viewshed	351-10-037
A1-20s-d ₁	General Use, Minimum Lot Size 20,000 sf, Santa Clara Valley Viewshed	351-10-037
HS-d ₁	Hillsides, Santa Clara Valley Viewshed	351-09-022, 351-10-033, 351-11-005, 351-11-006, 351-11-007, 351-09-013, 351-09-025, 351-09-023
HS-d1-sr	Hillsides, Santa Clara Valley Viewshed, Scenic Roads	351-11-001, 351-11-081
HS	Hillsides	351-09-020
City of Palo Alto		351-09-003

SOURCE: County of Santa Clara, 2011a.



SOURCE: Lehigh, 2011; Santa Clara County, 2010

Lehigh Permanent Quarry Reclamation Plan Amendment, 211742

Figure 4.11-1
Santa Clara County Zoning Designations

Base Districts

Exclusive Agriculture (A). The intent of this zoning district is “to reserve those lands most suitable for agricultural production for agricultural and appropriate related uses” and it applies to both agricultural and open space preserve designation in the general plan. The zoning code notes that “uses permitted as a matter of right have been found to comply with the criteria” for permitted uses in this district (County Code §§2.20.010, 2.20.050).

General Use (A1). The purpose of this district is to allow general residential and agricultural uses, and allows some other uses and developments through use permits (County Code §2.50.010).

Hillsides (HS). The purpose of this district is “to preserve mountainous lands unplanned or unsuited for urban development primarily in open space and to promote those uses which support and enhance a rural character, which protect and promote wise use of natural resources, and which avoid the risks imposed by natural hazards found in these areas.” This district is meant to apply to the Hillside designation in the general plan. The zoning code notes that this district may be a setting for mineral resource extraction (County Code §§2.20.010, 2.20.070).

Surface mining requires a use permit within each of these zones unless quarrying was established as a legal nonconforming use on the property before a use permit was first required. The County has determined that mining operations within the Project Area are a legal nonconforming use (i.e., a vested right) under this definition (County of Santa Clara, 2011b).

Combining Districts

Combining districts are applied to a collection of parcels of various base district zoning to create an overlay zone that achieves a more specific purpose based on the area’s needs.

Santa Clara Valley Viewshed (d₁). This district is intended to preserve the scenic qualities of the hillside lands visible from the Santa Clara Valley floor (County Code § 3.20.040). Scenic attributes of the Project Area are discussed in Section 4.1, *Aesthetics, Visual Resources, and Light and Glare*.

Slope-Density Combining District (20s). This district restricts the maximum density of development by requiring a minimum lot size of 20 acres, which is based on what can be accommodated using the average slope of the lot (County Code § 3.10.040). This combining district is not relevant to the Project because the Project does not propose the subdivision of lots.

Scenic Roads Combining District (sr). This district is intended to protect the visual character of scenic roads in the County through special development and sign regulations and applies to all designated scenic roads in unincorporated areas of the County. The Project’s effects on scenic roads are discussed in Section 4.1, *Aesthetics, Visual Resources, and Light and Glare*.

Surface Mining and Reclamation Ordinance

The County's Surface Mining and Reclamation Ordinance (County Code §4.10.370) was adopted in order to comply with and implement the provisions of SMARA by adopting procedures for reviewing, approving, and/or permitting surface mining operations, reclamation plans, and financial assurances in the unincorporated areas of the County. The ordinance sets forth the general procedural, operational, and reclamation requirements that must be complied with, where applicable, by surface mining and production operations in the County. The Ordinance contains requirements for the content of a reclamation plan, the review procedure, and mining standards.

The County's Surface Mining Ordinance is supplemented by the County's Surface Mining and Land Reclamation Standards, which were approved by the County Board of Supervisors in 1993 and revised on August 29, 2000 (County of Santa Clara, 2000). Among other things, this document provides additional direction related to Standards for Land Reclamation. Consistent with the standards, reclamation may occur in stages to prepare the land for future open space use.

City of Cupertino

General Plan

The City of Cupertino General Plan recognizes that unincorporated areas of the County are under County jurisdiction, and therefore the City does not have regulatory authority in these areas. However, because a portion of the Project Area is on unincorporated County land within the City's Urban Service Area boundary, the City's General Plan incorporates County land use policies to establish consistency between the City's and County's Hillside area goals:

Policy 2-54: Santa Clara County General Plan. Hillside policies found in the Santa Clara County General Plan adopted in 1994 are included in the Cupertino General Plan by reference and are applicable to the unincorporated hillside area. These policies are incorporated because they are consistent with hillside protection goals. If changes are proposed in the County plan that are inconsistent with the City's hillside protection goals, then the City should protest those changes as well as not incorporate them into the City's General Plan.

