Appendix G:
Vested Rights Affirmations

Appendix G: Vested Rights Affirmations

No.	Year	Document
1.	1939	May 8, 1939 Use Permit No. 23, with Application
2.	1950	July 17, 1950 Amendment to Use Permit No. 23
3.	1955	July 6, 1955 Amendment to Use Permit No. 23
4.	1956	July 2, 1956 and August 23, 1956 letters between Permanente Cement Company and Planning Commission re Rock Plant
5.	1971	February 22, 1971 memo from John S. Haas to Supervisor Victor Calvo
6.	1972	August 18, 1972 Ridgeline Protection Easement Deed, and undated article
7.	1977	September 22, 1977 memo from R. Bratton re 1954 Ordinance
8.	1977	November 3, 1977 Approval of cement plant modernization, and related materials
9.	1980	December 15, 1980 memo from Gerry Steinberg to County Board of Supervisors
10.	1985	March 1985 Reclamation Plan Approval Documents
11.	1988	February 2, 1988 and March 29, 1988 letters between Kaiser Cement Corporation and County re Mineral Aggregate Plant
12.	1991	July 25, 1991, September 16, 1991 and September 18, 1991 letters between Kaiser Cement Corporation and County re Rock Plant Modernization Project
13.	1993	1993- 2009 Surface Mining Inspection Reports prepared by County
14.	1994	January 4, 1994 memo from County Counsel's Office to Dianne McKenna, Supervisor Fifth District
15.	2003	May 9, 2003 letter from Hanson Permanente Cement's counsel to County re Ridgeline Protection Easement
16.	2006	June 7, 2006 materials (excerpts) provided by County to State Mining and Geology Board
17.	2006	August 10, 2006 letter from Hanson Permanente Cement's counsel to County re alleged SMARA violations
18.	2006	October 10, 2006 Notice of Violation and Compliance Schedule issued by County
19.	2006	November 27, 2006 letter from County to Department of Conservation regarding site zoning history
20.	2007	April 10, 2007 letter from Hanson Permanente Cement's counsel to County re reclamation plan amendment
21.	2007	May 11, 2007 letter from Hanson Permanente Cement's counsel to County re draft inspection report
22.	2007	May 25, 2007 Notice of Preparation by County for Environmental Impact Report
23.	2007	August 23, 2007 letter from OMR re cement plant
24.	2008	May 21, 2008 letter from County to Hanson Permanente Cement re modification to Compliance Schedule
25.	2008	June 20, 2008 Notice of Violation issued by County re EMSA stockpiling
26.	2008	July 21, 2008 letter from Hanson Permanente Cement's counsel to County re Notice of Violation for EMSA
27.	2009	April 14, 2009 agreement between County and Lehigh Hanson regarding EMSA interim stockpiling

No.	Year	Document
28.	2010	April 14, 2010 Notice of Preparation for Environmental Impact Report for EMSA

APPLICATION NO. [illegible]

Attachment 4

As provided in Sections 12 and 27 Zoning Procedure Ordinance (No. 120), County of Santa Clara.

TO THE SANTA CLARA COUNTY PLANNING COMMISSION
COURT HOUSE, SAN JOSE, CALIFORNIA

Date Filed April 26 1939

The undersigned hereby applies for a USE PERMIT to erect and operate a cement mill on that certain property situated on Permanente Creek, about ten (10) miles due West of the City of San Jose, County of Santa Clara, State of California, which property is more particularly described in that certain lease and option to purchase date March 9, 1938 between Santa Clara Holding Company, Ltd., a corporation and HENRY J. KAISER COMPANY, a corporation, which said lease and option to purchase was recorded October 1st, 1938 in Vol. 901 of Official Records, page 8, Records of Santa Clara County, California. Said property is legally described as:

Sections 16,17,18 and a part of 21, T. 7 S. R. 2 W. M.D.B. & M.;

said property is situated in Zoning District officially designated as A-1 Zoning District; total acreage of the property covered by the aforementioned lease and option to purchase is approximately thirteen hundred (1300) acres. The dimensions of buildings are as shown on the accompanying plant lay-out, which contains, as well, numerous details of design, which may prove of value to your Honorable Body. There are no streets upon the property, or in the vicinity of the proposed plant.

The property is owned by the Santa Clara Holding Company, Ltd., a corporation, subject to the above referred to lease and option to purchase, which said lease and option to purchase has heretofore been assigned to the undersigned

The undersigned further states that, under the circumstances of this particular case:

1. The establishment, maintenance and conducting of the use for which this permit is sought will not be detrimental to health, safety, morals, comfort, convenience or welfare of persons residing or working in the neighborhood of such use for the following reasons:

Said proposed plant is to be most modern design and fully equipped with Cottrell Dust Precipitating equipment, of the latest design, which said equipment is warranted by the manufacturers thereof to remove a minimum of 95% of all dust resulting from operation of the plant, leaving less dust than is contained in ordinary air. The plant is likewise of wet process design, which, in itself, reduces the dust hazard to a minimum. In addition to the above, the proposed plant is to be situated in an isolated position on the property in a canyon not in close proximity to any community or dwelling.

2. The proposed use will not be detrimental to the general welfare or injurious to property or improvements in the neighborhood of such use for the following reasons: (see description of plant contained under Number 1).

THE PERMANENTE CORPORATION,

By _____

Its Vice President

APPLICANT'S AFFIDAVIT

STATE OF CALIFORNIA)
) ss.
COUNTY OF SANTA CLARA)

I, A. K. HUMPHREYS, being duly sworn, depose and say:

That I am the Vice President of The Permanente Corporation, a corporation, which said corporation makes the foregoing application for use permit; that the owner of the property approves the application; and that the foregoing statement and all data, information and evidence herewith submitted are in all respects, to the best of my knowledge and belief, true and correct.

A. K. Humphreys
Vice-President The Permanente Corporation.

Subscribed and sworn to before me this 25th day of April, A.D., 1939.

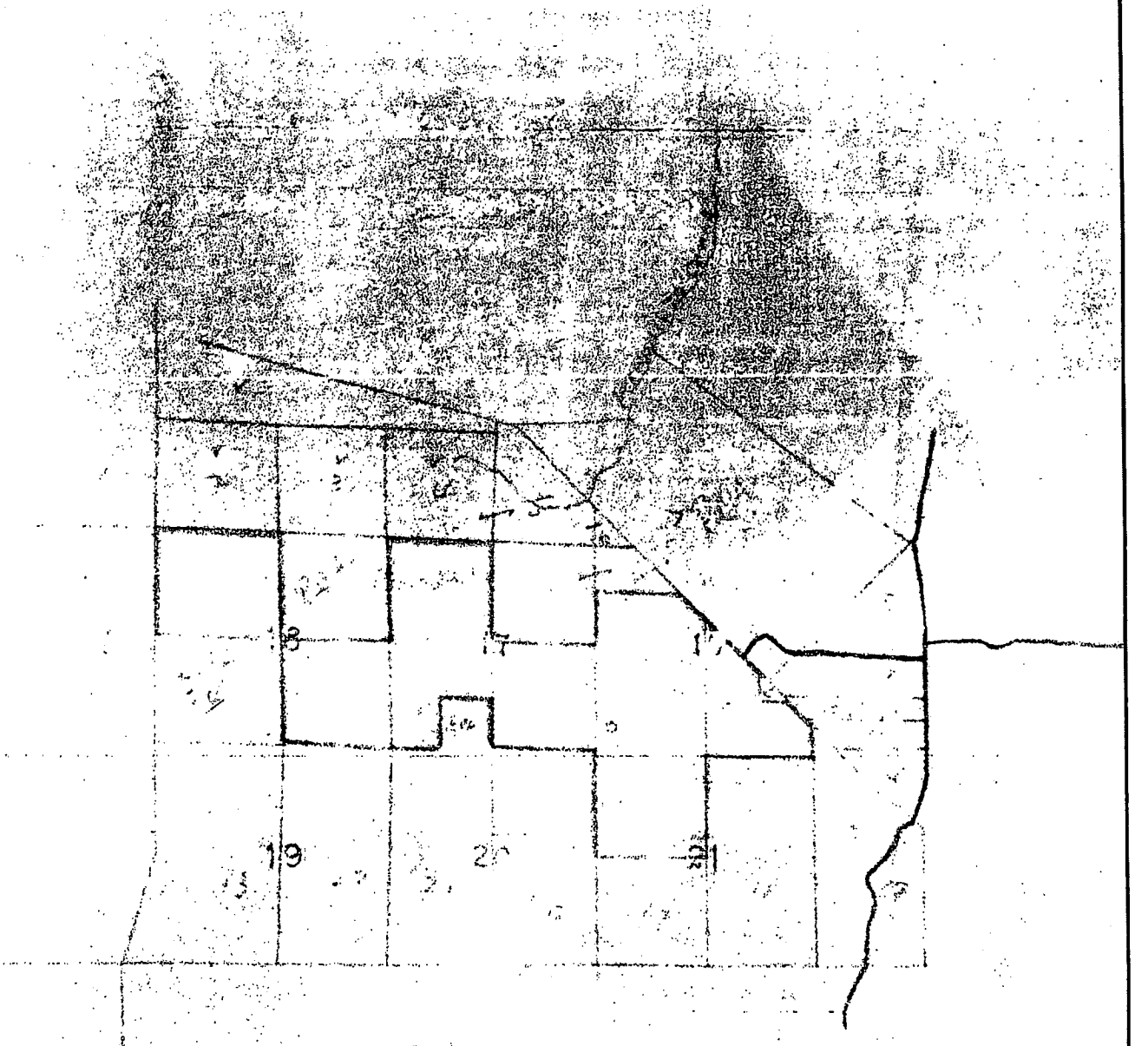
S. J. Englert
Notary Public in and for the County of Santa Clara, State of California.

Phone No. Sutter 8040 Address: c/o Pacific Coast Aggregates, 85 So. 2nd Street, San Francisco, California.

This is to certify that the foregoing application has been inspected by me and was filed in the office of the Santa Clara County Planning Commission in accordance with the provisions of Section ____ of Zoning Procedure Ordinance, No. 120.

SANTA CLARA COUNTY PLANNING COMMISSION
By Laura M. Campbell
Date April 26, 1939

Use Permit Application No. 123


19
20
21

USE PERMIT #23

As provided in Section 12 and 35 of
Zoning Procedure Ordinance #120
County of Santa Clara

A Use Permit is hereby issued to The Permanente Corporation, a corporation, to permit erection, construction and operation of a cement mill and the storage of cement on that certain property situated on Permanente Creek about 10 miles due West of the City of San Jose, County of Santa Clara, State of California, which property is more particularly described in that certain Lease and Option to purchase, dated March 9,1938, between Santa Clara Holding Company, Ltd., a corporation, and Henry J. Kaiser Company, a corporation, which said lease and option to purchase was recorded October 18,1938, in Volume 901, of Official Records, Page 8, Records of Santa Clara County,California. Said property is legally described as Sections 16,17,18, and a part of Section 21, T7S,R2W, MDB & M. Said property is situated in Zoning District officially designated as A-1 Zoning District.

Total acreage of the property covered by the aforementioned Lease and Option to Purchase is approximately 1,300 acres.

The dimensions of buildings to be substantially in conformity with plant- lay-out submitted to the Santa Clara County Planning Commission at the time of application for Use Permit, subject to such changes and modifications as may be desirable. Plans showing such changes and/or modifications shall be filed with the Santa Clara County Planning Commission.

The property is owned by the Santa Clara Holding Company, Ltd., a corporation, subject to the above referred to Lease and Option to Purchase, which said Lease and Option to Purchase has heretofore been assigned to The Permanente Corporation, a corporation.

If there are special conditions under which this Use Permit is issued a statement of such conditions is attached hereto and

the Permit is conditioned thereon.

The use permitted hereby shall be conducted and shall conform in all particulars to the provisions of all applicable laws and ordinances. Failure to comply with all the aforementioned provisions and conditions will be cause for the cancelation of this Use Permit by the County Planning Commission.

SANTA CLARA COUNTY PLANNING COMMISSION

By James M. Campbell
~~Chairman.~~ Secretary

Date May 8, 1939

Approved and confirmed by Board of Supervisors, County of Santa Clara, State of California, on the 8th day of May 1939.

BOARD OF SUPERVISORS, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA

By _____
Chairman.

USE-PERMIT NO 73

The foregoing Use permit is issued subject to the following conditions:

1. That the plant be constructed and operated in accordance with the ordinances of the County of Santa Clara and in such manner that dust be controlled in the manner specified in the application heretofore filed with the Planning Commission and that a bond satisfactory to the Board of Supervisors in the amount of $50,000 be posted with the Board of Supervisors for the faithful performance of these conditions.
2. That when there is a violation of the above provision or of any other provision of law or ordinance it shall constitute cause for the Board of Supervisors to suspend the Use Permit to operate said plant, and
3. That failure to cease operations upon suspension of the use permit by the Board of Supervisors shall be one of the terms of forfeiture of said bond.

SANTA CLARA COUNTY PLANNING COMMISSION

BY James M. Campbell Secretary

Date May 8, 1939

We agree to conform to all the foregoing conditions.

Applicant: THE PERMANENTE CORPORATION

By _____ Vice-President.

Address: 1522 Latham Square Building, Oakland, California

Date May 8th, 1939

The appeal of certain property owners and persons dissatisfied with the decision or ruling of the Planning Commission made on the 28th day of April, 1939, and embodied in the resolution of said Planning Commission adopted on said day recommending that the Board of Supervisors of Santa Clara County grant to the Permanente Corporation a permit for the construction and operation of a cement plant and the storage of cement on Sections 16, 17, 18, and part of 21, Township 7 South Range 2 West M.D.B. & M., coming on regularly for hearing and evidence having been introduced herein, and the matter having been submitted to this Board for its decision, this Board hereby finds:

That the storage, maintenance, and/or conducting of the use for which said permit is sought will not, under the circumstances of the case, be detrimental to the health, safety, morals, comfort, convenience, or welfare of persons residing or working in the neighborhood of such use, and will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in said neighborhood.

The Board of Supervisors further finds that by the terms of the order granting the use permit it is provided that when there is a violation of any provisions of law or ordinance relative to the management of said plant, or the same is not so conducted that dust be controlled in the manner specified in the application, said Board of Supervisors may suspend the use permit to operate said plant.

THEREFORE, IT IS ORDERED that the action of the Planning Commission and the Board of Supervisors granting a use permit

to the said Permenente Corporation be and the same is hereby sustained and the granting of said permit is hereby confirmed.

Dated June 8, 1939.

Supervisors,

"

"

"

"

Board of Supervisors of the County of Santa Clara, State of California.

SANTA CLARA COUNTY PLANNING COMMISSION

AMENDMENT TO USE PERMIT NO. 23

Date: July 17, 1950.

In accordance with the provisions of Ordinance No. 120 of the County of Santa Clara, State of California,

PERMANENTE CEMENT COMPANY

is hereby granted an amendment to Use Permit No. 23 to permit the installation of one additional kiln, and auxiliary facilities, at the existing cement plant, subject to the following conditions:

(1) Two (2) Cottrell Electro-static precipitators be installed in the proposed kiln at the time of its construction.

(2) All conditions of the original Use Permit No. 23, issued for the construction and operation of the cement plant, are to continue to be in full force and effect, and the proposed additional kiln is to be operated in accordance with said conditions, except that the $50,000.00 bond previously posted by the applicant shall be increased to a $75,000.00 surety bond.

I, Nestor Barrett, Secretary of the Planning Commission of the County of Santa Clara, State of California, hereby certify that the said Planning Commission did grant the foregoing Amendment to Use Permit No. 23 at a regular meeting of said Commission held on the 21st day of June, 1950.

Nestor Barrett

NESTOR BARRETT, Director-Secretary

I, E. T. McGehee, County Clerk and Ex-officio Clerk of the Board of Supervisors of the County of Santa Clara, State of California, hereby certify that the said Board of Supervisors did confirm the action of the Planning Commission of the County of Santa Clara and did grant the foregoing Use Permit.

By [illegible] Deputy Clerk

FILED

JUL 17 1950

E. T. McGEHEE, Clerk

BY

AMENDMENT 2

COUNTY OF SANTA CLARA
PLANNING COMMISSION

COMMISSIONERS
W. W. CURTNER
CHARLES KUHN
CHESTER POST
CARROLL WENTZ
W. B. WESTON
CHRISTIAN A. WILDER

L. BUSHNELL
COUNTY SURVEYOR
HOWARD W. CAMPEN
COUNTY COUNSEL
WALTER S. GASPAR
BOARD OF SUPERVISORS
KARL J. BELSER
DIRECTOR-SECRETARY

SANTA CLARA COUNTY OFFICE BUILDING
FIRST AND ROSA STREETS
SAN JOSE 12, CALIFORNIA

July 6, 1955

Permanente Cement Company
1522 Lathem Square Building
Oakland, California

Gentlemen:

The County of Santa Clara Planning Commission, in regular meeting held on the 18th day of May, 1955, considered your request of May 13, 1955, for an amendment to Use Permit No. 23, to permit the construction of an additional rotary kiln to be erected adjacent to existing kilns at the Permanente Company Cement Plant located on Permanente Road, Monta Vista, California. After consideration of your request and a review of the provisions of issuance of Use Permit No. 23, it was moved by Commissioner Curtner, seconded by Commissioner Wentz, and carried that your request be interpreted as a permitted modification of the original plans.

Approval of your request for modification of the original plans, as set forth in your letter, and on plans on file with the Planning Commission, does not constitute a waiver by the Planning Commission of the conditions on which the original Use Permit No. 23, and the conditions on which an amendment thereto was granted by the Planning Commission under the date of July 17, 1950.

Very truly yours,

Karl J. Belser, Secretary

KJB-JSH:lr

cc: Mr. Duncan Oneal, Atty.
First National Bank Bldg.
San Jose, California

173.23

SA 7/5/56

PERMANENTE CEMENT COMPANY
KAISER BUILDING
1924 BROADWAY
OAKLAND 12, CALIFORNIA

July 2, 1956

Santa Clara Planning Commission
San Jose, California

Attention: Mr. Karl J. Belser

Gentlemen:

As you know, Use Permit No. 23 dated May 8, 1939, was issued to our Company in connection with the operation of our cement plant at Permanente. As a part of the plant operation, we have, as you know, operated crushers and other equipment at the quarry and other locations. We propose to move some of this crushing equipment to a new location on our property for the purpose of crushing the waste rock which comes from the quarry so as to make it suitable for use as road-construction material. We will continue, of course, to operate these crushers in the same manner as in the past.

While we believe that this crushing operation is permitted under our existing Use Permit, we feel that the Planning Commission should be advised of the matter so that they will continue to have full information concerning our operations. We are enclosing a sketch which shows the general location of our cement plant, the quarry, the waste pile and the location of the proposed crushing operation.

We are forwarding this letter to you for your information and such handling as may be appropriate.

Yours very truly,

PERMANENTE CEMENT COMPANY

Wallace A. Marsh

Wallace A. Marsh
Vice President & General Manager

WAM:CC

enc.

173.23

173.23

August 23, 1956

Permanente Cement Company
1924 Broadway
Oakland, California

Attn: Mr. Wallace A. Marsh

Gentlemen:

Please be advised that the County of Santa Clara Planning Commission, in regular meeting, reviewed and approved your plan to re-locate rock crushing equipment on your quarry at Permanente.

The above approval was given on the finding that the proposed relocation is in conformance with the provisions of Use Permit No. 23, issued by the County of Santa Clara for the quarry operation.

Very truly yours,

WOODBRIDGE MARSHALL, Secretary

WM:JSH:blm

February 22, 1971

M E M O R A N D U M

To: Supervisor Victor Calvo

From: John S. Haas

Subject: Zoning History - Permanente Corporation Property - Monta Vista

Prior to the adoption of the County Zoning Ordinance in August 1937, a quarry operation was commenced on the Permanente property. As a use established prior to the requirement that a use permit be secured, it is now considered a lawful nonconforming use and, pursuant to the Zoning Ordinance provisions relating to nonconforming uses, may continue to operate. It is my understanding that the quarry may be expanded without a use permit, but only to the boundary of the property it was originally established on.

Since the date of adoption of the Zoning Ordinance requirement that a use permit is required for the commercial excavation of natural materials in any zoning district, such permit would be required in the event the quarry was to have been expanded onto adjacent property. As it appears that no additional land has been acquired or used for quarry operations, the County, through zoning regulations, has been without authority to regulate the operation.

The existing cement plant on the Permanente property was authorized by the issuance of Use Permit 173.23, May 8, 1939. Certain conditions were imposed on the use permit to insure the control of dust and a fifty thousand dollar ($50,000) bond posted to guarantee faithful performance.

In 1950 and in 1955, modifications to the use permit were approved by the Planning Commission, such being in each instance, the addition of an additional kiln. The Commission required installation of 2 Cottrell precipitators on each kiln to further assist in supressing dust and required that all conditions imposed on the original permit be held to be in full force and effect. To our knowledge, no new processing equipment has been installed on the property which would be related to the manufacturing of cement.

During World War II, a use permit was issued for a Ferro Silicon plant on the property. This use was discontinued upon termination of the war and has not been reestablished.

JSH:jt

4363258

BD OF SUPERVISORS

NO TAX DUE

NO FEE

BOOK 0652 PAGE 589

RIDGELINE PROTECTION EASEMENT DEED

This is a Ridgeline Protection Easement Deed made by KAISER CEMENT & GYPSUM CORPORATION, as Grantor, to the COUNTY OF SANTA CLARA, a political subdivision of the State of California, as Grantee.

WHEREAS, the Grantor is the owner in fee of that certain real property known as Permanente Cement Plant, situated in the County of Santa Clara, State of California; and

WHEREAS, the Grantor is conducting mining operations and other industrial use upon the property; and

WHEREAS, the site of the mining operations is in the western foothills of the County of Santa Clara and portions of that site have natural beauty and scenic attributes which compliment the surrounding lands; and

WHEREAS, Grantor, as an industrial operator within the County of Santa Clara, desires to make its operations at the Permanente Cement Plant as compatible with the natural environment and general welfare of the community as is reasonably practicable; and

WHEREAS, the ridge commonly known as "Permanente Ridge" provides a scenic backdrop to the residents in the northern portion of the County of Santa Clara and a natural screen to a portion of the industrial operations taking place on the site of the Permanente Cement Plant; and

WHEREAS, the Grantor is willing to grant to the County of Santa Clara an easement protecting and maintaining the said ridge at specified elevations as herein provided;

NOW, THEREFORE, and in consideration of the premises, the Grantor grants and conveys to the County of Santa Clara a ridge-line protection easement in that certain real property of Grantor known as "Permanente Cement Plant," situate in the County of Santa Clara, State of California, and more particularly described in the following referenced deeds in the Official Records of the Recorder of the County of Santa Clara, and depicted as the area outlined in red on the USGS map attached as Exhibit "A" hereto:

Book	Page
945	17
945	98
945	99
1046	265
1090	212
1106	15
1103	591
1153	10
1242	221
1329	183
3510	223
5254	518
6830	732
7787	163
7787	164
8122	556
8757	470

and along that certain line shown in red and marked "Finished Permanente Ridge As Seen From Los Altos" on the map attached as Exhibit "B" hereto, of the nature and character and to the extent hereinafter expressed, which estate, interest and easement will result from the restrictions hereby imposed upon the use of said property by said Grantor, and to that end and for the purpose of

accomplishing the intent of the parties hereto, said Grantor covenants on behalf of itself, its successors and assigns with the said Grantee, its successors and assigns, to do and refrain from doing severally and collectively upon the Grantor's said property the various acts hereinafter mentioned.

Grantor reserves the right to make full use of said real property and ridgeline subject to the provisions of this ridgeline protection easement for all purposes which do not interfere with, impair, destroy or detract from Grantee's rights hereunder.

The restrictions hereby imposed upon the use of said property of the Grantor and the acts which said Grantor shall refrain from doing upon their said property in connection therewith are as follows:

1. Grantor shall not lower the ridgeline described in Exhibit "B" for mining, quarrying or other purposes, below the sea level elevations along that certain line labeled "Proposed Future Ridgeline" on the profile map attached hereto as Exhibit "C"; nor will Grantor mine, quarry or otherwise excavate for minerals or mineral materials in the area shown as the "northeast slope" on Exhibit "B".

2. Grantor shall install, within sixty (60) days of the execution of this document, durable, fixed monuments, contained in concrete, at the four stations indicated on the ridgeline profile map attached as Exhibit "C" hereto, indicating the elevations above sea level referred to in paragraph 1 above.

3. Grantee shall have the right to enter upon the real property for the purpose of making inspections from time to time regarding the preservation of the ridgeline easement.

4. This easement is granted to the County of Santa Clara, its successors and assigns forever. This grant shall be binding upon the successors and assigns of the Grantor.

IN WITNESS WHEREOF, KAISER CEMENT & GYPSUM CORPORATION has caused its corporate name and seal to be affixed hereto and this instrument to be executed by its duly authorized officer.

DATED: August 18, 1972.

KAISER CEMENT & GYPSUM CORPORATION

By Peter S. Hass

Title President

4363258

BOOK C052 PAGE 589

FILED FOR RECORD
AT REQUEST OF
BOARD OF SUPERVISORS
OCT 4 3 22 PM '72
OFFICIAL RECORDS
SANTA CLARA COUNTY
GEORGE E. FOWLES
RECORDER

NEM:mo
8/15/72

NO FEE

Kaiser staff agrees only to meet on quarrying

By BILL LEONARD

SAN JOSE—Efforts to regulate the Kaiser-Permanente quarrying operation in the hills above Cupertino Wednesday brought a commitment from company officials only to meet with Santa Clara County staff members.

The supervisors referred the matter to staff, asking that the staff members and Kaiser officials confer, and return in 90 days with commitments for:

—Maintaining the ridgeline on ridges near Montebello at 1,500 feet.

—A general landscaping and rehabilitation plan for land on the ridges from which limestone is extracted for the Kaiser cement-making operations.

—Bringing the Kaiser operation under control of the county's quarrying regulations.

The supervisorial decision came on a 3 to 1 vote, with Supervisor Ralph Mehrkens dissenting. Supervisor Sig Sanchez was absent from the 90-minute session because of family illness.

In casting his dissenting vote, Mehrkens said that "I don't want to alienate the company," and that the matter should be referred to the staff, Kaiser and the public, then should go back to the board for final hammering out of details.

Calvo, the board conservationist, also had wanted a 90-day moratorium on further digging operations on the ridges adjoining Montebello Ridge.

However, attorney Duncan Oneal, representing Kaiser, told the board that the company was "not prepared to enter into any agreement today."

Oneal said that it was "not fair to ask agreement to anything without a meeting" of Kaiser staff members.

John Walker, Kaiser's vice president for operations, noted that the Kaiser officials present could not legally make any agreements at that time.

Additionally, he said, there were "strong reasons" for continuing quarrying operations, including weather.

"I'm becoming more concerned," Calvo said. "To say you'll go along with us is one thing. A firm commitment is something else.

"I want a commitment. I've been asking this for two years, and I want a little action."

Additionally, Calvo said there are "legal ways" to make Kaiser conform to county quarrying regulations, and "if it must come to that, maybe it should."

In outlining the background of the quarrying question, County Counsel William Siegel noted that quarrying standards passed by the County Planning Commission in 1961 do not apply to Kaiser since the Kaiser operation is a nonconforming use dating from 1939.

The county could get Kaiser to conform through voluntary agreement, through passage of a comprehensive, retroactive county quarrying ordinance, or through an ordinance phasing out nonconforming uses over a period of time.

Ralph Hoffman, general production manager for Kaiser, told the board Kaiser's plans in the future included:

—Not cutting the ridges to a skyline, leaving a skyline view, not an open view of the quarrying operation.

Completion of new quarrying along ridgelines in two to three years.

—Leaving a quarrying operation that could not be seen either from the Los Altos-Los Altos Hills area, or elsewhere.

—The present cutting into ridgelines is the last one planned by Kaiser.

The land would be rehabilitated and planted at the conclusion of operations, Hoffman said.

Rpt - Quarry Skyline

copies to: J. I. Walker ✓
W. E. Ousterman
J. C. Reilly
J. E. Good
L. M. Bryan
R. H. Berby
E. J. Ruff

memorandum

TO	FROM
File	R Bratton
SUBJECT	DATE
Kaiser-Permanente Sand & Gravel	9-22-77

Prior to ordinance change in 1954 (NS-1200.3 July 26, 1954) no use permit would be required for quarry which was to be located more than 1000 feet from a County road. Was previously researched for Kaiser-Permanente by Duncan Oneal, that Lock that quarrying operation was established on this site prior to any requirement of use permit. (Frank Machado & Bob Fedde, sources)

[illegible] use which exist prior to requirements [illegible] permit by the County shall be deemed to be a conforming use.

REORDER # 963074
26 REV 11/69

over

Section 12. Regs. for A-1 Districts - Aug 25, 1937

(a) Uses permitted.

3. Commercial excavating of natural materials within a distance of 100 feet from any public street

NS-1200.3 7-26-54 (XII)

Sect. 33 Conditional Uses & Variances Allowed in all Zoning Districts.

Sect. 33.1 In addition to uses permitted in any Zoning District, the following uses may be established subject to the issuance of a permit therefor:

2. Commercial excavating of natural materials

KAISER
CEMENT & GYPSUM
CORPORATION

KAISER CENTER · 300 LAKESIDE DRIVE · OAKLAND, CALIFORNIA 94666 · AREA CODE 415 271-2211

August 12, 1977

Mr. Lucas Stamos
Secretary
Planning Commission
County of Santa Clara
San Jose, California

In Re: Application for Categorical Exemption
Kaiser Cement & Gypsum Corporation

Dear Mr. Stamos:

Enclosed are an original and twenty (20) copies of the application of Kaiser Cement & Gypsum Corporation for a Categorical Exemption Assessment pursuant to Article III Section 3.7, Class 1 (b) (2) (Restoration of Structures) and/or Class 2 (a), (2) or (3) (Replacement of Structures) of the Santa Clara County Planning Department Environmental Impact Handbook.

We are proposing to modernize the Permanente cement manufacturing facilities within the purview of the existing Use Permit No. 23. The contemplated modernization is detailed in the application. The purpose of the plant and its production capacity will remain unchanged. Modernization of the facilities will provide a more efficient operation, thereby resulting in a substantial reduction of energy and water requirements.

A new improved air pollutant control system will not only enable the plant to meet existing emission standards but future emission requirements as well.

Moreover the new facilities involved in the modernization process will be placed within the existing use permit site, but in a less conspicuous place.

1 l

pg 899

If you have any questions regarding the modernization of the plant, our staff will be pleased to meet with you at any time within your convenience.

Sincerely,

J. I. Walker
Senior Vice President
Manufacturing & Distribution

JIW:gk

Enclosures

lm 09989

ENVIRONMENTAL DATA SUBMITTED BY THE

APPLICANT TO SUPPORT THE FINDING OF CATEGORICAL EXEMPTION

The following information regarding environmental factors is submitted to facilitate determination of Categorical Exemption or a Negative Declaration.

A. Physical Resources

1. Vegetation - The new facilities will be located adjacent to existing facilities and will require removal of vegetation only at the border of the existing developed plant area. A minor amount of the native brush will be removed in the new stockpile area.

2. Wildlife - There will be no change in the wildlife environment. Deer, quail, rabbits, rattlesnakes and other wildlife in the surrounding hills will be unaffected either by construction or operation of the facilities as a sizable part of the site area already has activities related to current plant operations.

3. Water - Total plant usage of water will be reduced 65%, i.e. more than 500,000 gallons per day (at full capacity) upon completion of the modernization program. Water will be piped from the existing plant water system to the new plant area for fire protection, sanitary service, make-up water for bearing cooling, and potable water. (The present water sources are the California Water Company and the City of Cupertino.)

4. Air Quality - A substantial improvement in air pollution emissions will result as is shown below.

   The central element in the modernization, insofar as energy use and emissions are concerned, is the new dry process suspension preheater kiln with precalcination.

   Hot kiln clinker goes to two successive stages of coolers. Exhaust air from the first serves as preheated combustion air for the kiln and precalciner. The second cooler cools by indirect heat exchange, eliminating exhaust gas dust from this source.

   Preheater exhaust gases will be vented to the raw grinding circuit to dry raw materials and the remainder (all, when the mill is not in operation) will be passed through a cooling tower prior to entry to the new glass fiber baghouse dust collector serving the kiln and mill systems. An air cooling tower, rather than the more common water spray system, will be utilized to virtually eliminate steam condensation plumes.

The new dry process precalciner kiln system will have a fuel consumption of 3.05 MBTU per ton in comparison with the present wet kiln consumption of 5 MBTU per ton of cement. Thus, pollutant emissions are considerably reduced by the lower exhaust gas volume associated with the improved fuel efficiency, as well as by the new pollution control facilities described.

A comparison of existing emissions versus those estimated for the modernized facilities follows. Calculations for the new facilities were conservatively based on our oil fuel firing experience. Emissions with coal firing are expected to be equal to or less than with oil, based on experience at the company's San Antonio, Texas plant and a recent nationwide survey of gas, oil and coal fired cement plant emissions. Parenthetically, coal ash combines with the kiln product (serving as a raw material constituent) and contemplated coal sulfur levels are below present oil fuel sulfur levels.

(a) Particulate emissions are estimated to be reduced by .38 tons per day, a 40% reduction in emissions from those facilities being modernized in Phase I.

(b) SO_2 emissions, conservatively based on oil fuel firing experience, are estimated to be reduced by 52% below present levels.

(c) NO_x emissions, reported from foreign precalciner kiln systems approximate 20% of our wet kiln experience. However, pending confirmation with domestic test methods, facilities and fuels, NO_x emissions are conservatively estimated to be reduced in proportion to the reduction in maximum daily fuel use, a reduction of 33% below present levels.

Following is a comparative tabulation of existing emissions versus those estimated for the modernized facilities:

Production	Existing Facilities(1)	Modernized Facilities	Percent of Existing
Tons cement/year-millions	1.6	1.6	100
Emissions - TPD			
Particulates	.97	.59	60
SO_2	12.3	5.8	48
NO_x	20.8	13.9	67

(1) Emissions and reductions are from facilities modernized in Phase I, with no further change in emissions in Phase II.

5. Noise - Plant noise will not change materially. The new plant location is approximately 3200 feet distant from the nearest habitation and is screened by intervening hills.

   As plant capacity is not being increased, truck traffic should remain at current levels or less because truck delivery of fuel oil will be replaced by rail delivery of coal. (A temporary increase in activity is expected during construction.)

6. Geologic - Geologic conditions of the site are described in Burton H. Marliave, consulting geologist, report of June 23, 1977, a copy of which is included in the Appendix of this report as Exhibit A. The recommendations stated therein as to design of structure and grading of slopes - to withstand earthquake stresses and slide hazards - will be followed. The conclusions of this report are as follows:

   "(1) The Santa Clara formation as exposed in the trenching will provide a sound foundation for the proposed structures.

   (2) Cross faults from the main northwesterly trending fault systems have been projected 300 to 600 feet to the east and west of the ridge that forms the site, but trenching has established that ground rupture has not occurred in the past and is therefore not likely to occur through the proposed building site. However, any structure built in this locality will have to be designed to withstand ground shaking from a magnitude 8.3 earthquake emanating from the active San Andreas fault only three miles to the west or a 7.0 magnitude earthquake on the Sargent Berrocal fault system.

   (3) Neither flooding nor subsidence are believed to be a hazard at the proposed site, but the possibility of sliding during a strong earthquake is a hazard that must be considered particularly in areas of prior sliding or along steep slopes cut by shear zones. The Santa Clara County "Relative Seismic Stability Map" indicates the ridge that forms the site to be "an area of high potential for earthquake induced landslides". It was noted however that the west slope of the ridge has been standing at natural slopes of nearly 1½:1 in many places and a cut slope of 1:1 on the east side of the ridge has proven stable for many years with no indications of slide failure.

   (4) The extensive road cuts and trenching provided continuous exposures of bedrock the length of the site and at least 100 feet north and south of the proposed area of construction. This has established that no northwesterly trending branch of the Berrocal or Monte Vista faults passes through the site.

(5) The crusher structure proposed 300 feet west of the reclamation pond does not appear to be threatened by faulting but the slope above it is already 1½:1 to 2:1 and cannot be steepened beyond 1½:1 without producing some slide hazard. Steeper cuts may be used if supported by engineering retaining walls.

(6) The quarrying of the storage and kiln sites will reduce the height of the steep slide slopes on the ridge and will eliminate most of the potential for sliding.

(7) The greatest hazard at this site during an earthquake will be from possible sliding. It is suggested that no quarried slope be steeper than 1½:1 in the building site area and that the background surface runoff be carefully collected and diverted to natural channels."

B. Cultural Resources

1. Historic - There are no resources of historic significance in the plant area.

2. Archaeological - No known evidence of archaeological significance exists in the plant site area.

3. Visual Aesthetic - The plant will be installed at an elevation of 630 feet compared with 730 feet for the existing kilns so that visibility of the plant from the Santa Clara Valley will be minimized. The new preheater tower, the tallest structure, will be approximately 120 feet below the top of the existing stacks. Since the plant will utilize the dry process, virtually no steam plumes will be created as are now visible from the existing stacks, and completion of the modernization program ultimately will make possible the elimination of the two existing stacks.

   The new raw material stockpiles on the hill above the plant will be visible similar to the existing stockpiles except that approximately one-half of the stockpiles will be below ground level.

4. Local Community Plans - There are no known local community plans that would be affected.

5. Displacement (Housing) - No displacement of housing will occur.

6. Employment, Business - The project will have no growth inducing impact since plant capacity will not be increased nor will the new facilities require additional personnel. County and Bay Area employment in the construction trades and perhaps equipment manufacturing industries should be favorably affected during project construction.

C. Community Facilities

1. Sewage - Sewage is presently discharged into Kaiser Aluminum's sewage treatment plant system, and the treated water effluent is used in the wet process plant. Upon completion of Phase I, sewage will continue to be handled by the Kaiser Aluminum sewage treatment plant, and treated reclaimed water will be used in the plant process. Raw material stockpile storm water run-off will be collected in the present reclaim facilities.

2. Water - The present sources of water for the plant will continue to be used. These are the California Water Company, Kendell-Del Pumping Station and the City of Cupertino. However, the volume of water used will be approximately 500,000 gallons per day less than the present usage, a 65% reduction.

3. Police - There will be no effect on police services.

4. Fire - The plant maintains a fire truck and has plant personnel assigned to emergency fire duty. In addition, the plant is served by the Cupertino Fire Department. No change or additional fire service load is anticipated.

5. Circulation - The change in fuel from oil to coal would result in a reduction in normal truck traffic, as coal will be delivered by rail.

   During the construction period, delivery of construction materials will be by truck and rail, with an estimated total tonnage of materials for the project of approximately 51,000 tons. Every effort will be made to move construction materials by rail. Major components of equipment will also be delivered by rail; smaller equipment by truck. Equipment tonnage is estimated to total approximately 22,000 tons. The average increase in truck traffic during the construction period will be less than four percent or an average of seven trucks per working day.

   Truck deliveries mainly will be routed from highway 280 via Foothill Boulevard and Stevens Creek Boulevard to the plant site. Rail deliveries will be routed via the existing Southern Pacific line.

   The construction force is expected to add a maximum of 175 automobiles for a four to six month period, and an average for the project period of about 85 automobiles.

6. Schools - There will be no effect on schools, as there will be no increase in the employment level.

7. Other Community Services - No other community services should be affected.

D. Energy

1. Fuel - Fuel use will be reduced by approximately 40% as a result of the more fuel-efficient dry precalciner kiln process to be used. Coal will be the principal fuel used in place of oil.

2. Power - Power requirements, comprising under 20% of total plant energy use, will increase by approximately 10%. Pacific Gas & Electric Co., the present power source, will continue to supply power to the plant.

3. Total Energy - As shown on the table following, the large reduction in the use of fuel energy, partially offset by an increase in electrical energy, will result in an overall energy reduction of 30% at capacity.

Energy - Per Ton Cement	Existing Plant	Modernized Facility	Percent of Existing
Power-KWH/Ton	120	132	110
Equivalent[1] BTUs/Ton	1.2	1.32	110
Fuel BTUs/Ton	5.0	3.05	61
Total Energy Equivalent BTUs/Ton	6.2	4.37	70
Energy - Per Year			
Power-Million KWH	192	211	110
Equivalent[1] BTUs-billions	1,920	2,110	110
Fuel BTUs-billions	8,000	4,880	61
Total Energy Equivalent Billion BTUs/Year	9,920	6,990	70

(1) Based on 10,000 BTUs fuel to utility per KWH (34% efficiency).

Planning Commission
County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
299-2521 Area Code 408

County of Santa Clara

California

Members of the Commission:
Raymond C. Benech
Joe Clark
George Hinoki
Jose E. Martinez
Peg Muscato
Andy Pepitone
Terry Trumbull

October 16, 1978

Kaiser Cement and Gypsum Corporation
300 Lakeside Drive
Oakland, CA 94666

PLANNING COMMISSION ACTION ON YOUR PROPOSAL TO MODERNIZE CEMENT PLAN FOR PROPERTY SITUATED AT THE TERMINUS OF PERMANENTE ROAD. FILE NO. 173.23

Our records show that no official record of the Planning Commission's action of November 3, 1977 was related to you. Please excuse us and consider this letter as the official action of the County Planning Commission Meeting of November 3, 1977.

At its meeting of November 3, 1977, the County of Santa Clara Planning Commission took the following actions regarding the modernization and replacement at the cement plant:

1. Accept the plans submitted by Kaiser Cement and Gypsum Corporation for the modernization and replacement of the cement plant, together with conditions as recommended by the Architectural and Site Approval Committee with two added conditions:

   a) Investigate the possibility of a batch plant on site to handle quarrying operations material.

   b) Investigate the possibility that all empty trucks relating to the quarry operation returning to plant carry material for the concrete batching plant.

2. Consider to set for hearing the use permit for Kaiser Cement and Gypsum Corporation for a possible modification or reaffirmation hearing. This hearing to be preceded by a study committee to be constructed by Chairpersons Steinberg and Alexander. The Committee is to study the traffic and any other situations that they may define as problems. This Committee to turn its report over to the Architectural and Site Approval Committee for possible conditions. This report with conditions then to be brought to the Planning Commission at a hearing (for a possible modification or reaffirmation) regarding the land use problems in the area.

The Planning Commission, in taking this action, made the following findings:

1. That the plans as submitted by Kaiser Cement and Gypsum Corporation are consistent with the present use permit as per the conditions of the original use permit 173.23.

2. By accepting the conditions as set forth by the Architectural and Site Approval Committee, the proposed modernization would be in keeping with the overall intent of the original use permit issued in 1939 to Kaiser Cement and Gypsum Corporation and would in fact improve conditions in the area regarding the health, safety and welfare of the immediate area.

Lucas S. Stamos
Secretary

LSS:ad

cc: Albert J. Ruffo, Attorney

Attachments

R-1 Perm. Community Studies

cc: E.L. Erwin
P.T. Deutschmann
N.T. Gilbertson
12-19-80

memorandum

TO	Board of Supervisors	FROM	Gerry Steinberg
SUBJECT	Kaiser Permanente Corporation Permanente Plant	DATE	December 15, 1980

Over the past years various issues have come to the Board of Supervisors concerning Kaiser Permanente. In order to ensure that the record is clear about these various issues, I request the Board to adopt the following report.

KAISER RIDGE EASEMENT AND LANDSCAPING

The Kaiser Permanente Cement Plant and its quarrying operation dates back to the 1930's. Until 1972 Santa Clara County had no control over Kaiser's quarrying operation. Due to the expanded operation of the cement plant, large scars were developing on the hillsides which became more and more offensive to the residents. The Kaiser Ridge, visible from Los Altos, Los Altos Hills, Palo Alto and Mountain View, was being lowered at a rapid rate. Concerned citizens looked to the County to protect the visual beauty of the area. After prolonged negotiations between the County and Kaiser, Kaiser Cement Company granted a permanent scenic easement to the County of Santa Clara to ensure the protection of the Permanente Ridge. The Easement states that the Ridge shall not be lowered below the 1500 foot level for the major length of the Ridge and not below the 1650 foot level in one area. Permanent fixed monuments have been installed by Kaiser and verified by County surveyors to indicate the location of the Easement. In addition, Kaiser has prepared and is implementing a landscape plan which was accepted by the Board of Supervisors November 28, 1972. The landscape plan was required by the Board of Supervisors at the insistence of residents of the surrounding towns so that the visible scarring of the Ridge would be screened. In addition, the steep quarried slope is being stabilized. The Plant Manager has reported that planting is going on now and will continue over the next five years. The Ridgeline Easement allows the County to inspect the Ridge area to ensure that the Ridgeline Easement is being preserved. Various inspection methods have been followed, including on-site surveying crews and aerial photos.

It is important that the County continue to monitor Kaiser Permanente's operation to insure that the Ridge is not reduced below 1500'. The land development department is directed to submit a yearly report to the Board of Supervisors on the progress of planting and rehabilitation of the slopes and a report on the height of the ridgeline.

KAISER PLANT MODERNIZATION

On December 5, 1977 after lengthy hearings, the Board of Supervisors approved modernization of the Kaiser Permanente Plant and declared that an EIR was not needed. Subsequently, a suit was filed by citizens in opposition to that decision. The lower court ruled favorably to the County. The ruling is now on appeal and being defended by County Counsel and Kaiser attorneys. The new plant is now under construction and is expected to be completed in the Spring of 1981.

Recorder Code No. 963077
26-A REV 2/75

Kaiser Sign: Another issue to be resolved is that of a large billboard that was erected at the entrance to Kaiser Permanente. It is highly visible to area residents who have complained to my office. The attorney for Kaiser agreed that the sign would be removed by August. He then asked for an extension until newly constructed homes adjacent to the Plant were sold. It is Kaiser's intent to redesign the sign subject to County ASA standards and it is agreed the sign will be removed either when the homes are sold or when the County requests removal.

Gerald F. Steinberg

GERRY STEINBERG
Supervisor Fifth District

GFS:h

Planning Commission
County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
299-2521 Area Code 408

County of Santa Clara

California

RECLAMATION PLAN APPROVAL

File No: 2250 13 66 84P

Grantee: KAISER CEMENT CORPORATION

Applicant: KAISER CEMENT CORPORATION

For: Approval of a Reclamation Plan

Location: Westerly end of Permanente Road, approximately 1.5 miles west of the City of Cupertino

Having filed a reclamation plan as required by Section 2772 of the State Surface Mining and Reclamation Act, and Section 36-4.3 of the Zoning Ordinance of the County of Santa Clara, the Planning Commission having reviewed such a plan hereby grants approval subject to the following conditions:

See Exhibit "A" attached hereto and made a part hereof.