The general plan also notes that most of the County's hillside area policies are compatible with those of the City of Cupertino, "except for those relating to expansion of mineral resource areas, which conflict with the City's hillside protection and compatible land use policies" (City of Cupertino, 2005).

4.11.2 Baseline

The environmental and regulatory setting described above constitutes the baseline for determining the significance of potential impacts related to land use and housing. The general plan and zoning information presented in Section 4.11.1 has not changed since, and so represents, land use and planning conditions as they existed in June 2007, when the first reclamation plan amendment application was filed with the County.

4.11.3 Significance Criteria

Consistent with County of Santa Clara Environmental Checklist and Appendix G of the CEQA Guidelines, the Project would have a significant impact if it would:

- a) Physically divide an established community;
- b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect;
- c) Conflict with one or more of the following special policies:
 - i) San Martin and/or South County;
 - ii) Los Gatos Specific Plan or Lexington Watershed;
 - iii) Guadalupe Watershed;
 - iv) Stanford;
 - v) City of Morgan Hill Urban Growth Boundary Area;
 - vi) West Valley Hillside Preservation Area; or
 - vii) Water Collaborative (Guidelines and Standards for Land Use Near Streams); or
- d) Be incompatible with adjacent land uses.

4.11.4 Discussion of Criteria with No Land Use and Planning Impacts

As explained below, the Project would have no impact related to criteria a), b), or c).

a) The Project would not physically divide an established community.

The closest residential areas are in the cities of Cupertino, Los Altos, Palo Alto, and Saratoga. No established community exists within the Project Area that could be physically divided by the Project, nor does the Project propose any structures, facilities, or land use changes that would create a physical or accessibility barrier within any community. The Project would have no impact related to criterion a).

b) The Project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

Even though a portion of the Project Area is within the City of Cupertino's sphere of influence, only the County has land use jurisdiction over the Project. The County's General Plan, County Code (including its SMARA Ordinance), and policies (including its Surface Mining and Land Reclamation Standards), which have been adopted to avoid or mitigate environmental effects, require a lead agency-approved reclamation plan for all surface mining activities. The Project

proposes to accomplish exactly this purpose. Implementation of the Project would reclaim those portions of the Project Area that have been subjected to surface mining operations and exploratory activities to conform the affected lands to the surrounding topography in contour and vegetation, to achieve long-term slope stability, to protect water quality, and to make the affected lands suitable for future open space use. The Applicant's intention to continue surface mining operations in the Quarry pit concurrently with proposed reclamation activities would be in conformance with the allowable uses for the "Hillsides" designation listed in General Plan Policy R-LU 18, with the public access policies of the "Other Open Public Lands" designation, and with each of the applicable base zoning districts because the use of the Project Area for mineral resource extraction has been found to be a legal nonconforming use. Implementation of the Project also would be in conformance with County General Plan Policy U-LM 6 and Cupertino General Plan Policy 2-54 because it would not expand mineral resource extraction areas beyond Project Area boundaries. The Project's conformance with policies that are primarily related to aesthetic or cultural values is evaluated in Sections 4.1, *Aesthetics, Visual Quality, and Light and Glare*, and 4.5, *Cultural and Paleontological Resources*, respectively.

After final reclamation is complete, the use of the reclaimed site as open space would be consistent with the County's General Plan, zoning, and land use and planning policies for the Project Area. Because the Project would not conflict with any applicable land use plan, policy, or regulation adopted by the County for the purpose of avoiding or mitigating an environmental effect, the Project would cause no impact related to criterion b).

c) The Project would not conflict with special policies, including the San Martin, South County, Los Gatos Specific Plan, Lexington Watershed, Guadalupe Watershed, Stanford, City of Morgan Hill Urban Growth Boundary Area, West Valley Hillsides Preservation Area, and Water Collaborative (Guidelines and Standards for Land Use Near Streams) specific policies.

Of the special policies listed in criterion c), the Project would be located only within the West Valley Hillsides Preservation Area, and so no other special policies are applicable. The Project would reclaim the existing disturbance within the Project Area to conform to the surrounding topography in contour and vegetation and make the reclaimed lands suitable for future open space uses. During the continued mining operations and active reclamation activities, the Project would be in conformance with Policy R-LU 203 for the West Valley Hillsides Preservation Area because it would not require alterations to the General Plan land use designations, nor would it introduce new uses of an urban density, intensity, or nature to the Project Area. The Project's conformance with Policies R-LU 197 and 201, which relate primarily to aesthetic values, is evaluated in Section 4.1, *Aesthetics, Visual Quality, and Light and Glare*.