This approval shall be effective on March 22, 1985 provided that the grantee has signed ACCEPTANCE STATEMENT and has filed it with the Secretary of the Planning Commission.

Lucas S. Stamos (EB)
Lucas S. Stamos, Secretary

March 7, 1985
Date

ACCEPTANCE STATEMENT

The undersigned understands and accepts this approval and the conditions therein set forth, including the schedule for periodic inspection; agrees to comply with all conditions of the approval, understands that failure to comply therewith will render the approval subject to revocation, and acknowledges receipt of the copy of this approval.

E. Green
Signature of Grantee

4/4/85
Date

E. Green
Signature of Applicant

4/4/85
Date

cc: Central Permit Office

PLEASE SIGN AND RETURN THIS FORM IN THE ENCLOSED ENVELOPE
THANK YOU

ad#1-1(2);RECLAM FORM

EXHIBIT "A"

CONDITIONS OF APPROVAL for Reclamation Plan for Permanente Quarry, File No. 2250-13-66-84P

The following conditions are based on the environmental assessment for this project, and to comply with County and State requirements governing reclamation plans for surface mines. Those marked with an asterisk are necessary for mitigation of potential adverse impacts.

*1. The following plans and reports as prepared by Ruth and Going, Inc., are hereby made a part of the conditions of this permit.

a. Report entitled, "Reclamation Plan, Kaiser Cement Permanente Quarry by Ruth and Going, Inc., dated October 1984.

b. Sheets C-1, C-2, C-3 - Reclamation Plan dated August 13, 1984.

c. Sheet L-1, L-2, L-3, L-4 - Revegetation Plan dated August 13, 1984.

*2. Comply with the conditions by Santa Clara Valley Water District, January 16, 1985. Obtain permit and install outfall structure by Permanente Creek by October 15, 1986.

3. The applicant shall submit a report every two years for the life of the plan, which describes and evaluates compliance with conditions of the reclamation plan. Following the report, the County representative shall inspect the site. The first report shall be submitted no later than April 1, 1987.

4. Submit a copy of plan Sheet C-3 depicting the location of the easement line which was dedicated to the County of Santa Clara in 1972.

5. This reclamation plan is limited to a period of 25 years and shall expire on April 1, 2010, unless extended or renewed by the Planning Commission.

*6. Final fill slopes in Area "A" (west materials storage area) shall be no closer than 30' distant from the Palo Alto city boundary line.

*7. Final cut slopes shall not be closer than 25 feet distant from any property line and shall not violate the ridgeline easement granted to the County of Santa Clara from Kaiser Corp.

*8. The maximum height of deposition in Area "A" shall not exceed the top of the ridgeline bordering to the north.

9. Existing barbed wire fencing shall be maintained along the northerly, and property lines in areas of general proximity to the final cut slopes. Permanent signs warning proximity of extreme slopes shall be posted along these fence lines.

*10. Reclamation shall be carried out regardless of extent of excavation of quarry areas. Should the quarry not be excavated to the final stage, reclamation shall be still completed to the extent possible in accordance with the plan.

*11. Revegetation shall be carried out prior to the onset of the winter rainy season (Nov. 1) for each particular phase level which has been completed in that year.

*12. Provide adequate drainage controls to insure that sediments from deposition areas shall not be washed into the Permanente Creek system.

a. Phasing of drainage facility installation shall occur as outlined on plans submitted.

b. Sediment basin to be periodically cleaned to insure maintenance of its capacity.

13. Upon completion of Phase II portion of Area "A", an engineering geologist shall review the area and submit a report to the County which evaluates the adequacy from a geologic stability standpoint of the reclamation plan.

14. Top soils in Area "B" of quarry pit area to be retained to the extent possible for use in revegetation process of Area 'C', (East Rock Storage Area").

*15. Revegetation of excavated areas shall take place as shown on revegetation plans and details sheet. The revegetation, hydro-seeding and placement of container plants to be carried out in full, generally prior to November 1st in order to take advantage of warm days and rains for good germination.

16. Prior to installation, submit plans for irrigation water storage tank to Secretary of Architectural and Site Approval for review and approval. Include in plans proposed screening of tank.

RB:ad

ad#1PC/2250ExbA

Planning Commission
County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
299-2521 Area Code 408

County of Santa Clara

California

STAFF REPORT

P/C Meeting: March 7, 1985

Prepared by: Ransom Bratton

Reviewed by: Hugh H. Graham

FILE: 2250-13-66-84P APPLICANT: Kaiser Permanente Corp.

LOCATION: Western end of Permanente Road, approximately 1.5 miles west of City of Cupertino ADDRESS: none

ZONING: HS GP DESIGNATION: Hillside LOT SIZE: Kaiser prop. 3268Ac Site area: 330± Ac.

PRESENT LAND USE: Quarry SUPERVISORIAL DISTRICT: SD-5

PROPOSAL: Approval of a reclamation plan for an existing surface mining operation

PROJECT DETAILS

The proposed reclamation plan addresses the reclamation needs for the next 25 years for the limestone quarry pit at Kaiser Permanente. This quarry produces approximately 4 million tons of rock annually both for cement maufacture and significant quantities of aggregate. The application by Kaiser Cement Company is in direct response to the State and local regulations that all quarries which have been in operation since January 1, 1976, be required to obtain approval of a reclamation plan from the County Planning Commission. It should be noted by the Commission that this approval is for reclamation aspects of the quarry area and not the operational activity nor does it include the area of the cement plant. Consequently, the plans and recommended conditions of approval are limited to the reclamation aspects of the quarry site as spelled out by the State Mining and Geology Act and County surface mining regulations. State law makes it mandatory for this land use to have a reclamation plan approved by the lead agency. (County of Santa Clara).

ACTION ON ENVIRONMENTAL ASSESSEMENT & PROJECT

1. Approve the Negative Declaration on the project.

2. Approve the reclamation plan subject to the recommended conditions as contained in Exhibit "A".

FINDINGS SUPPORTING RECOMMENDATION

1. The proposed reclamation plan is in conformance with Section 2772 of the State Mining and Reclamation Act and County Regulations regarding surface mining and land reclamation.

2. The proposed project would not have a significant effect on the environment if the recommended conditions of approval are included which will mitigate any potential impacts.

3. The approval of the reclamation plan provides the County an opportunity to apply needed conditions for reclamation of the property following completion of this land use.

BACKGROUND

State records indicate that limestone quarrying along Permanent Creek in the subject area began as early as 1906. Kaiser Corp. acquired the site in 1930's and began quarrying and cement processing in 1939. The quarrying activity has been continuous since that time.

In 1972, Kaiser Cement prepared and implemented landscape plans for the more visible areas of the quarry in order to provide screening and to to stablizie the quarried slopes; plantings under the guidance of this plan is presently ongoing. At the same time Kaiser granted a permanent easement to the County of Santa Clara to ensure the protection of the Permanente ridge line view in order to screen the quarrying from view towards the north and northwest. The proposed reclamation plan takes this easement line into consideration. The Plan being proposed at this time focuses on those portions of the 330 site quarry area which need to be addressed under State and Local regulations for the next 25 years. It deals with erosion control and maintenance, including revegetation of the West Material Storage Area, and reclamation and revegetation of the East Materials Storage area which serves as a visual buffer between the quarry and the valley to the east. The ultimate reclamation of the pit area and future quarry operation will be dealt with in a revised reclamation plan which would be submitted around 2005 as this reclamation phase has neared completion. The present mining plan project assumes at least a 25 year period of operation, although limestone reserves are estimated to support the current operations for a period of up to 50 years. Beyond that period, the quarry site could serve as a source for crushed rock for aggregate. The total life of the quarry is only an estimate and subject to changes in market demand for its products.

The Reclamation Plan report for Kaiser Cement Permanente Quarry prepared by Ruth & Going October 1984 provides a much more detailed picture of the quarry environmental setting, operational characteristics of the mining operation along with the reclamation aspects of the project.

AB 884 DEADLINES:

File completion date February 17, 1985, Planning Commission must act on item by August 1985 Commission meeting.

PROCEDURES:

Following approval by the Planning Commission of the reclamation plan, Staff will file the plan and associated documents with the State Mines and Geology office in Sacramento.

RB:ad

ad#1PC/2250StR

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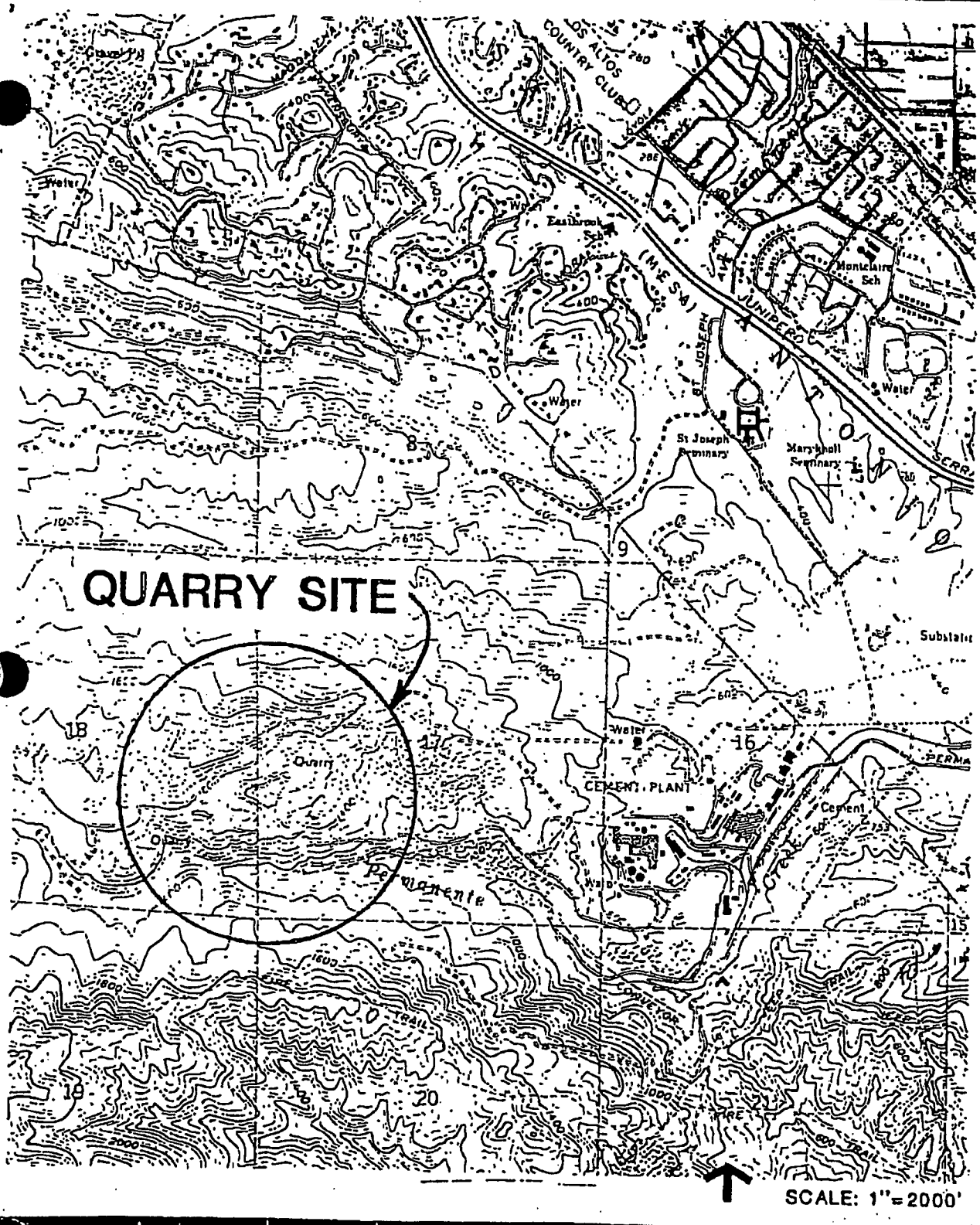


LOCATION MAP: 2250-13-66-84P

KAISER PERMANENTE CORP

5c

EXHIBIT "A"

RECOMMENDED CONDITIONS OF APPROVAL for Reclamation Plan for Permanente Quarry, File No. 2250-13-66-84P

The following conditions are based on the environmental assessment for this project, and to comply with County and State requirements governing reclamation plans for surface mines. Those marked with an asterisk are necessary for mitigation of potential adverse impacts.

*1. The following plans and reports as prepared by Ruth and Going, Inc., are hereby made a part of the conditions of this permit.

a. Report entitled, "Reclamation Plan, Kaiser Cement Permanente Quarry by Ruth and Going, Inc., dated October 1984.

b. Sheets C-1, C-2, C-3 - Reclamation Plan dated August 13, 1984.

c. Sheet L-1, L-2, L-3, L-4 - Revegetation Plan dated August 13, 1984.

*2. Comply with the conditions by Santa Clara Valley Water District, January 16, 1985. Obtain permit and install outfall structure by Permanente Creek by October 15, 1986.

3. The applicant shall submit a report every two years for the life of the plan, which describes and evaluates compliance with conditions of the reclamation plan. Following the report, the County representative shall inspect the site. The first report shall be submitted no later than April 1, 1987.

4. Submit a copy of plan Sheet C-3 depicting the location of the easement line which was dedicated to the County of Santa Clara in 1972.

5. This reclamation plan is limited to a period of 25 years and shall expire on April 1, 2010, unless extended or renewed by the Planning Commission.

*6. Final fill slopes in Area "A" (west materials storage area) shall be no closer than 30' distant from the Palo Alto city boundary line.

*7. Final cut slopes shall not be closer than 25 feet distant from any property line and shall not violate the ridgeline easement granted to the County of Santa Clara from Kaiser Corp.

*8. The maximum height of deposition in Area "A" shall not exceed the top of the ridgeline bordering to the north.

9. Existing barbed wire fencing shall be maintained along the northerly, and property lines in areas of general proximity to the final cut slopes. Permanent signs warning proximity of extreme slopes shall be posted along these fence lines.

*10. Reclamation shall be carried out regardless of extent of excavation of quarry areas. Should the quarry not be excavated to the final stage, reclamation shall be still completed to the extent possible in accordance with the plan.

*11. Revegetation shall be carried out prior to the onset of the winter rainy season (Nov. 1) for each particular phase level which has been completed in that year.

*12. Provide adequate drainage controls to insure that sediments from deposition areas shall not be washed into the Permanente Creek system.

a. Phasing of drainage facility installation shall occur as outlined on plans submitted.

b. Sediment basin to be periodically cleaned to insure maintenance of its capacity.

13. Upon completion of Phase II portion of Area "A", an engineering geologist shall review the area and submit a report to the County which evaluates the adequacy from a geologic stability standpoint of the reclamation plan.

14. Top soils in Area "B" of quarry pit area to be retained to the extent possible for use in revegetation process of Area 'C', (East Rock Storage Area").

*15. Revegetation of excavated areas shall take place as shown on revegetation plans and details sheet. The revegetation, hydro-seeding and placement of container plants to be carried out in full, generally prior to November 1st in order to take advantage of warm days and rains for good germination.

16. Prior to installation, submit plans for irrigation water storage tank to Secretary of Architectural and Site Approval for review and approval. Include in plans proposed screening of tank.

RB:ad

ad#1PC/2250ExbA

5l

Department of Planning and Development
Office of Planning
County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
(408) 299-2521

County of Santa Clara
California

ENVIRONMENTAL ASSESSMENT

File No.: 2250-13-66-84P

Sponsor: Kaiser Cement Corp.

Date: March 1, 1985

Project: Reclamation Plan for Kaiser Cement Permanente Quarry

Prepared by: Ransom Bratton

Reviewed by: Hugh H. Graham

RECOMMENDED ENVIRONMENTAL DETERMINATION:

☐ CATEGORICALLY EXEMPT. Project is within a class of projects determined not to have a significant effect on the environment.

☒ NEGATIVE DECLARATION. The proposed project could not have a significant effect on the environment, or, although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case if the mitigation measures are added to the project. (In this case, if mitigation does not occur through: (1) a change in plans; or (2) an enforceable commitment from the applicant, an EIR would be required).

☐ ENVIRONMENTAL IMPACT REPORT IS REQUIRED. The proposed project may have significant effects on the environment. These significant effects, as determined by the Initial Study and other sources, will be evaluated in an EIR.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

☐ Land Use/General Plan	☐ Safety
☒ Geologic	☐ Air Quality
☒ Resources/Parks	☐ Noise
☒ Waste/Sewage/Water Quality	☒ Aesthetic
☒ Flora and Fauna	☐ Energy
☐ Transportation	☐ Historical/Archaeological
☐ Housing	☐ Public Services & Utilities

DISCUSSION (continued on back)

Staff Conclusion: (SEE ATTACHED SHEETS)

DISCUSSION

Staff Conclusion

A Negative Declaration is recommended for this project. The proposed reclamation plan can be carried out without adverse permanent impacts on the environment. The reclamation plan's conditions of approval being established by the Planning Commission will provide adequate protection for surface waters, slope stability, flora, aesthetic and to public health and safety. No environmental factors were found which were incapable of mitigation by the conditions of approval. There will be a period during the expansion of the quarry pit towards the east when the East Rock Storage area will be visible from off the property, but this situation will be eventually eliminated by the revegetation process is implemented by the plan. There is a community benefit from approval of this reclamation plan as there is currently no such plan in effect for the quarry site.

Environmental Setting

The project area is located west of the Kaiser Cement plant area approximately 1-1/2 miles west of the City of Cupertino and 1/2 mile west of the cement plant. The area of the reclamation plan comprises approximately 330 of the 3268 acres owned by Kaiser Cement Corporation. The quarry and reclamation area are accessed by the private road system extending west from Permanente Road.

The site is located in the eastern foothills of the Santa Cruz Mountains at the western edge of the valley with elevation ranging from 950 to 1900 feet. The terrain's vegetation has been heavily modified as a result of years of quarry operation along with subsequent revegetation. Varieties of the more native vegetation types include oak woodland, oak savannah, woodland/chaparral and chaparral habitats. There no known rare or endangered plant or animal species to be found in the area of the reclamation plan. The total reclamation area, with the exception of the quarry pit, drain into the headwaters of Permanente Creek. Except for the extreme northeasterly corner of the top of the eventual pit and adjacent rock storage area the project area is totally surrounded by lands owned by Kaiser Cement Corporation, which acts as a buffer to neighboring properties.

Background and Project Description

The proposal is for the approval of a reclamation plan for an existing quarry under the provisions of Section 36-4.3 of the County's Zoning Ordinance. The quarry has no use permit, being a legal non-conforming use, however, it is required by State and local regulations to have a reclamation plan. On July 13, 1982, the County Board of Supervisors adopted regulations that all quarries in the unincorporated County which have been in operation since January 1,1976 obtain approval of a reclamation plan from the County Planning Commission. This reclamation is limited to that portion of the quarry site which has occurred since January 1, 1976, per the limitations spelled out in the State Mining and Geology Act. The project area covers approximately 330 acres of the 3268 acres owned by Kaiser Cement Corporation, the remainder of the site being occupied by the cement plant facilities and open lands buffering this use form adjacent properties.

This reclamation plan has been prepared to address the site's reclamation needs for approximately the next 25 year. At the end of that time, a subsequent plan similar to this will need to be prepared. A previous landscape plan was prepared by Kaiser Cement and implemented in the early 1970's to screen the most visible areas of the quarry and stabilize some of the slopes. However it is not comprehensive enough to comply with the State and local requirements for current and future reclamation needs on the site.

The proposed plan shows excavation of the main quarry pit area in a series of 25' feet wide benches 50 feet in height. This eventual expansion will require the relocation of an existing pile of rock materials which will be relocated further to the east and revegetated, see Figures 6 & 7 of Reclamation Plan report. This will allow mining of the limestone beneath while maintaining a knoll as a visual barrier between the main quarry area and the valley floor to the east. The plan also deals with a second major material storage area west of the quarry. The materials deposited here are not used for the production of cement or aggregate. However, it is expected that at some future date, when the market demands they may be so utilized. Until that time the area will be reclaimed with proper slope, installation of drainage controls and revegetation. For a more complete background and project description, the Reclamation Plan prepared for Kaiser Cement Corp. by Ruth & Going, dated October 1984, should be consulted.

DISCUSSION OF IMPACTS

1. Geologic

The Reclamation Plan Report by Ruth and Going includes a full section on the geology and potential impacts upon the local environment by the results of the quarrying activity in the event of seismic activity. This chapter is based on numerous geologic works performed in the Permanente quarry and surrounding area by Kaiser personnel, consultants, and outside parties such as universities, and State and Federal geologic surveys. Numerous test holes along with geologic maps and cross-sections have been prepared since Kaiser began operating here in 1939.

Numerous faults lie in the vicinity of the quarry. The San Andreas, the fault which would likely have the greatest impact resulting from movement lies approximately 2 miles to the west. The Monta Vista Fault, part of the Sargent-Berrocal System lies 1-1/2 miles to the east. The Berrocal Fault main trace appears to trend northwest across Kaiser property under Permanente Creek where it forms a linear valley between the cement plant and the quarry. The fault does not appear to be active within the Permanente area, although micro-seismicity near Stevens Creek Reservoir, approximately 2 miles southeast, suggests is may be potentially active.

In the event of a major quake it is unlikely that a significant ground failure would occur in the quarry because of the hard rock materials and the pit slope angle of 45°. Any failure would impact the interior area of the quarry pit and no surrounding property. Earth shaking effect on rock storage areas would likely be restricted to ground settlement and local slumping. The coarse nature of the rock in these storage areas will preclude any failure due to liquefaction. Neither area supports any structures or buildings. The revegetation provided and installation of drainage facilities will reduce the potential for erosion during and following completion of the deposition activities in the materials storage areas.

2. Resources/Parks

This quarry currently produces approximately four million tons of rock annually, providing for an annual production of 1.6 millions tons of cement. It acts as a significant source in the Bay Area for high quality crushed stone. Estimated reserves are in excess of 130 million tons. Materials now being deposited in the West Materials Storage Area will possibly be utilized as a source for additional crushed stone for aggregate in response to future market and quality conditions.

The quarry and materials storage areas are bordered on the north by lands of the Mid-Peninsula Open Space District. The existing ridgeline will be maintained by means of the easement agreement and conditions of this reclamation plan to insure neither the quarry pit nor materials storage area will be visible towards the north and east. There will be a 30' minimum setback of the most outward point of the eventual pit area from the nearest property line.

The revegetation process will provide new plant species more similar to what exists in the surrounding area than what now exists on some of the rehabilitated slopes. The long-term effect will be beneficial to the area when those revegetation plantings take hold.

3. Water Quality

One of the main purposes for a reclamation plan is to insure that no degradation of surface waters adjacent to the quarry site occurs during and after completion of this reclamation plan. The engineering consultants feel that the porous material of the deposits of Storage Area "A" & "B" will result in a very high infiltration capacity and low erosion potential, and that revegetation of the slopes will insure that the erosion potential will be adequated mitigated. The materials storage areas will be maintained at a 3:1 gradient in order to maintain stability. The phasing plan provides for installation of revegetation plant materials as soon as each level is deposited in each materials area. Runoff in the materials storage is currently directed to catchment areas which collect sediments. The high percentage of rock and granular materials result in rapid percolation of rainwaters. As Phase "1" of materials storage in west storage area nears final completion a new sediment basin will be installed, the design of which is subject to review and approval by the Santa Clara Valley Water District personnel. Sediment basins will be installed whenever necessary to insure no sediments will be deposited in Permanente Creek. The revegetation plan and drainage controls should adequately mitigate any potential impacts from the proposed use on the local area's surface waters.

4. Flora and Fauna

Both the East and West Material Storage areas will receive revegetation treatment. The west area will be hydro-mulched while the East Area will utilize more plant materials and more intensive type planting techniques. That is because this area is more visible from the valley floor thus requiring a greater degree of treatment to mitigate any permanent visual impacts. The main purpose of revegetation in the west materials area is to stabilize the slopes and prevent erosion. The types of materials being proposed for both areas are native to the surrounding environment and should blend well into the hillsides.

The plantings shall occur in phases so soon as a particular phase of deposition is completed, so that revegetation process will be occur at the same time the period of quarrying is taking place. The natural habitat will be restored once the quarry activity is completed and the selected species of plants will have a beneficial effect on the overall quality of flora on the site. The inner quarry pit area and its operational future and eventual rehabilitation will be addressed in a future plan to be prepared approximately 20 years from now.

5. Aesthetic

One of the purposes of the reclamation plan is to reduce any permanent adverse visual impact of this land use upon the surrounding environment and provide adequate mitigation measures to do so. The East Materials Area is visible from the urbanized areas of Cupertino to the east and south. The Permanente ridgeline and its easement dedication will insure no exposure of the quarry or its material area towards the north and northeast. At the request of the County, the applicant's engineer has prepared cross-sections to judge the quarry's impacts upon Cupertino. These cross-sections show that East Materials Storage Area will be visible during and after deposition and revegetation. Extensive tree and shrubbery planting will be used in this area to incorporate the new hill surface into the surrounding natural setting. To insure survival of plant species protective measures are planned to attempt to protect plantings from deer and rodents. Also because of the southern and westerly exposure and high porosity of the soils temporary watering devices are planned to provide supplemental water to this East Storage Area revegetation. Thus the revegetation plan should reduce the permanent visual impact from the effects of quarrying to less than a significant level.

Persons Consulted

- Sue Tippets, Santa Clara Valley Water District
- Jim Berkland, County Geologist

RB:ad

ad#1/PC/2250EA

2250 13 66 84P KAISER CEMENT CORPORATION

Public hearing was held on environmental assessment of and on an application for approval of a reclamation plan for an existing surface mine. Property situated at the west end of Permanente Road, property of Kaiser Cement Corporation. HS zoning district. Parcel size: 330 acres, total size area approx. 3,268 acres. (SD-5) File completed February 13, 1985. Environmental Assessment: Negative Declaration. The Secretary identified the location of the property by the use of maps and photographs and reviewed the staff report. Ransom Bratton stated that the proposed reclamation plan addresses the reclamation needs for the next 25 years for the limestone quarry pit at Kaiser Permanente. This quarry produces approximately four million tons of rock annually, both for cement manufacture and significant quantities of aggregate. This application is in direct response to the state and local regulations that all quarries which have been in operation since January 1976 be required to obtain approval of a reclamation plan from the County Planning Commission. This approval is for reclamation aspects of the quarry area and not the operational activity; nor does it include the area of the cement plant. Consequently, the plans and recommended conditions of approval are limited to the reclamation aspects of the quarry site as spelled out by the State Mining and Geology Act and County surface mining regulations. State law makes it mandatory for this land use to have a reclamation plan approved by the lead agency, in this case the County of Santa Clara. Staff recommends approval of a Negative Declaration and approval of the reclamation plan subject to recommended conditions contained in Exhibit "A" of the staff report. The public hearing was opened. Brian O'Halloran of Ruth & Going appeared representing the applicants and stated that Kaiser has no opposition to any of the recommended conditions. Commissioner Coombs questioned whether the reclamation plan would hide the quarry from Highway 280. Mr. O'Halloran stated that the main visual impact would be in the east storage area; the storage area will create a ridgeline and will be vegetated. The planting will start as the storage area is created. The west storage area will not be visible. Norman Gilbertson, representing Kaiser Cement, appeared and stated that there are between 200 and 400 loads daily, about 50% of it being cement. Regarding scheduling, he stated that the east side should be done late this year or early next year. Mr. O'Halloran reviewed the types of material that would be planted, all of which were chosen following extensive research to determine the type of material that would best grow in the area, and stated that Kaiser has an extensive irrigation system. The public hearing was closed. It was then moved by Commissioner Hinoki, seconded by Commissioner Christopher and unanimously carried to adopt a Negative Declaration on the proposed project. It was further moved by Commissioner Hinoki, seconded by Commisisoner Christopher and carried to approve the reclamation plan for the existing surface mine subject to conditions as contained in Exhibit "A". The motion passed on the following roll call vote:

AYES:	CHRISTOPHER, CLARK, COOMBS, HINOKI, LINDSAY, MORALES
NOES:	NONE
ABSENT:	NONE

ZONING ORDINANCE AMENDMENT - SECTION 36-5

Continued public hearing of February 7, 1985 on environmental assessment of and on an ordinance amending Section 36-5 of the Zoning Ordinance of the County of Santa Clara, relating to the filing of development applications for properties within an urban service area and contiguous to a city boundary. Environmental Assessment: Negative Declaration. Continued at staff's request. The Secretary stated that staff is requesting that this matter be continued to the meeting of May 2, 1985. The Chair so directed.

Department of Planning and Development
Office of Planning
County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
(408) 299-2521

County of Santa Clara

California

Filing Date: FILED

MAR 12 1985

County Clerk
Santa Clara County
By _____ DEPUTY

NOTICE OF DETERMINATION

TO: ☒ County Clerk
County of Santa Clara

☐ Office of Planning & Research
1400 Tenth St., Room 121
Sacramento, CA 95814

SUBJECT: Filing of Notice of Determination.

Project Title	File Number
KAISER CEMENT CORPORATION	2250 13 66 84P
State Clearinghouse Number (If submitted to Clearinghouse)	County Contact Person: Hugh Graham — Telephone No.: (408) 299-2521
Project Location: West end of Permanente Road	APN(s): 351-9-11, 12, 13
Project Description: Reclamation plan for an existing surface mine	

This is to advise that the Santa Clara County Planning Commission (decision-maker) has approved the above described project on March 7, 1985 (Date) and has made the following determinations regarding the above described project. The Environmental Impact Report or Negative Declaration and record of project approval may be examined at the Santa Clara County Office of Planning.

1. The project _____ will, __X__ will not, have a significant effect on the environment.

2. __X__ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.

   __X__ Mitigation measures have been made a condition of approval of the project.

3. _____ An Environmental Impact Report has been prepared for this project pursuant to the provisions of CEQA.

   _____ Mitigation measures have been made a condition of approval of the project.

   _____ A statement of overriding considerations was adopted for this project pursuant to the provisions of CEQA.

Posted on 3/12/85 through 4/11/85
In the office of the County Clerk
Grace K. Yamakawa
County Clerk
By _____ Deputy

RECEIVED
MAR 12 1985
COUNTY OF SANTA CLARA
PLANNING DEPARTMENT

Date: March 8, 1985

Ransom Bratton
Signature

Assoc. Planner
Title

December 5, 1984
ad #1-1;NOT/DETER/HG

9

RECLAMATION PLAN

KAISER CEMENT

PERMANENTE QUARRY

FOR:

SANTA CLARA COUNTY

OFFICE OF PLANNING

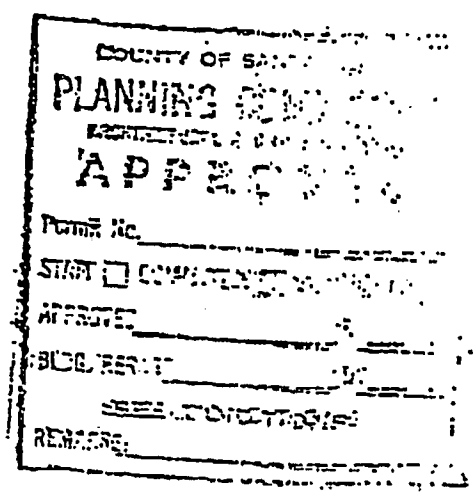
DEPARTMENT OF PLANNING AND DEVELOPMENT

PREPARED BY:

RUTH AND GOING, INC.

OCTOBER, 1984

JOB NO. 16803



RECLAMATION PLAN
KAISER CEMENT CORPORATION
PERMANENTE QUARRY

I. BACKGROUND AND INTRODUCTION:

Background:

Kaiser Cement Corporation's Permanente Quarry and Cement plant is the major supplier of cement to the northern California area and major source of aggregate for Santa Clara County. The limestone quarry produces approximately 4 million tons of rock annually providing for an annual production capacity of 1.6 million tons of cement, and significant quantities of aggregates for highway, residential and industrial construction.

In conformance with County directives, the California Surface Mining and Reclamation Act, 1975, and the 1982 Santa Clara County Mining Regulations, Kaiser Cement Corporation has been, and continues to be involved in the development of reclamation plans. These plans incorporate reclamation activities into ongoing quarry operations to provide short term visual protection, and eventual long term reclamation.

Past reclamation and scenic protection activities include a landscaping plan and Ridgeline Protection Easement which were undertaken in 1972. Kaiser Cement Corporation granted a permanent easement to the County of Santa Clara to ensure the protection of the view of Permanente Ridge from the Los Altos area. This easement, granted in the form of a deed dated August 18, 1972, states that the ridge will not be lowered below the elevation of

1500 feet for the majority of its length, and not below 1650 feet for a specified area. Permanent fixed monuments physically located the easement in the field, and have been checked periodically by County staff. Work in the ridge area was successfully completed in 1975.

Several months after the Ridgeline Protection Easement was granted, Kaiser Cement prepared and implemented a landscape plan to screen the most visible areas of the Permanente quarry, and to stabilize quarried slopes. This plan, a detailed rehabilitation study prepared by Royston, Hanamoto, Beck and Abey was accepted by the County Board of Supervisors on November 28, 1982. Planting under the guidance of this plan is presently ongoing.

Introduction:

At this time, Kaiser Cement Corporation has prepared another reclamation plan to address the next 25 years of the quarry's operation. This plan will be reviewed and adopted by the County prior to its implementation. In addition to the features of the reclamation plan, this report discusses the quarry's environmental setting, and the operating characteristics of the mining operation. The entire Kaiser Cement site encompasses over 3200 acres, but the discussion in this document is focused only on portions of the 330 acre quarry area -- the location of the reclamation activity.

II. LOCATION AND SETTING

A. Location

The Kaiser Cement site is located at the western end of Permanente Road, approximately 1-1/2 miles west of the corporate limits of the City of Cupertino. The Kaiser property, including the cement plant and quarry, consists of 3268 acres situated in Sections 17 and 18, Township 7 South, Range 2 West, Mt. Diablo Base and Meridian. Of this acreage, the quarried area and subsequent reclamation comprises approximately 330 acres. The site location is shown in Figures 1 and 2.

B. Environmental Setting

The Permanente Quarry is located in the eastern foothills of the Santa Cruz mountains at the western edge of the Santa Clara Valley. Elevations in the quarry area range from 950' to 1900' above sea level with terrain comprised of hilly grassland vegetated with oak and brush. The site experiences annual temperatures ranging from roughly 35 to 100 degrees (F), with precipitation averaging 32 inches a year. Permanente Creek, a perennial stream, is located on the Kaiser property but does not pass through the quarried area.

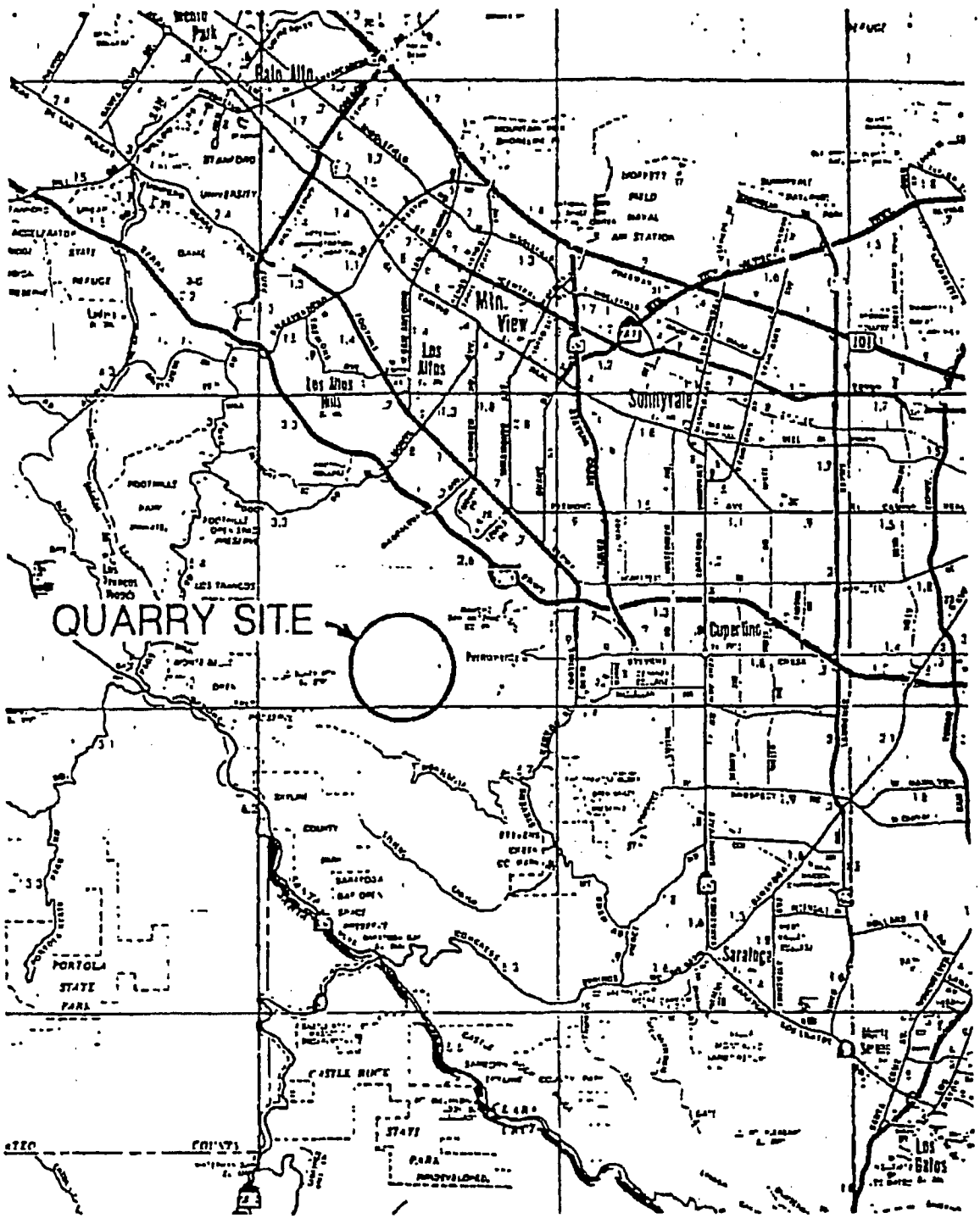
Vegetation: Varieties of vegetation on the site consist of oak woodland, oak savannah, woodland/chaparral, and chaparral habitats. The oak woodland habitat occurs on well drained slopes and flatlands, and consists of open to dense stands of oak trees with an understory of annual grasses, herbs, and low shrubs such as poison oak, coffee berry and coyote brush. The California live oak is one of the oak species on the site.

This species is a slow growing variety of oak, but one that can survive for hundreds of years.

There are no rare or endangered plant species expected to be present in the area. The nearest recorded location of rare and endangered plant species is in the coastal foothills of the Santa Cruz mountains, some 15 miles away.

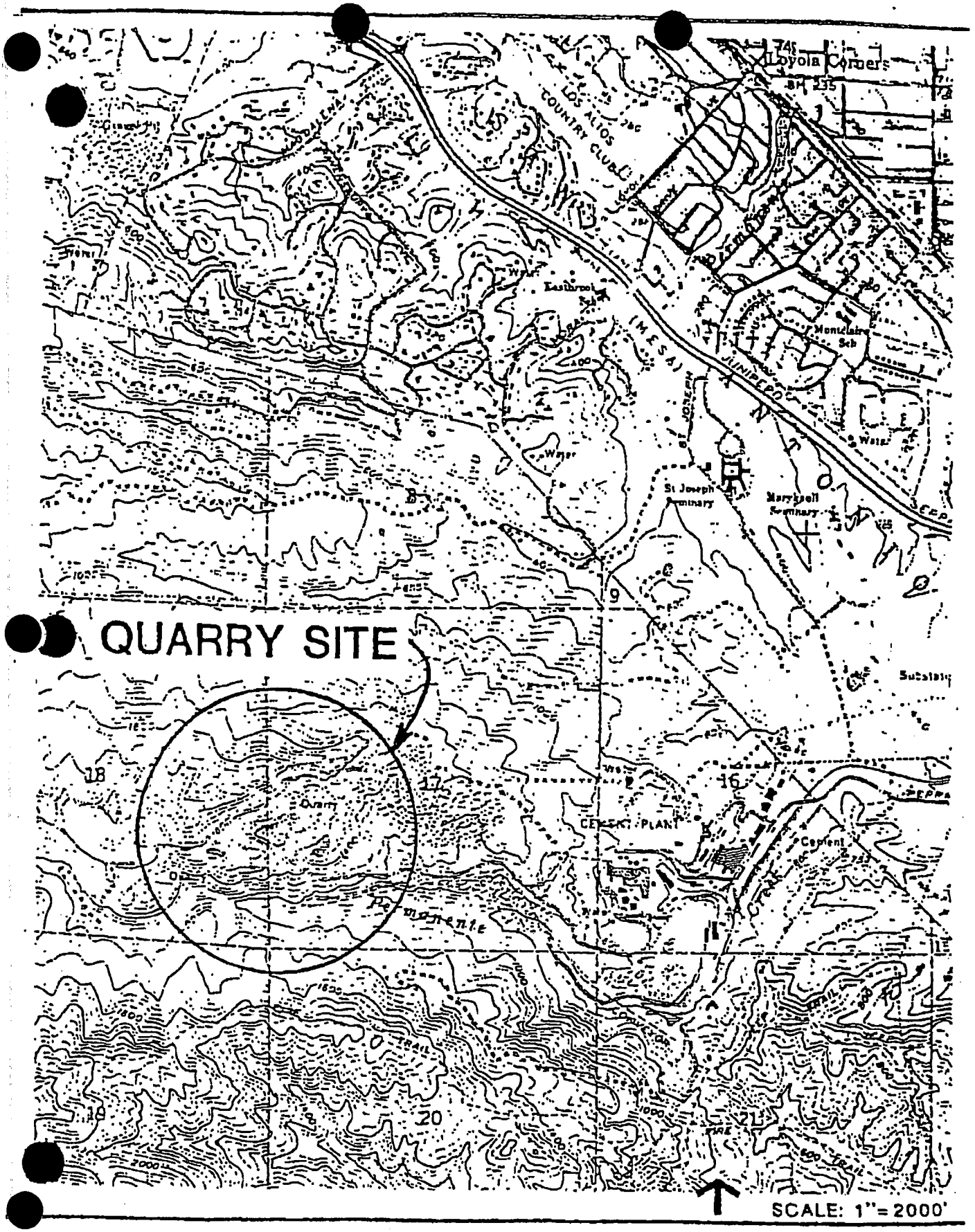
Wildlife: The oak woodland vegetative group provides a valuable habitat for a variety of birds, reptiles, and mammals, as well as refuge for larger animals such as deer and coyote. Known and expected wildlife on the site include the Mule deer, coyote, raccoon, bobcat, Red tailed hawk, California quail, Western fence lizard, and various snakes and amphibians.

No rare or endangered animal species are expected to inhabit the areas near the Permanente Quarry.



LOCATION MAP

FIG. 1

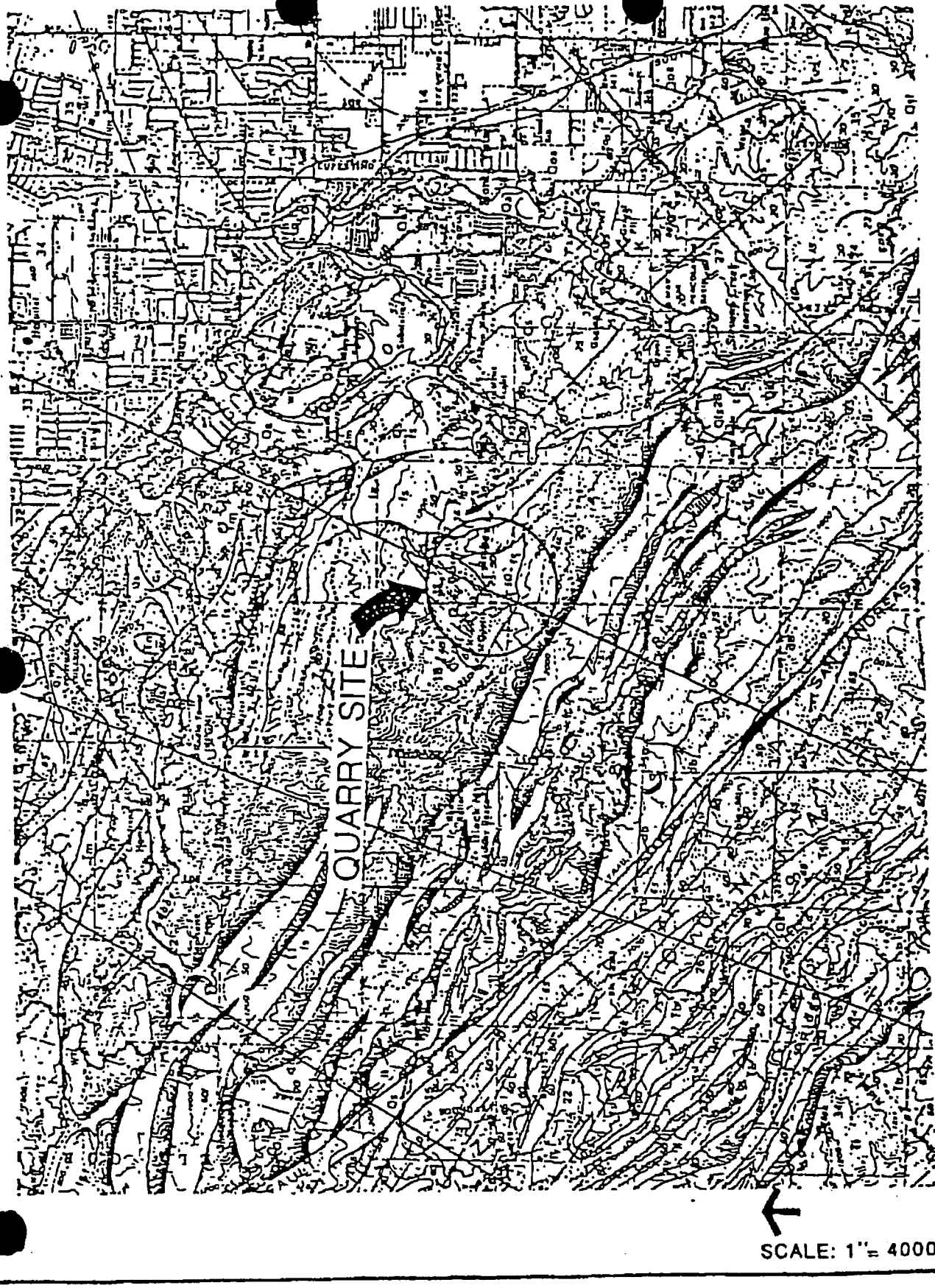


VICINITY MAP

FIG. 2

C. Geology

The limestone quarried at Permanente is considered to be one of the units of the Jurassic-Cretaceous age Franciscan Complex. The limestone unit is locally referred to as the Calera limestone. The Permanente deposit is by far the largest limestone body known to exist in a number of discontinuous masses of limestone that crop out along a northwest-southeast trending zone in the central and southern San Francisco peninsula area of the Coast Ranges. The limestone deposit in the quarry is associated with Franciscan graywacke, sandstone, red chert, diabase and greenstone, all of which are exposed in the quarry area. Further to the east, in the vicinity of the cement plant, the Franciscan is in contact with the younger Plio-Pleistocene Santa Clara Formation. As indicated on Figures 3A and 3B, the quarry areas pertaining to this reclamation plan are completely underlain by the Franciscan.