After Project completion, the suitability of the reclaimed site as open space would be consistent with the applicable special policies designed to preserve the natural beauty and appearance of the West Valley hillsides and limit the growth of urban uses and/or services into the hillside areas. Because the Project would not conflict with any applicable special policy, the Project would cause no impact related to criterion c).

4.11.5 Impacts and Mitigation Measures

d) Would the Project be incompatible with adjacent land uses?

Impact 4.11-1: The Project would be incompatible with adjacent land uses. (*Less than Significant Impact*)

During the reclamation process, the Project could have adverse effects on adjacent recreational, open space, and residential land uses due to visual impacts, air pollutant emissions, noise, and traffic. The specific effects of each of these impact types are evaluated, and mitigation measures are recommended to reduce Project impacts where appropriate, in Sections 4.1, *Aesthetics, Visual Quality, and Light and Glare*; 4.3, *Air Quality*; 4.13, *Noise*; and 4.17, *Transportation/Traffic*, respectively. After reclamation is complete, the compatibility of the Project Area with adjacent land uses would be improved, and no conflict would result.

4.11.6 Alternatives

4.11.6.1 Alternative 1: Complete Backfill Alternative

Alternative 1 would alter the final contours of the Project Area, but would not alter the types of uses present in the Project Area during or after reclamation. Therefore, this alternative would result in impacts on land use and planning similar to those of the Project. Because Alternative 1 would be implemented within the same Project Area as the Project, it also would have no impact related to the division of an established community. Existing land uses in the Project Area before final reclamation conditions would be achieved would consist of continued surface mining operations and reclamation activities, both of which would be in conformance with the allowable uses for the land use and zoning designations, public access policies, and mineral resource extraction policies that apply to lands within the Project Area. Similar to the Project, after final reclamation is complete, the use of the reclaimed site as open space would be consistent with the County's General Plan, zoning, and land use and planning policies for the Project Area. Alternative 1 would cause no impact related to conflicting with existing land use policies. Additionally, this alternative would not conflict with the West Valley Hillsides Preservation Area special policy, and no other special policies would apply; therefore, Alternative 1 would cause no impact related to conflicting with special policies.

Alternative 1's conformance with policies that are primarily related to aesthetic or cultural values is evaluated in Sections 4.1, *Aesthetics, Visual Quality, and Light and Glare*, and 4.5, *Cultural and Paleontological Resources*, respectively.

4.11.6.2 Alternative 2: Central Materials Storage Area Alternative

Alternative 2 would alter the final contours of the Project Area, but would not alter the types of uses present in the Project Area during or after reclamation. Reclamation of the CMSA would be in conformance with the existing land use and zoning designations applicable to the Project Area. Therefore, this alternative would result in impacts on land use and planning similar to those of the

Project. Because Alternative 2 would be implemented within the same Project Area as the Project, it also would have no impact related to the division dividing an established community. Until final reclamation conditions would be achieved, land uses in the Project Area would consist of continued surface mining operations and reclamation activities, both of which would be in conformance with the allowable uses for the land use and zoning designations, public access policies, and mineral resource extraction policies that apply to lands within the Project Area. Similar to the Project, after final reclamation is complete, the use of the reclaimed site as open space would be consistent with the County's General Plan, zoning, and land use and planning policies for the Project Area. Alternative 2 would cause no impact related to conflicting with existing land use policies. Additionally, this alternative would not conflict with the West Valley Hillsides Preservation Area special policy, and no other special policies would apply. Therefore, Alternative 2 would cause no impact related to conflicting with special policies.

Alternative 2's conformance with policies that are primarily related to aesthetic or cultural values is evaluated in Sections 4.1, *Aesthetics, Visual Quality, and Light and Glare*, and 4.5, *Cultural and Paleontological Resources*, respectively.

4.11.6.3 No Project Alternative

The No Project Alternative would extend the time period in which surface mining activities occur within the Project Area and delay final reclamation conditions by approximately 7 years, but would not alter the types of uses within the Project Area during or after reclamation. Similar to the Project, the No Project Alternative would cause no impact related to the division of an established community or to any conflict with applicable land use plans or policies, or with special policies.

The No Project Alternative's conformance with policies that are primarily related to aesthetic or cultural values is evaluated in Sections 4.1, *Aesthetics, Visual Quality, and Light and Glare*, and 4.5, *Cultural and Paleontological Resources*, respectively.

References – Land Use and Planning

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