GENERAL GEOLOGY MAP

FIG. 3A

GENERAL GEOLOGY LEGEND

EXPLANATION of FIGURE 1

Qs | Qm | Qls

Surficial sediments
Qs, *alluvium;*
Qm, *bay mud and clay;*
Qls, *landslide rubble.*

UNCONFORMITY

Qos

Older alluvium

UNCONFORMITY

Qs | Qsl

Santa Clara Formation
Qs, *gravel;*
Qsl, *lake beds*

UNCONFORMITY

Merced(?) Formation

UNCONFORMITY

Purisima Formation

UNCONFORMITY

Monterey Shale

Tus

Unnamed sandstone

Tpb

Page Mill Basalt

Tmb

Mindego Basalt

Tb

Basalt and diabase

Lambert Shale

Pleistocene | Pliocene | Miocene | Oligocene

QUATERNARY

TERTIARY

Tv

Vaqueros Sandstone

Tsl

San Lorenzo Formation

Tbu

Butano Sandstone
Tbu, *sandstone;*
Tbs, *shale;*
Tbc, *basal conglomerate*

Unnamed shale

Serpentine

Diabase

fs | fh | fu

Franciscan Formation
fs, *sandstone or graywacke;*
fh, *shale;*
fl, *limestone;*
fc, *chert;*
fg, *greenstone;*
fu, *undivided rocks (Shown in sections only)*

Eocene | Upper Cretaceous

CRETACEOUS

Contact
Dashed where gradational or approximately located

U
D
Fault
Dashed where indefinite or of doubtful existence; dotted where concealed. U, upthrown side; D, downthrown side. Parallel arrows indicate relative lateral movement; single arrow indicates dip of fault plane

Anticline | Syncline
Fold, showing surface position of axis and direction of plunge
Dashed where approximately located

40 | Inclined
Vertical
30 | Overturned
Strike and dip of beds

FIG. 3E

Geologic work has been performed in the Permanente quarry and surrounding area by Kaiser personnel, consultants, and outside interests such as universities and state and federal geologic surveys. A complete reference listing of geologic reports, published is presented as Appendix A to this report. In addition, there have been more than 700 exploratory test holes drilled at Permanente along with numerous "in-house" geologic maps and cross sections prepared since Kaiser Cement Corporation began operating this deposit in 1939.

Table 1 indicates the location of the Permanente quarry relative to active and potentially active faults in the region. Of the faults listed, the strike-slip San Andreas fault is considered capable of producing a great earthquake equal to the 1906 San Francisco Earthquake.

Among the faults that may directly affect the subject area, the Sargent-Berrocal Fault Zone, as described in the literature, is a northwest trending zone of reverse and thrust faults extending from San Juan Bautista north to Permanente and then to Palo Alto, where it appears to join the San Andreas Fault. At Permanente, the main trace appears to trend northward under Permanente Creek where the creek forms a one-half mile N30W-trending, linear valley in a zone between the cement plant

ACTIVE AND POTENTIALLY ACTIVE FAULTS A[illegible]HEIR EARTHQUAKE CHARACTERISTICS

	Causative Faults	Distance and Direction from Permanente Quarry	Maximum Historical Earthquake Magnitude (Richter Magnitude)	Maximum Probable Earthquake Magnitude (Richter Magnitude)	Est. Recurrence Interval of Max. Prob. Earthquakes
San Andreas System	San Andreas	2 Miles West	8.3 (last event: 1906)	8.3	50-200 Years
	Hayward	16 Miles East	7.0+ (Last event: 1868)	7.0	10-100 Years
	Calaveras	19 Miles East	6.0+	7.0	10-100 Years
Sargent-Berrocal System	Berrocal	½ Mile East (Main segment) (Branch exposed in quarry)	3.7 to 5.0	6.5 to 7.0	Data insufficient for estimating
	Monta Vista	1½ Miles East	2.0 to 3.0	6.5 to 7.0	Data insufficient for estimating

TABLE 1

SOURCE: Seismic Safety E[illegible]ent
City of Cupertino

and the quarry. There is a significant difference between bedrock types on opposite sides of this linear valley, with the southeastern block predominantly Santa Clara formation and the northeastern block composed of Franciscan complex rocks. A northwesterly trending branch of this main Berrocal fault segment does appear to split off through the quarry. This is observed in the quarry as a series of northwest trending shear zones within the limestone.

The present activity of the Berrocal zone in the Permanente area is speculative. There is no evidence to date, that indicates the fault has offset recent sediments within the local area, although microseismicity near Stevens Creek Reservoir, about 2 miles southeast, suggest that the fault may be potentially active.

The possible seismic hazard to the Permanente quarry and surrounding area is the potential for severe ground shaking from a major event on the San Andreas. Secondary effects due to this strong ground motion would be ground failure such as landsliding, ground settlement, ground cracking and rock falls. Due to local differences in the geologic and topographic conditions, variations of ground shaking intensity are to be expected from place to place. If a significant earthquake event occurs on the San Andreas, effects in the quarry may include localized rock falls on quarry faces, ground cracking on benches close to adjacent quarry faces, or local slumping or sliding of less competent materials such as the serpentenized greenstone area in the upper northwest portion of the quarry. Due to the nature of the hard rock materials and existing pit slope angle of 45° in the quarry, it is unlikely that significant ground failure will occur. Effects to the

rock storage areas will most likely be ground settlement and local slumping of exposed faces. The very coarse rock material in these storage areas will preclude any failure due to liquefaction. Neither area (quarry or rock storage) supports any buildings or man-made structures.

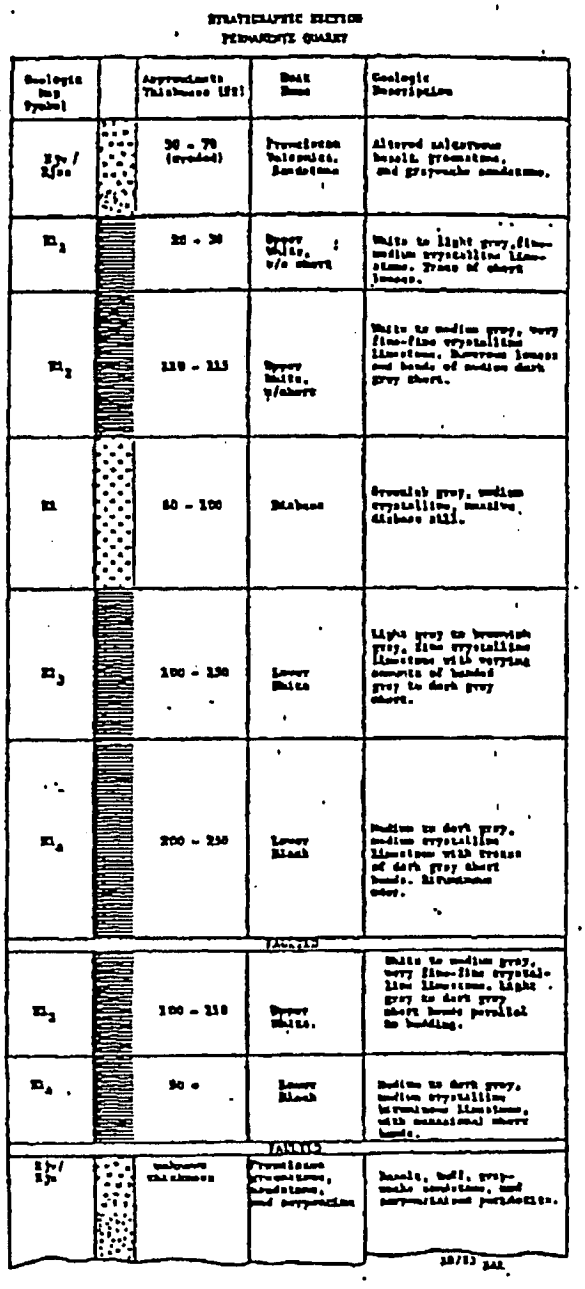
D. Mineral Deposit

The Calera limestone at Permanente covers an irregular triangular area with an approximate exposed length of one mile and width of two-thirds of a mile. The limestone unit is tabular in nature with an exposed thickness of at least 800 feet. The section is composed of thin limestone beds and interbedded chert. The limestone is made up of continuous beds of uniform thickness that can be traced the entire length of outcrops. The thickness of most beds ranges from 2-6 inches. Chert lenses are of the same range in thickness but are not continuous. Over only a few feet of section, chert may be absent or form up to 50% of the rock.

The limestone deposit is divided into two units that include a lower black limestone and an upper white limestone. The lower unit is largely recrystallized and bituminous, with about 2% organic matter. Less recrystallized parts contain some nannofossils. Larger microfossils are radiolarian molds occurring in both limestone beds and chert lenses. The upper white limestone is stratigraphically above the lower black limestone (based on geopetal features and graded bedding). It is less recrystallized than the lower unit, lacks bituminous matter and contains more chert lenses, and has planktonic Foraminifera in addition to Radiolaria. No burrowing or primary sedimentary structures or megafossils are present. The

best estimate of the age range in the light limestone till now is mid-late Cretaceous (late Turonian, 88 million years) in the upper light limestone to late lower Cretaceous (Albian, 105 million years) in the lower part of the light limestone, based on recent work by the U.S. Geological Survey. Dateable fossils have not been found in the lower, black limestone.

Stratigraphic relations of the two limestone units have been extensively studied. Problems with interpretations have been related to extensive thrust and high angle faulting causing repetition and omission of strata. Recent work, as indicated on Figure 4, suggests that the two limestone units, the upper white and lower black limestones, are repeated by thrust faulting into two blocks. The upper limestone unit is split by a diabase sill, approximately 80 feet thick. The sill occurs only in the upper thrust block. A few volcanic ash horizons 20-40 cm thick are found interbedded with the upper white limestone, although recent interpretations suggest that these layers may be a clayey fault gouge related to thrust faulting. The limestones are in fault contact, both at the top and bottom of the section with Franciscan rocks, greenstones, graywacke, and serpentinized greenstone, which are exposed in the quarry.



STRATIGRAPHIC SECTION

FIG. 4

Structurally the limestone body is complicated by faults and folds, but generally dips 25^0 to 35^0 SE. The section is highly jointed and both types of limestone are strongly fractured. Joints are mostly perpendicular to bedding.

Exposures in the quarry indicate that at least three thrust faults roughly parallel to bedding slice the deposit. Subsequent high angle faulting, possibly related to the Berrocal Fault system trends generally NW.

The chemical quality of each limestone unit varies considerably. The upper, light limestone averages 80% calcium carbonate ($CaCO_3$) or more, but varying amounts of chert lenses lowers the bulk $CACO_3$ to 70% or less when mined. The upper portion of this unit has lesser amounts of chert and has higher carbonate values. The lower, black limestone averages 87% $CaCO_3$ ranging from more than 90% to less than 80% in individual layers. Variations also occur near contacts and where chert interbeds are common. Both limestone units exhibit a decrease in $CaCO_3$ values in shear and fault zones that bisect the deposit. Four grades of rock are presently used for quarry development: (1) high grade - dark gray limestone unit with $CaCO_3$ values greater than 85%; (2) medium grade - mixture of light and dark limestone running between 70 to 85% $CaCO_3$; (3) low grade - mainly light gray limestone with chert lenses ranging 50-70% $CaCO_3$; and (4) non-limestone rock types such as the diabase, Franciscan volcanics and sediments, fault gouge, and soil overburden. The high and medium grade limestone is principally used in the manufacture of cement while the low grade limestone and harder Franciscan rock types are used in the production of crushed rock for aggregate.

Small amounts of Franciscan volcanics and sedimentary rocks are used as a clay additive in the cement-making process, depending upon the respective chemistry of each rock type.

E. Historic Land Use

The earliest recorded activities on the site indicate that, by 1899, a wagon road had been constructed along much of the length of Permanente Creek to gain access to the limestone. The State Mineralogist's report of 1906 records that limestone quarrying along the creek took place at least as early as 1903. The sugar beet industry was an early stimulus for limestone extraction, later followed by the tremendous urban growth in the Bay Area.

The Kaiser Corporation acquired the site in the late 1930's and began quarrying and cement processing in 1939. The operation began as a two-kiln, wet process plant which expanded, after World War II to six kilns. In 1982, the original kilns were replaced with a single 1.6 million ton dry process kiln.

III. MINING OPERATIONS

A. Mined Lands

For the next 25 years, the existing and planned excavation and storage areas will encompass approximately 330 acres.

The materials storage areas are located just west and east of the quarry. The west site is used for maintaining a supply of material which currently is not used for the production of cement. This material includes low-grade limestone, and other rock types excavated from the quarry. It is expected that these lower grade limestone and rock materials will be used in the future when scarcity of the materials increase their marketability. The east site is comprised of an existing pile of rock materials which will be relocated further to the east and revegetated. This will allow the limestone beneath to be excavated while maintaining a knoll as a visual buffer between the quarried area and the Santa Clara Valley area. Figure 5 shows the quarry and both material storage areas.



QUARRY PIT AND STORAGE AREAS

FIG. 5

B. Operations

The Permanente Quarry utilizes an open pit technique to extract the limestone and associated rock materials. This procedure generally is: 1) any topsoil overburden is removed and stockpiled for future use, 2) haulage roads are developed to the planned benches, 3) blast holes are drilled in the rock with rotary blasthole drills, then controlled electric blasting loosens the rock at a benching interval of 50 feet, 4) front-end loaders and electric shovels load the broken rock into 65-ton off-highway haul trucks to be transported to the primary crusher located at the southeastern edge of the quarry. From there, the crushed rock is transported, for further processing, to the cement plant further to the east. Other rock types, and limestone not currently utilized in cement manufacture are either crushed and conveyed to the commercial rock plant or hauled directly to the materials storage area for potential use in the future.

The quarry operates year-round, five days a week, two shifts a day, although the schedule is subject to variations due to market conditions or maintenance periods.

The design for the reclamation plan is shown in Figure 6, which presents the excavation contours overlain on the existing topography. The overall pit slope for both the existing and future operations will be maintained at an angle of 45 degrees (1:1).

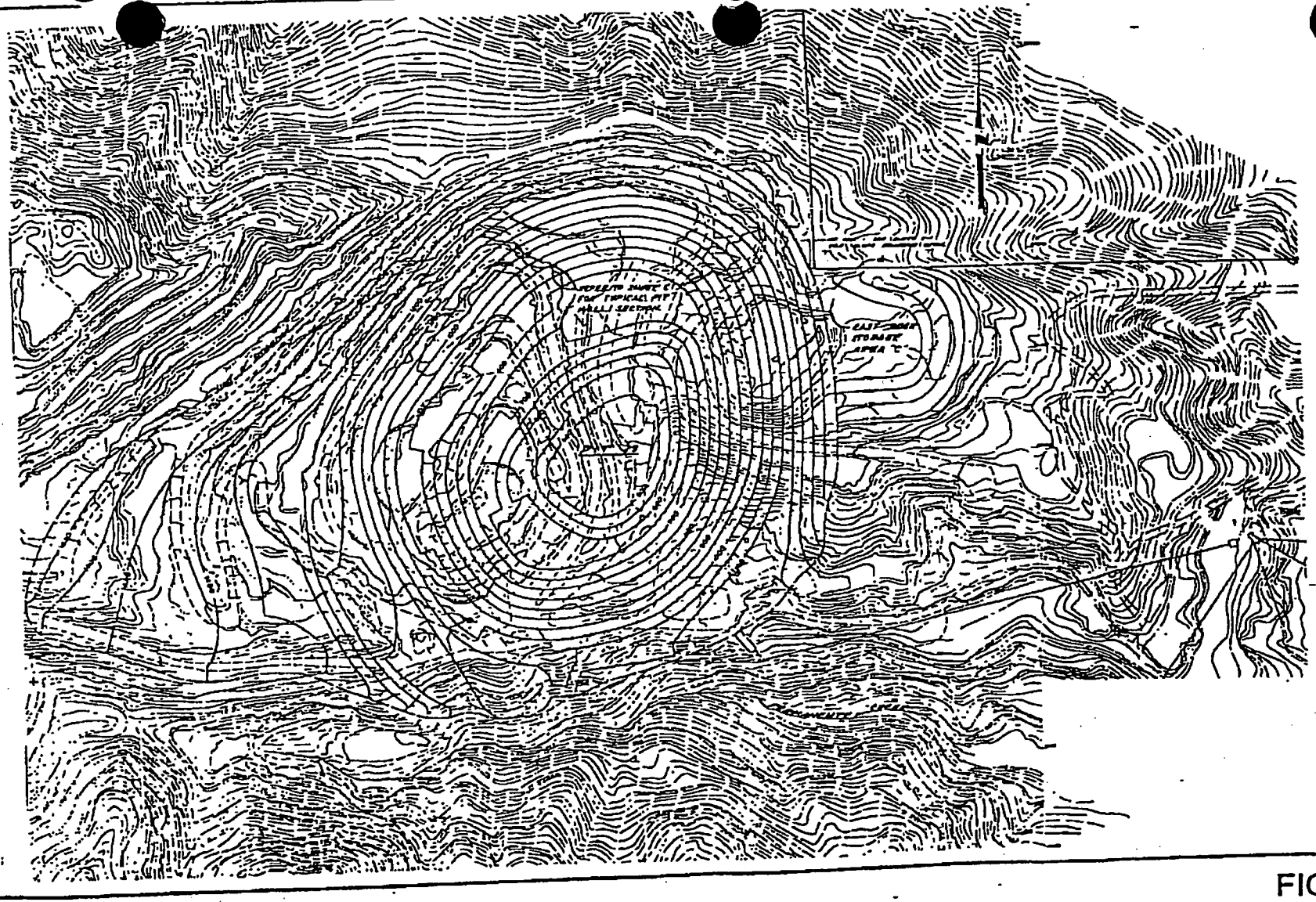


FIG. 6

QUARRY PIT DESIGN

A slope stability study for the quarry area, which is summarized in Appendix B, indicates that the 1:1 slope design is well within recommended features for slope stability.

The West Materials Storage area, contains the stockpiled rock materials and currently nonmarketable limestone. This material is maintained at a 3:1 gradient in order to achieve slope stability. Beyond the timeframe of this reclamation plan, it may eventually be sold or utilized in the reclamation process.

The East Materials Storage area will be similarly established.

C. Public Health and Safety

On-site dust related to mining operations is controlled by spraying the haul roads with water mixed with a commercial dust suppressant. Runoff collected in the quarry supplies some of the water for this use.

Blasting operations are conducted only by state licensed personnel to ensure that the procedures meet or exceed the requirements of Cal-OSHA.

For safety and security reasons, the public is barred access to the site by gates located on Permanente Road at the cement plant area.

IV. RECLAMATION

A. Timeframe

The reclamation plan presented is intended for a 25 year period. It addresses erosion control and maintenance of the West Materials Storage area, and reclamation and revegetation of the East Materials Storage area, allowing this area to serve as a visual buffer between the quarry and the Santa Clara Valley. Ultimate reclamation of the pit area, or treatment of future quarry operations, will be addressed in a revised reclamation plan to be submitted around the year 2005 when this reclamation phase nears completion. Since market demand for cement partly determines the rate of limestone extraction, this estimate may be subject to some modification in the future, in response to demand for the product.

Present mining plans for the quarry call for a 25 year period of operation. Inferred limestone reserves are estimated to support an operation of this magnitude for up to 50 years. Beyond this period the quarry could continue to operate as a crushed stone source for construction aggregate. Thus, the time span of the total life of the operation is only an estimate and is subject to future modification in response to actual market and quality conditions.

B. Phasing

West Materials Storage Area

The West Materials Storage area will be built up, contoured, and revegetated as quarrying operations generate overburden and

excess rock material. Within the storage area, the build up of material is expected to occur roughly in three phases: Phase 1 will bring the material pile up to the 1800 foot contour; Phase 2 will add another 100 feet in elevation to reach the 1900 foot level; Phase 3 will bring portions of the material to elevations of 1950 to 1975 feet, contoured to achieve both slope stability and a natural appearance in relation to the surrounding terrain.

All surfaces will be revegetated when they reach their ultimate grade. Phase 1, 2 and 3 are expected to be executed in 10, 20 and 25 years, respectively. Some modifications to the timing may result in relation to the rate of quarrying activity.

Runoff in the storage area is currently directed to catchment areas which collect sediment. The high percentage of rocks and granular material in the storage area allow rapid percolation by the runoff. As Phase 1 of the material storage nears final grade, the runoff will be directed along the new access road. The runoff will be caught in a sedimentation basin as shown on the reclamation plan. The basin and outfall will be constructed prior to the completion of Phase I.

East Materials Storage Area (Area C)

In this area the slope between contours 1400 and 1420 will be revegetated first, other areas will be planted as material becomes available for placement.

After the proposed grades have been reached for an area, 4 inches of soil will be added where practical and plant materials installed. The plant materials and planting

techniques used will be tailored to the specific area to be revegetated.

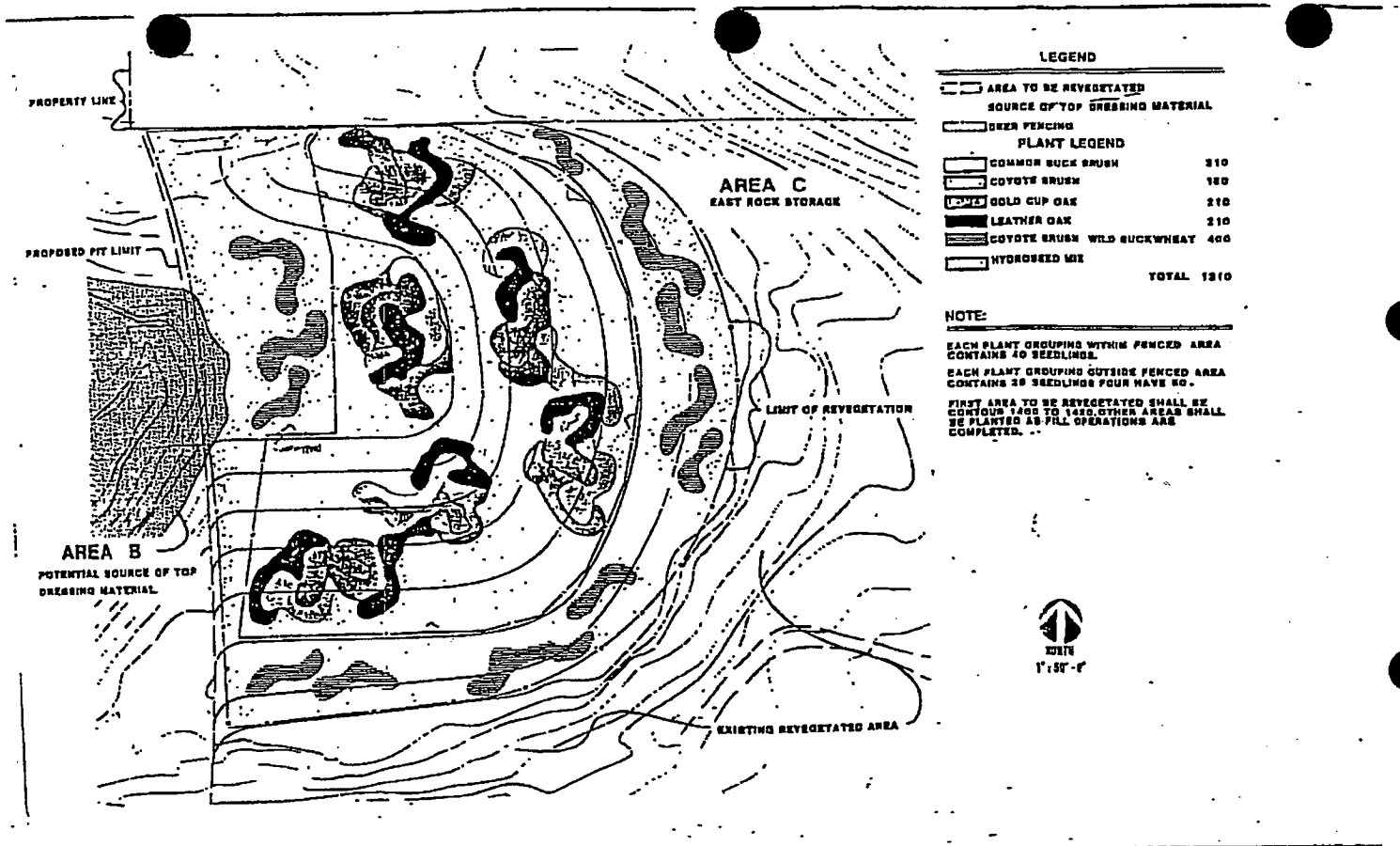
West Materials Storage Area (Area A)

The West Storage Area, because the rock material here may be used in the future, will be revegetated using seed material applied within a hydromulched slurry mixed together with fertilizer. No woody tree or shrub materials will be used in this mix, however tree species found on-site will establish themselves naturally over the 25 year period.

The purpose of the seven species of grass and wildflower seed within this mix is to stabilize the slopes and prevent erosion. Use of the seed materials selected promotes reseeding and does not require the use of supplemental irrigation.
Revegetation of the East Storage Area will utilize significantly more plant materials and different planting techniques. More extensive tree and shrub plantings will be used to incorporate the new hill into the surrounding natural setting. These plantings will include two types of oak seedlings, coyote brush, ceanothus and buckwheat seedlings, as well as a seed mix containing four different grass and wildflower species. Figure 7 presents the proposed revegetation scheme in this area.

To insure survival of the tree and shrub seedlings, protective screening is proposed to protect the vegetation from deer and rodents. Six-foot high "Poultry Net" fencing will be used to protect seedlings from deer. In addition, a portion of the oak seedlings will be protected individually by fine mesh screening to prevent damage from rodents.

Although native plant species have been selected for revegetation, some supplemental, temporary irrigation will be required due to conditions at this particular location. The high porosity of the soil, and the predominance of southern and western exposures contribute to a very dry environment for seedlings to develop. Therefore, supplemental irrigation will be provided for approximately 5 years, until the plants are fully established. An existing irrigation system will be expanded and utilized to provide water to the East Storage Area revegetation.



REVEGETATION PLAN EAST MATERIALS STORAGE AREA

FIG. 7

In addition to fencing protection and irrigation, all revegetation materials will be fertilized. For hydroseeded/mulched materials a totally organic, water soluble fertilizer will be used within the slurry. In the case of seedlings, slow release, long term tablets will be placed within the root zone to provide fertilization over the following two years.

The overall intent of the revegetation plan proposed is to provide the proper conditions to promote healthy mature plantings that will be similar to the surrounding native vegetation.

To further insure that the revegetated plantings will survive and grow to mature sizes, the Kaiser Cement Corporation intends to monitor all installations and conduct periodic maintenance. In this way the proper plant materials, irrigation and fertilization will be insured any potential problems can be addressed early on, providing every chance for the successful revegetation of these areas.

C. Ultimate Conditions

At the end of this 25 year reclamation program the following conditions will exist. The West Materials Storage area will have reached a maximum elevation of 1975 feet. Its slopes will be established at a 3:1 gradient and planted with native grasses to control erosion.

The East Materials Storage area will have reached a maximum elevation of 1475 feet, with slopes at a 3:1 gradient. It will be revegetated with native grasses, shrubs, and trees.

The quarry pit area will be excavated at an overall gradient of 1:1 in conformance with the slope stability investigation. Any future alternatives, including revegetation and continued operation, will be addressed in another reclamation plan to be prepared in approximately 20 years.

APPENDIX A

BIBLIOGRAPHY

Contents of fi[illegible] kept in Permanente [illegible] Office
-Revised August 2[illegible] to include additions indicated by *.

SUMMARY - GEOLOGICAL REPORTS AND MEMORANDA ON PERMANENTE PROPERTY

DATE	TITLE	AUTHOR	CONTENT
1888	Eighth Annual Report of the State Mineralogist,"Santa Clara County"	California State Mining Bureau	Historical notes on Guadalupe deposit. Mentions bituminous limestone.
1890	Tenth Annual Report of the State Mineralogist,"Santa Clara County"	California State Mining Bureau	Historical notes: Guadalupe and Los Gatos deposits.
1894	Twelfth Annual Report of the State Mineralogist,"Santa Clara County"	California State Mining Bureau	Historical notes: Los Gatos, Guadalupe, and Wright's Ranch deposits.
1896	Thirteenth Annual Report of the State Mineralogist,"Santa Clara County"	California State Mining Bureau	Historical notes: Guadalupe and Los Gatos deposits.
1906	Structural and Industrial Materials of California, "Santa Clara County"	California State Mining Bureau	Historical notes: El Dorado Sugar Company's Quarry (=Permanente) and Los Gatos Lime Quarry.
1908	Map showing distribution of apparent intensity, known faults, routes examined	Lawson, A.C., ed., 1908 Atlas, U. S. G. S.	1:125,000 scale
Jan 1921	Report XVII of The State Mineralogist "Santa Clara County"	California State Mining Bureau Huguenin, E. & Catello, W.O.	Historical notes: Winship Property.
Jan 1930	San Francisco Field Division Santa Clara County	California Division of Mines Franke, H.A.	Brief Regional Description - Historical Notes - Bond and Winship Properties.
1933	Limestone Deposits of the San Francisco Region	California Division of Mines Eckel, E.C.	Distribution, Composition, Historical Notes.
1933	Limestone Weathering and Plant Associations of the San Francisco Region	California Division of Mines Kelly, J.W.	Limestone soils, Plants, Vegetation.

SUMMARY - GEOLOGICAL REPORTS AND MEMORANDA - PERMANENTE PROPERTY

DATE	TITLE	AUTHOR	CONTENT
Apr 1944	Tonnage Available In The North Ridge of The Upper Quarry	Grimm, K.E., Chief Geologist, Knuth, W.J. Permanente Corporation	Notes on mining aspect.
Feb 21, 1945	Development and Operations Program For The Permanente Cement Company Quarries for the Years 1945, 1946, 1947, 1948, and 1949	Grimm, K.E., Chief Geologist, Knuth, W.J., Permanente Corporation	Mining plan, recommendations to strip and beneficiate to extend life of property.
Aug 27, 1945	Memo to J. W. Sharp	Jack, O.E., Permanente Laboratory	Drill hole analysis from Black Mountain
Sep 1945	Geological Report of McCaughern Property	Grimm, K.E., Chief Geologist Permanente Corporation	Report on surrounding properties, particularly Black Mountain region.
Nov 1946	Insoluble Residues of The Calera Limestone in Santa Clara County, California	Pantin, J.H., Stanford University M.S. Thesis	Stratigraphic correlations, Permanente geologic map and section.
Dec 4, 1946	Limestone Reserves of The Upper Quarry Area, Permanente, California	Hulin, C.D., Dept of Geology, University of California, Berkeley	Reserve study. Identifies "Andesite" as "Diabase," different structure intrepretation to Tolman ('39) based on new information.
Feb 28, 1947	Memo to Sharp, Hall, Jack, Knuth	Zimmerman, Jr., John, Chief Geologist, Permanente Corporation	Report on outside areas to supplement limestone supplies - Guadalupe Dam, Los Gatos, Monte Bello, etc.
Apr 14, 1947	Letter to Lewis Timpany	Zimmerman, Jr., John, Chief Geologist, Permanente Corporation	No interest.
Jun 1947	Insoluble Residues of the Calera Limestone from Its Type Locality, Calera Valley, San Mateo County, California.	Miranda, L.J., Stanford University M.S. Thesis	Stratigraphic correlations.

SUMMARY - GEOLOGICAL REPORTS AND MEMORANDA ON PERMANENTE PROPERTY

DATE	TITLE	AUTHOR	CONTENT
Jul 1947	California Journal of Mines and Geology, "Limestone in California"	California Division of Mines Logan, C.A.	Description of limestone deposits, Permanente's operations.
Aug 6, 1950	Letter to H. J. Kaiser	Timpany, Lewis	Promotional description of limestone on property south of Permanente.
Aug 22, 1950	Letter to Lewis Timpany	Marsh, W.A., General Manager, Permanente Corporation	No interest.
Dec 1950	The Calera Limestone in San Mateo and Santa Clara Counties, California	California Division of Mines Walker, G.W.	Special report on Calera limestone.
1952	Cretaceous Foraminifera from the Franciscan Calera Limestone of California	Church, C. C.	Assigns middle to basal upper Cretaceous age to Calera.
Dec 30, 1954	Memo to J. M. Garoutte	Covello, A., Geologist, Permanente Corporation	Black Mountain outcrops on Emment Burns, Crocker (now Kaiser) and Alves properties.
Nov 14, 1956 and Nov 12, 1957	Letters on Burns Property	Whitecliff Realty, W.A. Marsh, Carlton Hulin, and J.M. Garoutte	Black Mountain properties.
Jan 15, 1958	Memo to W. A. Marsh	Stilbolt, C.B.	Crocker lands:
Apr 6, 1961	Permanente Quarry Stratigraphic Section	Towse, D.	With $CaCO_3$ percent.
Jul 20, 1961	Memo to R. G. Hohnsbeen	Kennedy, J.R.	Ref to planning & development in Palo Alto/Foothills area.
Jan 9, 1963	Memo to E. B. Connors	Towse, D.	Ref to pit development to south.
1964	Floating Limestone at Permanente	Kleiber, J.C. & Meisel, G.M.	Beneficiation of low grade limestone.

SUMMARY - GEOLOGICAL REPORTS AND MEMORANDA ON PERMANENTE PROPERTY

DATE	TITLE	AUTHOR	CONTENT
Jun 26, 1939 and Oct 13, 1939	Report on Tonnage & Composition of Limestone Available in Proposed Quarries A and B, Permanente Corporation, and Superficial Residuary Clay on The Property of The Permanente Corporation	Tolman, Prof. C.F. and Neuman, Jr., J.V., Stanford University	Original evaluation Permanente property confined to area above 1500' el. although, limestone was recognized at lower elevations. First detail mapping of rock units and structures, description of sampling, and tonnage calculation.
1941	Milling at the Permanente Cement Plant	Kivari, A. M.	Early quarrying and milling; short summary of Tolman and Neuman report.
1942	Geologic History and Correlation of the Jurassic of Southwestern Oregon and California	Taliaferro, N. L.	Early ideas on origin and age of Franciscan and relationship to other formations of same age.
1942	Uppercretaceous Age of the "Franciscan" limestone near Laytonville, Mendocino County, California	Thalmann, H.E.	Assigns same age to Laytonville and Calera limestones.
Nov 1, 1942	Geological Report and Discussion of Reserve Rock Permanente Quarry Areas	Grimm, K.E., Chief Geologist, Permanente Corporation	Update on Tolman, Neuman report with new information available from operations. Further identification of limestone units. References to south side of creek.
Dec 5, 1942	Memo to Rhodes	Grimm, K.E., Chief Geologist, Permanente Corporation	Ref to Parcel 2 of Perrone Property.
1943	Franciscan-Knoxville Problem	Taliaferro, N.L.	Urges narrowing of definition of Franciscan. States that Knoxville is an upperphase of Franciscan. Discusses lithology.
Jul 1943	Black Mountain Prospect #1	Grimm, K.E. Chief Geologist, Permanente Corporation	Report - Geology, Economic Geology, plus map and section.
Oct 27, 1943	Geological Report & Discussion of Reserve In The Quarries of The Permanente Cement Company	Grimm, K.E., Chief Geologist, Permanente Corporation	Update and general confirmation of previous work.
Mar 15, 1944	Memo to Bill Sharp	Grimm, K.E., Chief Geologist, Permanente Corporation	Limestone on McCaughern Properties and adjacent area (Black Mountain).

SUMMARY - GEOLOGICAL REPORTS AND MEMORANDA ON PERMANENTE PROPERTY

DATE	TITLE	AUTHOR	CONTENT
1964	Franciscan and Related Rocks and Their Significance in The Geology of Western California	California Division of Mines and Geology, Bailey, E.H., Irwin,W.P., and Jones, D.L.	Distribution and characteristics of Franciscan limestones; relation to other rocks.
1966	Map - Geology of the Palo Alto 15' Quadrangle, Santa Clara and San Mateo Counties, California	California Division of Mines and Geology, Dibblee, Jr., T.W.	1:62,500 scale; descriptive text.
1967	Electron Microscopy of Limestones in the Franciscan Formation of California	U. S. Geological Survey Garrison, R.E. & Bailey, E. H.	Distribution, characteristics, and origins of Franciscan limestones. Recognized organic origins.
1969	Preliminary Report & Geologic Guide to Franciscan Melanges of the Morro Bay - San Simeon Area California	Hsu, K.J.	Description and distribution of melanges in San Luis Obispo County.
Aug 25, 1969	Mining Plan & Use Permit		For Kaiser Property in Palo Alto.
No Date	News		Fire Department access to Monte Bello Road.
1972	What is Franciscan?	Berkland, J.O., et.al.	Structural & lithologic definition of Franciscan Complex.
1973	Mixed Depositional Environments in the Franciscan Geosynclinal Assemblage	Matthews, Vincent III and Wachs, Daniel	Origin of Franciscan rocks.
1973	Preliminary Report 17 "Environmental Geologic Analysis of the Monte Bello Ridge Mountain Study Area Santa Clara County"Maps:Plate 1, 1-A, 2, 3, & 4	California Division of Mines and Geology, Rogers, T.H. and Armstrong, C.F.	Text: Areal geology, Permanente deposit rock descriptions. Maps: Bedrock, surficial, fault activity and mineral resources stability.
1973	Limestone and Dolomite Resources of California	California Division of Mines and Geology, Bowen, O.E.	Occurrences, characteristics, and economics.
1973	Petrology & Depositional History of Limestones in the Franciscan Formation of California	Wachs, Daniel, U.C. Santa Cruz, Ph.D.	Electron and Petrographic microscopy of Calera Limestone at Permanente, and Layton ville

SUMMARY - GEOLOGICAL REPORTS AND MEMORANDA ON PERMANENTE PROPERTY

DATE	TITLE	AUTHOR	CONTENT
1974	Petrography and Diagenesis of Franciscan Limestones	Wachs, Daniel and Hein, J.R.	Detail on Calera limestone.
Mar 29, 1974	Letter to J. K. Walker	Ellis, W.C.	Review of J. F. Snell's quarry reserve estimates.
May 24, 1974	Memo to J. H. Lucas	McCloud, J.P.	Recommends geologic mapping of ridge across Permanente Creek from quarry.
1975	Geologic Map of the Sargent-Berrocal Fault Zone	U. S. Geological Survey, Sorg, D.H. & McLaughlin, R.J.	1:24,000 scale map; descriptions of faults, earthquakes, landslides, mineral springs.
Jan 1975	Franciscan Limestones and Their Environments of Deposition	U. S. Geological Survey, Wachs, D. & Hein, J.R.	Limestone characteristics and origin.
Jul 21, 1977	Cover Memo, Open File Report, Vicinity Map, Topographic Map, Geologic Map, and Use Permit	California Division of Mines and Geology, Stinson, Melvin C.	Evaluation of Permanente aggregate reserves.
1978	Limestone, Dolomite, and Shell Resources of the Coast Ranges Province, California	California Division of Mines and Geology, Hart, Earl W.	Includes descriptions of Monte Bello Ridge and Permanente deposits.
Feb 1980	Franciscan Limestone Geology and Resources at Permanente and New Almaden, Santa Clara County, California	Kupferman, Steven A., Geological Engineer, Kaiser Cement Corporation	Stratigraphy, structure, origin, economic potential.
Dec. 1981	The Santa Clara Formation and Orogenesis of Monte Bello Ridge, Northwest Santa Clara County, CA	William L. Vandethuret San Jose State University MS Thesis	Stratigraphy and structure of Santa Clara Fm.
May 28 1982	Geology of the Permanente Property, KCC	Mathieson, E.L., Associate Geologist, KCC	Geology of KCC's Permanente property, excluding quarry and plant areas.

APPENDIX B

SLOPE STABILITY STUDY

Slope Stability

Pit Area - Based upon a 1975 investigation of slope stability of the Permanente quarry by Golder, Brawner & Associates, recommended overall slope angles for the pit are listed below:

	Pit Area	Recommended Overall Slope Angle	Bench Angle (Min.)
1.	Slopes on south side Facing 00 ^{0} (North)	Theoretically stable up to 75 ^{0}.	62 degrees
	Facing 020 ^{0}	Theoretically stable up to 75^{0}.	62 degrees
	Facing 090^{0}	Theoretically stable up to 57^{0}.	----
2.	Northern slopes from western end of pit-eastern end of sepentine slide area		
	Facing 090^{0}	60 Degrees	----
	Facing 130^{0}	46 Degrees	----
3.	Northern slopes from eastern end of serpentine slide area to western end of pit		
	Facing 130^{0}	44 Degrees	

	Pit Area	Recommended Overall Slope Angle	Bench Angle (Min.)
4.	East face		
	Facing 130°	Theoretically stable up to 72°	52 Degrees
	Facing 200°	Theoretically stable up to 90°.	52 Degrees
5.	Southern and southeastern faces excluding 1. above		
	Facing 230°	48 Degrees	----
	Facing 295°	46 Degrees	----

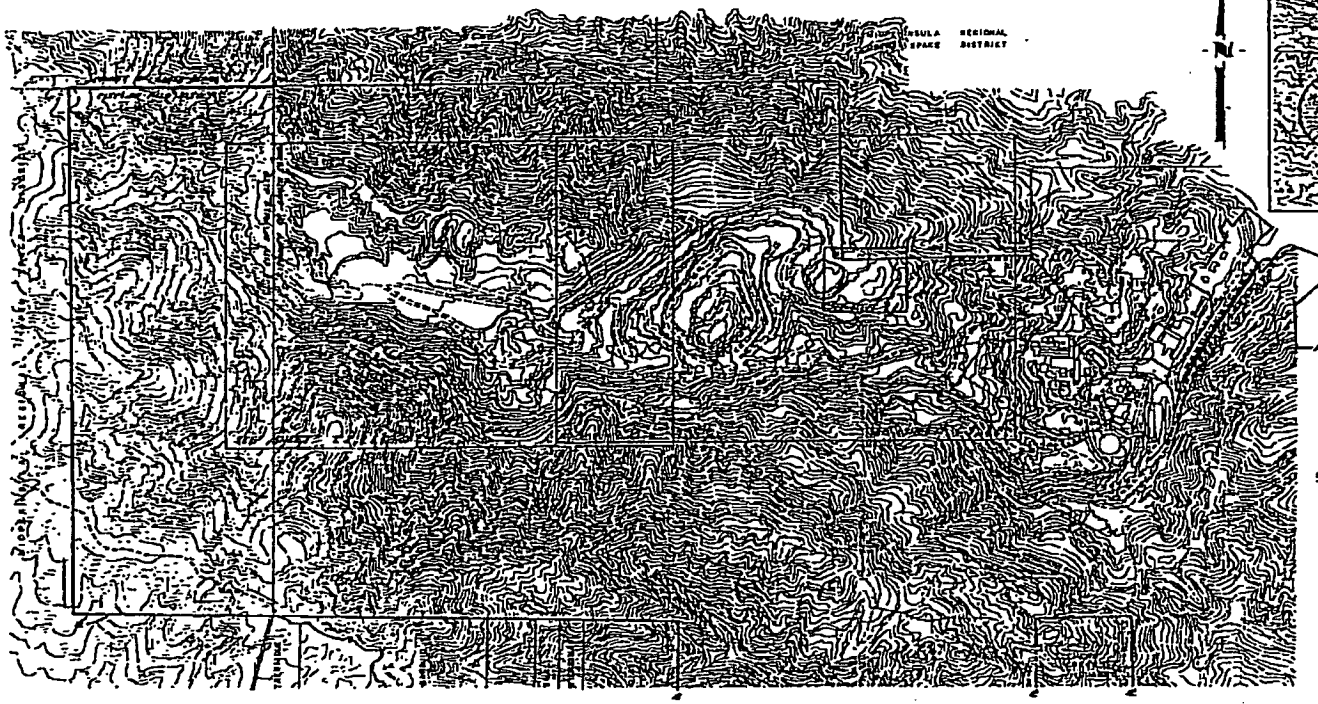
The existing and design overall pit slope angle of 45° (1:1) is within these recommendations.

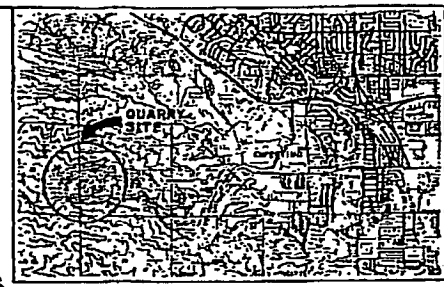
The 1975 study was primarily concerned with the stability of the "serpentine slide area" located on the north-northwest side of the pit. No final recommendations were made concerning stabilization of this "serpentine" slide mass. However, in 1978 and 1979 approximately 440,000 cubic yards of material was removed from this area. The slope was graded and cut back to an overall angle of approximately 26°. Terraces, drainage

ditches, and revegetation were installed for drainage and erosion control. The regrading work to remove the driving force on the slide along with the fact that a block of limestone remains in the pit below the "serpentine slide area" acting as a buttress, has mitigated the previous problem of gross instability in this area. Since 1979, and probably due to recent wet winters, an area of localized surface slumping has occurred in the lower portion of the "serpentine" slope. This area does not reflect any gross instability in the slope and will be re-graded in order to restore drainage along terraces.

Groundwater seepage has not been observed in quarry faces except for isolated seepage zones on the "serpentine" slope. This seepage occurs seasonally, during wet weather in the winter and usually dries up in the summer. There are no uniform geologic structures in the serpentine unit and it appears that seepage follows random fractures and shear zones.

Rock Storage Areas - Rock fill slopes of 3 (horizontal) :1 (vertical) in the rock storage areas are shallow and should be stable. Existing rock fill slopes at slope angles 1-1/2:1 located just east of the main pit shown no sign of instability. Design fill slopes in the rock storage areas will be terraced and revegetated in order to control drainage and erosion.





VICINITY MAP

NOTES

1. TOPOGRAPHY MAPS SUPPLIED BY KAISER CEMENT CORPORATION.
2. DATUM: ALL ELEVATIONS ARE BASED ON USC & GS DATUM.
3. FINISHED CONTOURS FOR PIT 29 AND ROCK STORAGE AREA ARE BASED ON DRAWINGS BY KAISER CEMENT CORPORATION.

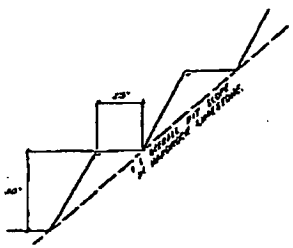
ABBREVIATIONS

P.L.	PROPERTY LINE
C.M.P.	CORRUGATED METAL PIPE
DIA.	DIAMETER
MIN.	MINIMUM

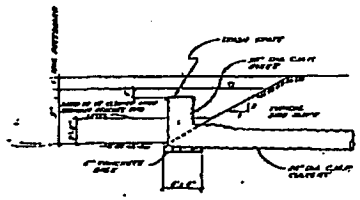
Received by
DEPARTMENT OF CONSERVATION

JUN 20 1994

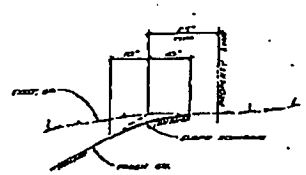
Office of Mine Reclamation



PIT WALL SECTION



BASIN AND OUTLET SECTION



TYPICAL SLOPE ROUNDING FOR TOP OF SLOPE

INDEX

SHEET	DESCRIPTION
C1	COVER SHEET
C2	RECLAMATION PLAN
C3	RECLAMATION PLAN
L1	REVEGETATION PLAN
L2	REVEGETATION PLAN
L3	REVEGETATION PLAN
L4	REVEGETATION NOTES

91-43-0004

REVISIONS

NAME	DATE	BY	DESCRIPTION

RECLAMATION PLAN

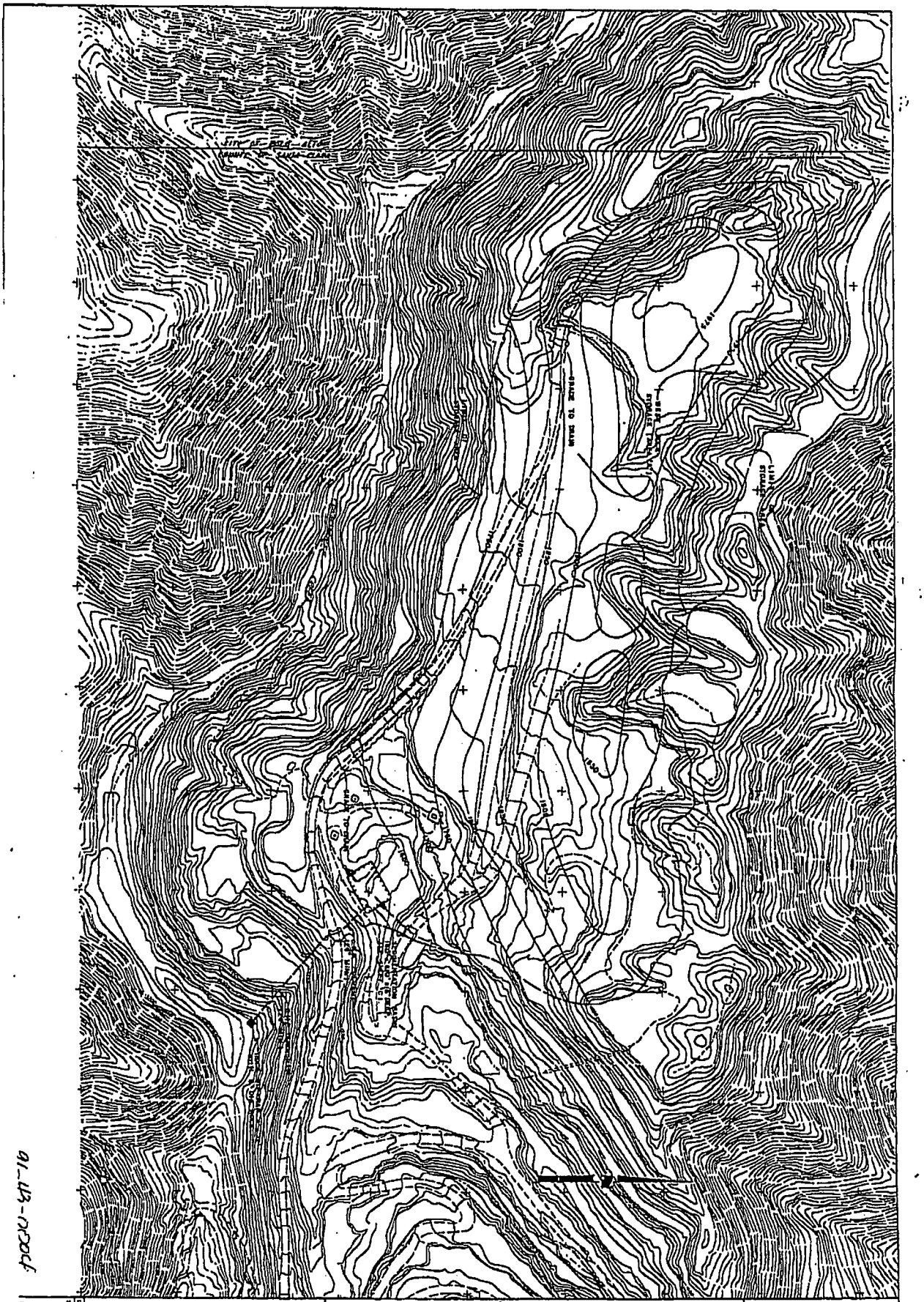
PERMANENTE QUARRY

KAISER CEMENT CORPORATION SANTA CLARA COUNTY, CALIFORNIA

R+G Ruth and Going, Inc.
architecture engineering planning
SAN JOSE CALIFORNIA DATE

DESIGN DAY
DRAWN
CHKD
SCALE
REG. NO.

DATE AUG 15, 1994
SHEET 1
C1
OF 7 SHEETS
JOB NO.



91-43-17004

C2

R+G Ruth and Going, Inc.
architecture engineering planning

DESIGN
CH'KD
DRAWN
SCALE
REG.NO.

RECLAMATION PLAN

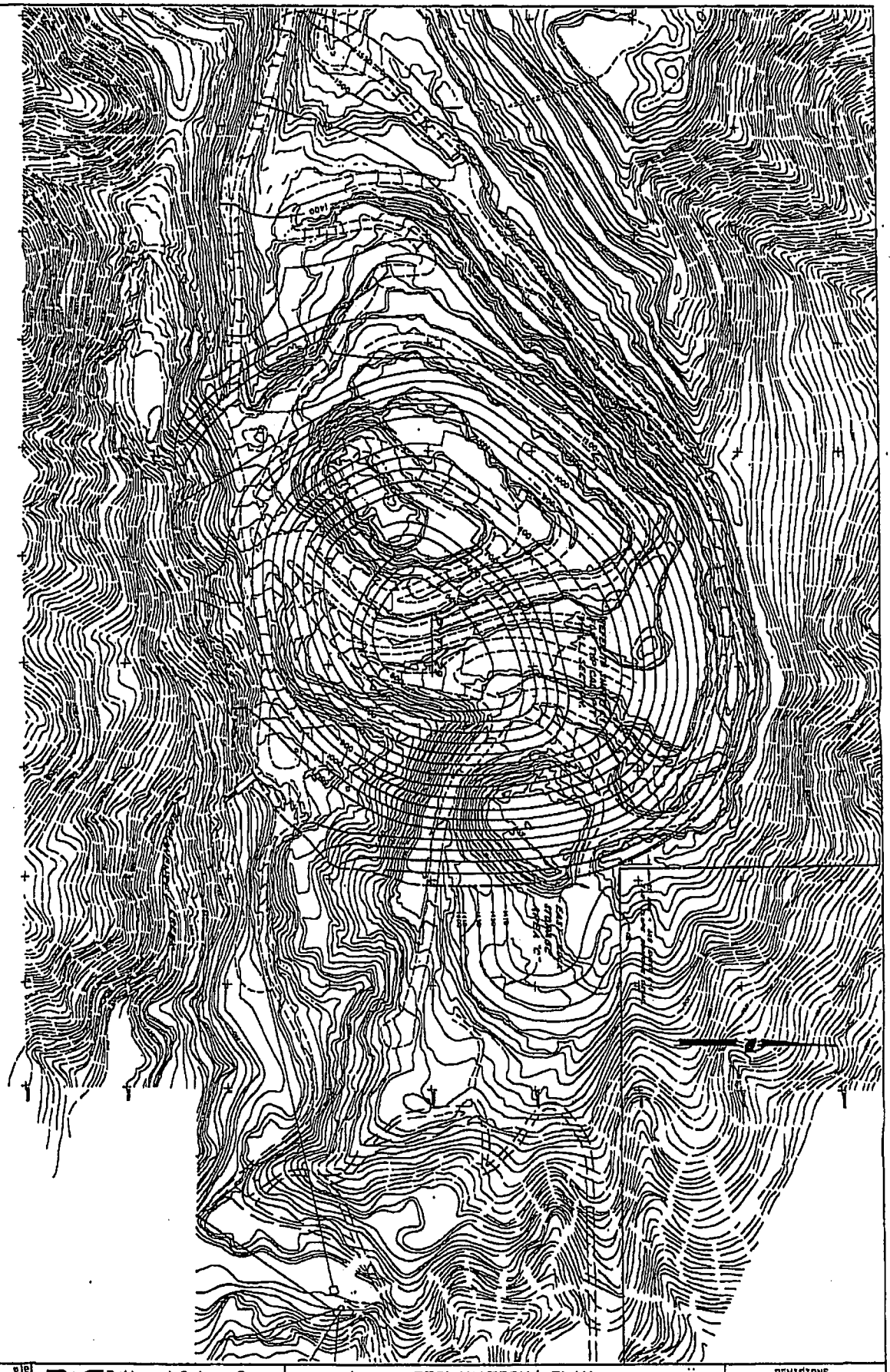
PERMANENTE QUARRY

KAISER CEMENT CORPORATION

SANTA CLARA COUNTY, CALIFORNIA

REVISIONS

MARK	DATE	BY	DESCRIPTION



R+G Ruth and Going, Inc. architecture engineering planning	RECLAMATION PLAN	REVISIONS
	PERMANENTE QUARRY	MARK / DATE / BY / DESCRIPTION
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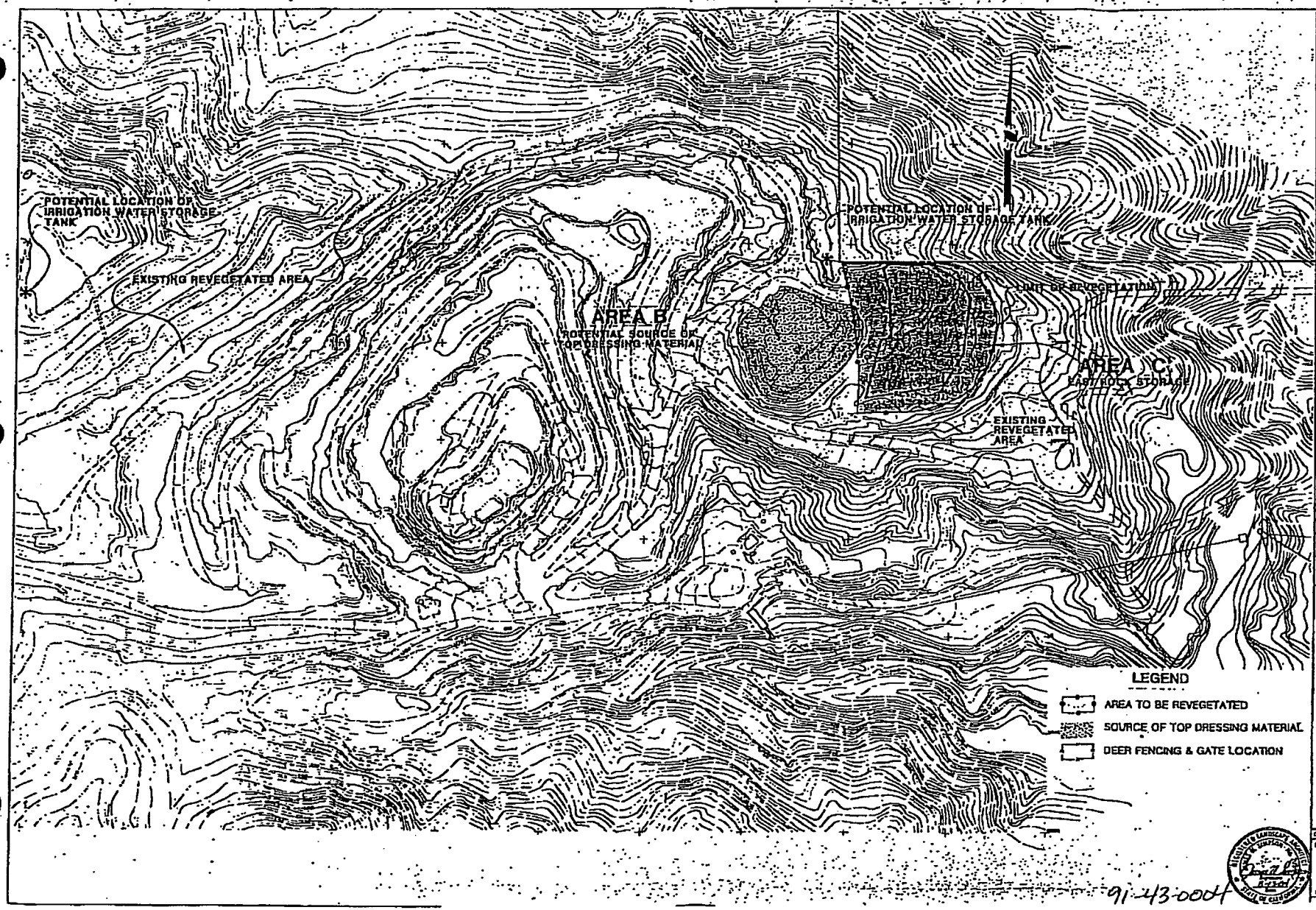
91-43 0000



REVEGETATION PLAN

PERMANENTE QUARRY

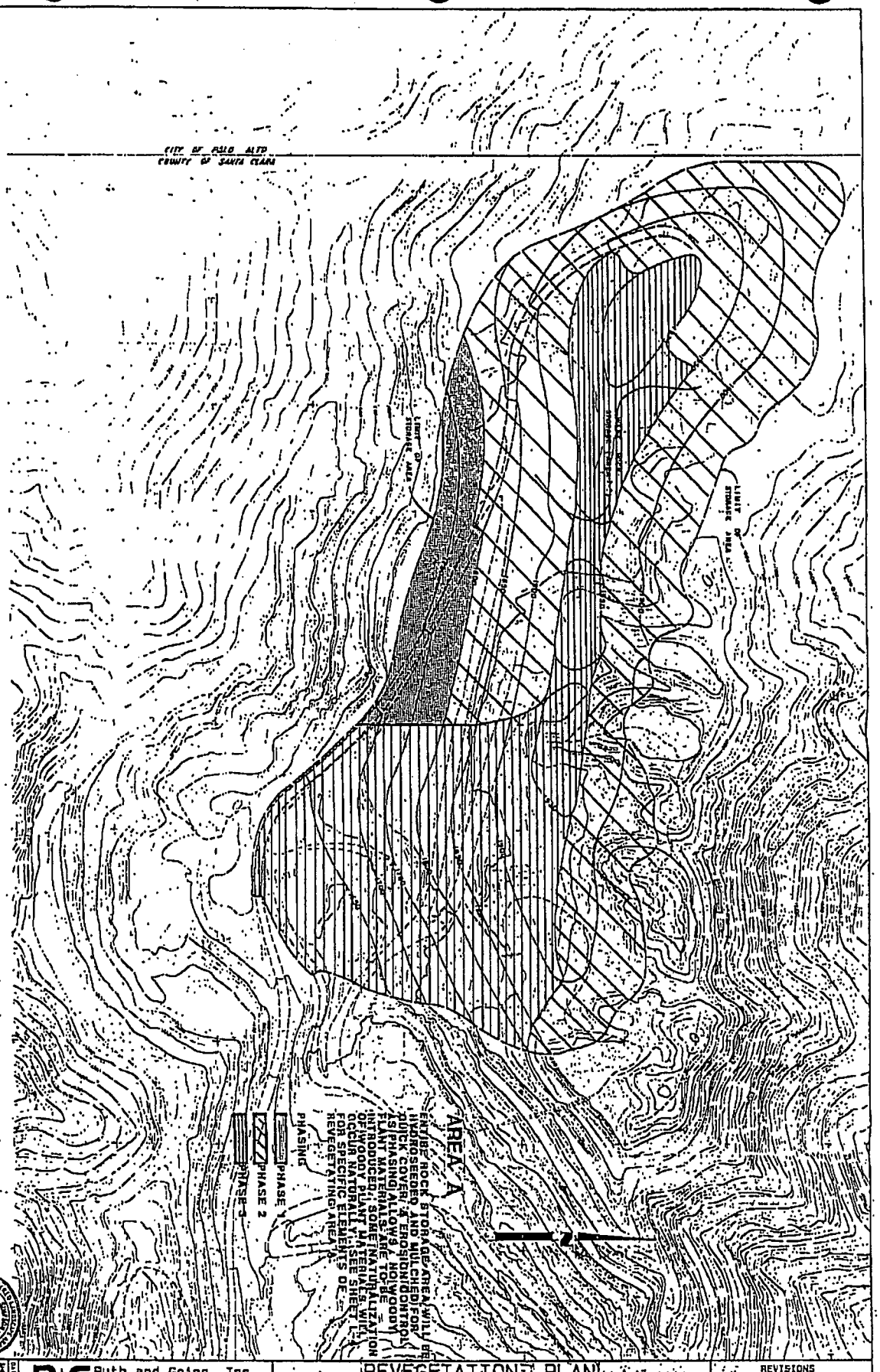
KAISER CEMENT CORPORATION SANTA CLARA COUNTY, CALIFORNIA

REVISIONS

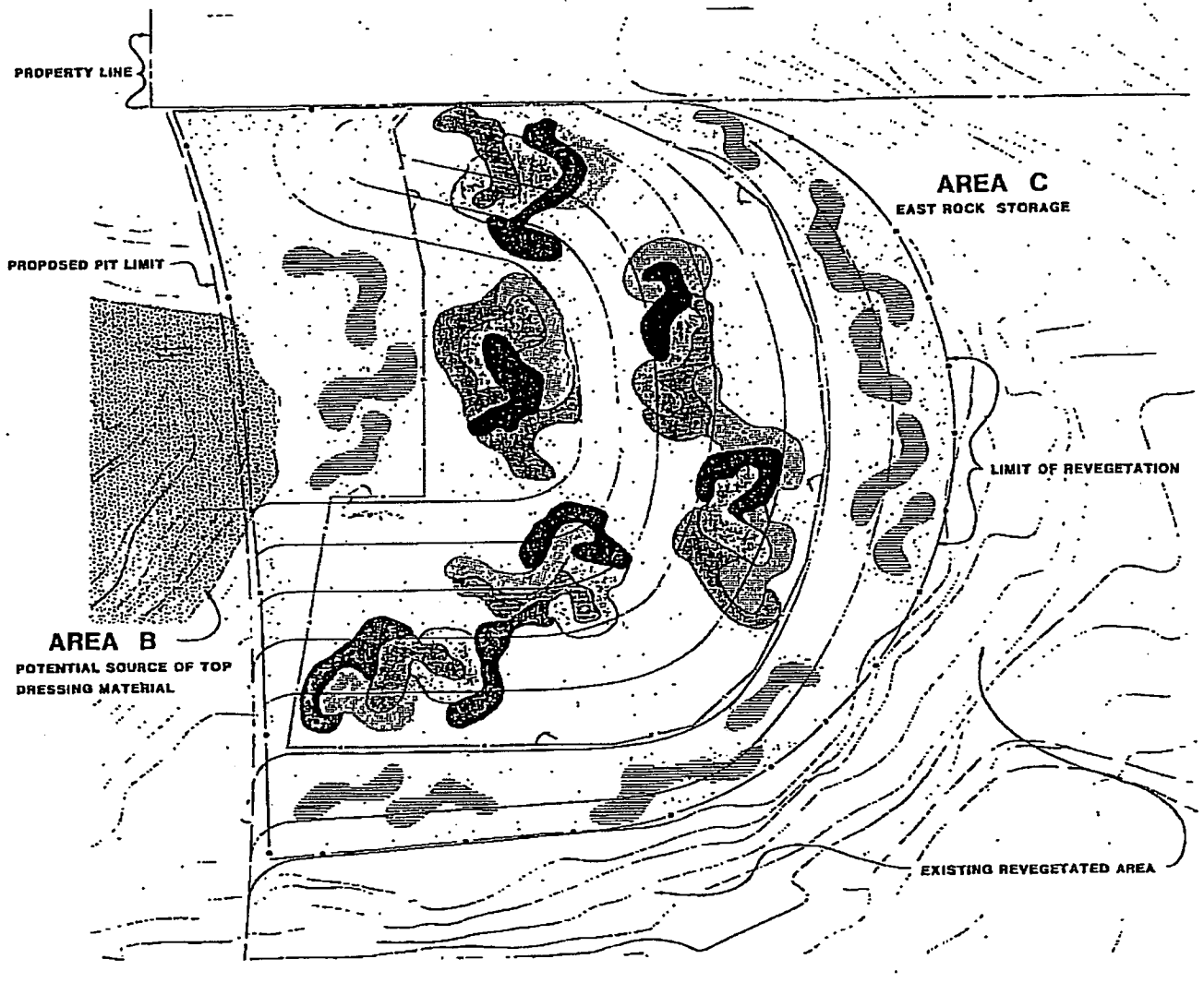
R+G Ruth and Going, Inc.

L1

91-43-0004



L2	R+G Ruth and Going, Inc. architecture engineering planning	REVEGETATION PLAN	REVISIONS
		PERMANENTE QUARRY	
	DESIGN / DRAWN / CH'KD / SCALE / REG. NO.	KAISER CEMENT CORPORATION — SANTA CLARA COUNTY, CALIFORNIA	



LEGEND

- AREA TO BE REVEGETATED
- SOURCE OF TOP DRESSING MATERIAL
- DEER FENCING

PLANT LEGEND

COMMON BUCK BRUSH	210
COYOTE BRUSH	180
GOLD CUP OAK	210
LEATHER OAK	210
COYOTE BRUSH WILD BUCKWHEAT	400
HYDROSEED MIX	
TOTAL	1210

NOTE:

EACH PLANT GROUPING WITHIN FENCED AREA CONTAINS 40 SEEDLINGS.

EACH PLANT GROUPING OUTSIDE FENCED AREA CONTAINS 25 SEEDLINGS FOUR HAVE 50.

FIRST AREA TO BE REVEGETATED SHALL BE CONTOUR 1400 TO 1420. OTHER AREAS SHALL BE PLANTED AS FILL OPERATIONS ARE COMPLETED.

REVISIONS

REVEGETATION PLAN

PERMANENTE QUARRY

KAISER CEMENT CORPORATION SANTA CLARA COUNTY, CALIFORNIA

R+G Ruth and Going, Inc.

SHEET L3

91-43-00043

PLANT LIST

The proposed revegetation plan uses persons elements to help establish successful growth of native and introduced plant materials on the cut and filled slopes. The intent is to maximize the erosion potential and maximize the aesthetic appearance with application of plant materials here received mature sizes. By incorporating plant materials indigenous to the area or those which should survive the existing and conditions a higher rate of success is anticipated. In addition to the soil quality water factors such as water supply, maintenance and protection from over browsing are anticipated.

Each area to be revegetated presents unique conditions which require specific recommendations. The recommendations follow these general comments regarding the plant pallet, water and maintenance supply and protection from deer browsing.

Each area to be revegetated shall be planted with herbaceous perennials and woody plant materials to provide both short and long term plant establishment. This can be broken down into three groups of plant materials which may be used annuals

1. Permanent woody plant species which will eventually provide the dominant vegetative forms. These species may take 8-10 years to full reproductive maturity of size. These materials should be planted from containers, protected from browsing and fungi. These seedlings would have approximately 1 years growth at the time of installation. Plants such as annuals * are not natives, however are excellent cover plant materials are listed.

Trees

Pinus sabiniana*
Bishop Pine
Populus fremontii "Nevada"*
Male Fremont Cottonwood
Quercus agrifolia
Coast Live Oak
Quercus douglasii
Gold Cup Oak
Quercus durata
Leather Oak
Quercus lobata
Valley Oak
Quercus wislizenii
Interior Live Oak

Shrubs

Acacia redolens*
Prostrate Acacia (Non-flowering)
Arctostaphylos manzanita
Brentwood Manzanita
Ceanothus cuneatus divinus
Common Buck Brush
Ceanothus cuneatus
Jim Brush
Ceanothus
Cold snow Ebony
Hybrid Flannel Bush
Ceanothus hearst or San Gabriel
Fallugia paradoxa
Chaparral Pea

In addition to these plants Adenostoma fasciculatum, Chamise and Toxicodendron quercifolium, Poison Oak should be included in this category and are found naturalizing on the site.

2. Woody plants which will produce significant growth in approximately 3 years and can compete with other species to remain as permanent members of the plant community. These materials are the most deer browse resistant found on the site

Shrubs

Baccharis pilularis consanguinea
Coyote Brush
Eriogonum fasciculatum
Wild Buckwheat

3. Plant species which may be hydroseeded over large areas to provide cover during the first year and help prevent erosion. In addition, these species will self sow and reseed as long as they are able to compete with woody plants

Achillea millefolium californicum
Milfoil
Bromus carinatus*
Little Quaking Grass
Bromus mollis*
Rattlesnake Grass
Bromus rubens*
Red Brome*
Clarkia amoena
Farewell-to-Spring
Clarkia unguiculata
Elegant Clarkia
Eschscholzia californica
California Poppy
Festuca rubra
Red Fescue
Gilia capitata
Blue Gilia
Lasthenia chrysostoma
Goldfields
Lotus scoparius
Deerweed
Lupinus albifrons albifrons
Silky Bush Lupine
Lupinus bicolor
Lindley's Annual Lupine
Lupinus hirsutissimus
Stinging Annual Lupine
Lupinus nanus
Sky Lupine
Nemophila menziesii
Baby Blue Eyes
Phacelia tanacetifolia
Lacy Phacelia
Platystemon californicus
Creamcups
Sanguisorba minor
Small Burnet
Trifolium hirtum
Rose Clover
Trifolium willdenovii
Tomcat Clover
Vulpia myuros
Foxtail Fescue

The following mature species which are found on the surrounding plant communities or on-site are not used for the revegetation.

Aesculus californica, Chamise is difficult to produce from seed and cuttings. Once a vegetative cover is established this species will appear naturally.

Arctostaphylos manzanita, Heteromeles arbutifolia-Toyon, Rhamnus californica-Coffee berry, Toxicodendron diversiloba-Poison Oak. These species do not naturally appear on open slopes without some woody plant stock. Once the main woody settlement occupies they may be introduced. They could be introduced sooner once the seedlings planted reach mature size and they will probably establish themselves naturally once conditions for survival are appropriate.

The preceding list of plant materials is a master list. It is not intended that every species or variety listed will be used on-site. It sets up the approved plant list from which selections will be made by the specific recommendations. When a species specifically called out is not available the nearest plant has shall be substituted to provide a suitable substitution.

IRRIGATION

The site has undergone revegetation programs in the past. One procedure of this program has been the installation of an extensive irrigation supply and watering systems. This existing system is proposed to be repaired and extended to cover the areas shown to be revegetated with seedlings on these plans. To further insure adequate supply and efficiency two water storage tanks may be installed as shown on the plans. These would be used to create proper pressure without the constant operation of pumping equipment. The irrigation delivery will utilize drip or other appropriate low gallonage application. Planting is proposed to take place in the early fall of each year undertaken. These plant materials and seeds will receive the full winter rains and should not need any supplemental irrigation. Once spring rains have stopped, the remote irrigation will be operated on a monthly basis. Given the extension of the water lines and expense this supplemental water is anticipated to continue for at least 3 years.

DEER PROTECTION

Deer protection may be provided by physical methods such as fencing or by the use of commercially available chemical repellents.

Given the low effectiveness of the repellents and scale of the subject area repellents are not considered an effective means of protecting the revegetated areas. A system of fencing and screening is proposed to provide the best possible protection for both individual plants/seedings and for large enclosed areas.

The type of fencing proposed includes a 6' mesh fencing. This type will provide protection and is easier to install on the hillside terrain. Gates will be provided to allow maintenance of the planted areas and irrigation system.

In areas where it is not feasible to fence or the plant materials given a higher priority for personal individual protective screening is proposed. This screening would consist of low mesh bird-like chain link or galvanized wooden screen mesh around the plant or groups of plants. This screening while protecting against deer browsing also acts to prevent against small animal browsing. This screening would be provided for approximately 1/3 of the area seedings within the southeast facing area to further insure the survival of the major woody materials. Both the fencing and screening are shown in more detail on the construction plans.

NUTRITION

Existing mature plant materials which have been used in previous revegetation programs contain slow acting nutrients due to lack of moisture. The rate is very poor in nonexistent nodes, however the existing plant materials have increased. To increase the survival of the proposed revegetated plants and for the healthy growth of existing materials the following fertilization rate, rate and application is proposed.

1. New seedings or previously planted seed areas shall receive 420 slow release planting tablets installed within the root zone. Agriform 9 gram 21-6-3 Forest Starter or equal.
2. All existing mature plant materials and newly planted seedings shall be fertilized with a water soluble solution. Southern California Organic Fertilizer 200 lbs/Ac. 12-3-3 CRD Power or equal.
3. All hand broadcast or hydroseeded areas shall be fertilized with a water soluble solution. Southern California Organic Fertilizer 200 lbs/Ac. 12-3-3 CRD Power and 200 lbs/Ac. 12-3-3 time release release CRD Power or equal.

AREA C

This area encompasses one of the most visible of the mine many areas. Permanently, the soil materials found in this area are suitable for planting with little reworking. The following tasks and elements are proposed to establish a heavy vegetative coverage of this area

A.

1. Placement of approximately 6 inches of top dressing from AREA B on slopes and plateaus.
2. Fenced enclosure of approximately 600 feet x 630 feet to provide protection for planted materials from browsing deer.
3. Plantings of the following materials at the quantities shown in random groupings within the enclosure.

		Grouping	Total
a.	Baccharis pilularis consanguinea Coyote Brush	40	320
b.	Ceanothus cuneatus divinus Common Buck Brush	40	320
c.	Quercus chrysolepis Gold Cup Oak	40	320
d.	Quercus durata Leather Oak	40	320

4. Plantings of the following materials below and outside the enclosure in random groupings spaced approximately 6 feet apart.

		Grouping	Total
a.	Baccharis pilularis consanguinea Coyote Brush	25/30	200
b.	Eriogonum fasciculatum Wild Buckwheat	25/30	200

5. Seeding of the entire slope area with the following seed mix

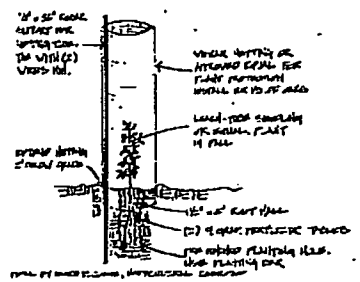
a.	Avena barbata Rattlesnake Grass	5 lbs./Ac.
b.	Clarkia amoena Red Ribbons*	1 lb./Ac.
c.	Lotus scoparius Deerweed	1 lb./Ac.
d.	Eschscholzia californica	2 lbs./Ac.

AREA A

This area is located in the area from the previously disturbed areas. It is previously used for storage of surplus rock materials. This revegetation proposed for this area is to establish quick cover and erosion control. Seeding will be planted in such portions revegetated as it becomes possible. No permanent woody plants will be planted however natural colonization by existing mature plant materials will take place. These plant materials to be used in the seed mix are:

a.	Avena barbata Little Quaking Grass	5 lbs./Ac.
b.	Bromus mollis Soft Chess	10 lbs./Ac.
c.	Clarkia unguiculata Elegant Clarkia	1 lb./Ac.
d.	Lupinus bicolor Lindley's Annual Lupine	5 lbs./Ac.
e.	Eschscholzia californica State Flowered Poppy	1 lb./Ac.
f.	Sanguisorba minor Small Burnet bean	1 lb./Ac.
g.	Stylomecon heterophylla Wind Poppy	6 lbs./Ac.

All seed areas shall be applied with 2000 lbs./Ac. of wood cellulose fiber mulch and Terra Tack III stabilizer when hydroseeded. Where hand seeded, mix seed and fertilizer with sand as included in seed disposition.



SEEDLING PLANTING DETAIL

BARRIE D. COATE
Consultant to the Landscape Architects & Contractors

91-43-0004

R+G Ruth and Going, Inc. landscape architecture engineering planning
110 THE ALAMEDA SAN JOSE CALIFORNIA 95126 (408) 293-1200

NAME	DATE	BY	DESCRIPTION
			REVISIONS

DESIGN
DRAWN
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DATE
SCALE
JOB NO.

REVEGETATION PLAN
PERMANENTE QUARRY
KAISER CEMENT CORPORATION — SANTA CLARA COUNTY, CALIFORNIA

SHEET L4 OF SHEETS

February 2, 1988

Re: Kaiser Cement

Mr. Lucas S. Stamos
Department of Planning & Development
70 West Hedding Street
San Jose, CA 95110

Dear Mr. Stamos:

Thank you for the opportunity of meeting with you and Mr. Bratton in December to discuss Kaiser Cement Corporation's plan to install new equipment to facilitate the incidental crushing of rock mined from our Permanente quarry. This letter is in response to your request that we set forth in writing our specific proposal and questions.

Specifically, we would like your comments on the following questions:

1. Is the proposed crushing of waste quarry products incident to our ongoing quarrying operations included within our grand-fathered quarry use?

2. Is the proposed crushing of waste quarry products incident to our ongoing aggregate and cement manufacturing operations included as an accessory use within our existing use permit?

BACKGROUND

Our property at Permanente includes a limestone quarry and a cement manufacturing plant. The quarry has been operating since around the turn of the century. The cement operations commenced subsequent to the issuance of the use permit therefor in May of 1939. The quarry is a conforming use pursuant to section 38-7 of Article 38 of the County's Ordinances. We have crushed rock to sell as commercial rock products for many years. In July of 1956, the matter of crushing facilities for the processing of waste rock for commercial sale was brought to the attention

of the County Planning Commission. At a meeting of the Commission on July 25, 1956, the Commission indicated that no new permit was needed for such activities.

The crushing and sale of commercial rock products follow naturally from our quarrying and cement operations because the limestone deposit at Permanente does not contain an abundance of the kind of high-grade stone (i.e., high in the percentage of calcium carbonate) which is used in the making of cement. Thus, a good deal of quarried rock would otherwise be a waste product which would have to be disposed of in some fashion.

Over the years the "waste" rock has been disposed of by selling much of it as sub-base, base rock, treated base, coarse rock, unprocessed rock, and bank run fill. The tonnages of all stone mined from the quarry during the last three years is as follows:

	1985	1986	1987
TOTAL QUARRY HARVEST	4,553,625	4,518,070	4,441,295
CEMENT PLANT DEMAND	1,565,131	1,897,663	1,956,769
COMMERCIAL ROCK SALES			
SUB BASE	311,049	325,807	124,627
BASE ROCK	523,397	342,162	262,048
TREATED BASE	23,127	9,657	20,381
COARSE ROCK	855,476	749,642	655,311
UNPROCESSED	79,105	72,758	32,141
BANK RUN FILL	736,894	105,228	177,318
TOTAL COMMERCIAL ROCK	2,529,048	1,605,254	1,261,826

As the table illustrates, the total cement plant demand is increasing. In order to meet that increased demand, it will be necessary for us to continue to harvest the quarry at least at present levels. At a time when the demand for our rock products is decreasing, such harvesting levels will produce much more "waste" rock than we can use. This imbalance between the supply and demand for such rock creates serious storage problems and, unless we can find new ways to use the excess "waste" rock, will result in its loss of use as a valuable resource.

We have determined that a solution to this problem would be to crush and process a portion of the waste rock

which is called "diabase." Diabase is not suitable in any quantity for cement manufacture and may only be blended very sparingly into the present commercial rock products because of quality control constraints. By itself, however, diabase will make a good quality mineral aggregate. Thus, our proposal to crush, process and sell diabase.

The diabase rock could be treated by our existing facility, but that would require substantial modifications and it would be difficult to safely isolate the diabase from the other rock being processed. Additionally, we already have a large quantity of such mined rock ready for processing located on a portion of our property near where the old wet kilns were located prior to plant modernization in 1981. This location is a considerable distance from the existing crushing facility. We, therefore, propose locating portable crushing-handling equipment near the existing rock stockpile.

Our preliminary equipment and layout engineering is complete and we have provided the general arrangement drawings to you. We have filed for a construction permit with the Bay Area Air Pollution Control District and anticipate that a permit will issue in the next two months. The plans call for the use of dust surfactant sprays, covered conveyors and dust collectors. The proposed air permit would limit the hours of operation to 16 hours per day. The equipment would be sheltered from the view of surrounding neighbors by the perimeter hills around Permanente as illustrated on the topographical maps which we have given to you.

The diabase operation will increase truck traffic over that of 1987, but it will not cause an increase over the truck traffic of past years, such as 1985, when bank run fill was being sold in higher quantities than today. The increase in product sales facilitated by the new equipment will not cause a linear increase in rock product sales, however, since the new production will replace the "unprocessed" rock shown in the above table. Additionally, some of the "coarse rock" now being shipped will be processed and shipped as part of the new mineral aggregate. The offsetting tonnage will represent approximately one-third of the new equipment's expected output of 500,000 tons per year.

We believe that section 36-4(d) of the County's Ordinances permits our proposal because the proposed crushing

and processing is properly part of the surface mining operation. Additionally, as noted above, the County has already indicated that crushing and processing of waste rock is an included use within our existing operations. We further believe that the efficient disposition of waste rock is an environmentally sound practice which has long-term benefits for the people of Santa Clara County.

Please keep in mind that in no event do we wish to modify our existing use permit.

We look forward to your comments and would be happy to meet with you at your earliest convenience. Please let us know if we can supply you with any further information.

Thank you for your consideration and advice.

Sincerely,

F. A. Nelson
Vice President and General Manager
Kaiser Cement Corporation
Northern California Region

County of Santa Clara
Department of Planning and Development
Current Planning Office (Central Permit Office)
County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
(408) 299-2454

March 29, 1988

F. A. Nelson
Vice President & General Manager
Kaiser Cement Corporation
440 Mission Court, Suite 250
Fremont, CA 94530

RE: YOUR LETTER OF MARCH 1, 1988 REGARDING PORTABLE FACILITY

Please be advised that you may install a portable sand and gravel plant as indicated on plans submitted to us without the necessity of having to go through any land use approval.

Because of your status as a legal nonconforming use and the fact that this overburden already exists, puts this additional rock processing facility as a use which has historically been allowed at this site. Furthermore, no Architectural and Site Approval will be required, as long as the facility is to be located within the area shown on the plans, which again has historically been used to process rock material.

As we understand from your letter dated March 1, 1988, this same material is sometimes sold, and this new operation will just make it more marketable.

We hope that this letter clarifies your responsibility in order to install said equipment. Thank you for reviewing this clearance with this department.

Lucas S. Stamos
Zoning Administrator

cc: Current Planning
AL RUFFO
FILE
kaiser
GenCorres

Board of Supervisors: Susanne Wilson, Zoe Lofgren, Thomas L. Legan, Rod Diridon, Dianne McKenna
County Executive: Sally R. Reed

LAW OFFICES OF
PILLSBURY, MADISON & SUTRO
TEN ALMADEN BOULEVARD
SAN JOSE, CALIFORNIA 95113
TELEPHONE (408) 947-4000
TELECOPIER (408) 287-8341

OTHER OFFICES
SAN FRANCISCO, CALIFORNIA
LOS ANGELES, CALIFORNIA
SAN DIEGO, CALIFORNIA
WALNUT CREEK, CALIFORNIA
WASHINGTON, D.C.

WRITER'S DIRECT DIAL NUMBER

(408) 947-4000

RECEIVED
JUL 29 1991
COUNTY OF SANTA CLARA
PLANNING DEPARTMENT
Planning Commission

July 25, 1991

Kaiser Cement Corporation - Modernization of Aggregate Facility

Mr. Luke Stamos
Santa Clara County
Planning Department
70 West Hedding Street
East Wing, 7th Floor
San Jose, California 95110

Dear Mr. Stamos:

We appreciate having had the opportunity to meet with you and Mr. Bratton on May 22, to discuss Kaiser's rock plant modernization project. Since that meeting we have given further serious thought to the modernization and its implementation.

As we discussed, Kaiser is ready to proceed with the project. Having carefully reviewed the County's grading ordinance we believe that no grading permit should be required.

Santa Clara County Ordinance Code section C12-420 prohibits grading without first obtaining a grading permit, unless an exemption applies. We believe that at least one exemption to the permit requirement applies to Kaiser.

Section C12-421(i) states the following exemption from the grading permit requirement:

> "Exemption for dumps, mines and quarries. Grading within the site of a . . . quarry or plant for excavating and the processing and stockpiling of rock, sand, gravel, aggregate or clay, provided that such grading or other activities are established and operated in accordance with all laws and the requirements of all permits."

This exemption should apply to Kaiser in two ways: first, Kaiser's entitlement to quarry as a legal conforming use under §38-7 of the County's Ordinances covers the entirety of the relevant Permanente property. Pursuant to that right Kaiser intends to extract for processing and sale rock products from the area of the proposed modernization. Even assuming, however, that some portion of that extraction ("quarrying") might arguably be labelled grading, it would be "Grading within the site of a . . . quarry" and should therefore be exempt from the grading permit requirement.

Additionally, because Kaiser operates its cement and aggregate plants at the same site, the grading for the rock plant modernization would also be "within the site of a . . . plant for . . . processing and stockpiling of rock, sand, gravel, aggregate or clay" and would, therefore, be exempt from the grading permit requirement.

Before we take any action, however, we wanted to advise you and to solicit any thoughts you or the county counsel may have. We would be happy to meet with you. We look forward to hearing from you at your earliest convenience.

Very sincerely yours,

Thomas P. O'Donnell

cc: F. A. Nelson, Jr.
M. J. Bishop
Jeff Wiest

Mr. A. J. Ruffo

LAW OFFICES OF
PILLSBURY, MADISON & SUTRO
TEN ALMADEN BOULEVARD
SAN JOSE, CALIFORNIA 95113
TELEPHONE (408) 947-4000
TELECOPIER (408) 287-8341

OTHER OFFICES
SAN FRANCISCO, CALIFORNIA
LOS ANGELES, CALIFORNIA
SAN DIEGO, CALIFORNIA
WALNUT CREEK, CALIFORNIA
WASHINGTON, D.C.

WRITER'S DIRECT DIAL NUMBER
(408) 947-4048

September 16, 1991

Mr. Luke Stamos
Santa Clara County Planning Dept.
70 West Hedding Street
East Wing, 7th Floor
San Jose, CA 95110

Re: Kaiser Cement Corporation
Proposed Aggregate Facility

Dear Mr. Stamos:

On May 22, 1991, we met with you and Mr. Bratten to discuss Kaiser Cement's proposed rock plant modifications and additions. At that time we requested a determination by the County of Santa Clara that implementation of the proposal would not require any discretionary permits, including land use approvals, from the County. We advised you that Kaiser would obtain necessary permits from the Bay Area Air Quality Management District.

On July 25, I wrote you a letter indicating that after considering the applicability of the County's grading ordinance, we believed that a grading permit would not be necessary. We discussed this opinion with the County Surveyor, Jim Sirr. Based upon his understanding of Kaiser's plans, he concurred.

We now understand that you are prepared to confirm in writing that the County agrees with Kaiser. Prior to writing that confirmation, however, you have requested that we provide you with greater detail as to the location and description of the modifications and additions so that the confirmation can be specific as to the basis of the determination. I, therefore, enclose for your review the following: (i) a rock plan "survey" topographically showing the approximate location of the proposal; and (ii) a flow diagram illustrating the flow of raw materials from the existing storage piles through the proposed additions. We believe that these enclosures are fully responsive to your request; if not, please call me at your earliest convenience.

For your convenience I include here a brief narrative description of the proposal. As shown by the enclosures, the Plant will enable Kaiser to further process rock already quarried from its onsite quarry as a result of its cement manufacturing operations. Such rock is separated into Class 2 Base Rock, Aggregate Base Rock and Coarse Rock. Generally speaking, the Course Rock is that portion of the rock which, after screening, is larger than 3/4". The Class 2 and Aggregate Base Rock are smaller than 3/4". Currently the Class 2 and Aggregate Base Rock are processed on site, but the Coarse Rock is sold and trucked offsite by a third party (Kaiser Sand & Gravel, an unrelated company) to its facility in Mountain View where it is processed to produce the various size fractions which make up concrete aggregate. Because Kaiser Sand & Gravel is closing its Mountain View facility, Kaiser wishes to implement the proposal so that Course Rock processing will be performed onsite at Permanente.

The proposed modifications and additions will be located within the property described in the existing use permit, and within the area in which quarrying has historically been done from time to time even though it is not in the quarry's deep pit. The facility will be "for the processing and stockpiling of rock, sand, gravel, aggregate or clay . . . [and will be] established and operated in accordance with all laws and requirements of all permits" (Santa Clara County Ordinance § C12-421(i)).

The modifications and additions will be in the same area as existing rock plant #2. They will not increase the capacity of the cement plant nor the volume of rock quarried. There will be no increase in offsite noise, nor in traffic on local roads. There will be a decrease in regional road traffic. There will be a significant decrease in dust emissions as compared with the existing operations.

Thank you for your assistance. Should you desire any further information, please advise. We look forward to

receiving your written confirmation. For your convenience, we enclose for your consideration a proposed form of determination and confirmation.

Very sincerely yours,

Thomas P. O'Donnell

cc: Mr. J. Bishop
Albert J. Ruffo, Esq.
Mr. Jeff Wiest

County of Santa Clara
Department of Planning and Development
Zoning Administration Office
County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
(408) 299-7320

September 18, 1991

Mr. M. J. Bishop
Vice President
Kaiser Cement Corporation
1333 North California Blvd.
Suite 465
Walnut Creek, CA 94596-1209

RE: KAISER CEMENT - PERMANENTE ROCK PLANT

Dear Mr. Bishop:

On behalf of Kaiser Cement Corporation ("Kaiser") you have informed the Planning Department of the County of Santa Clara (the "County") that Kaiser is planning certain modifications and additions to its plant at its Permanente facility that would enable it to further process rock quarried from its on-site quarry as a result of its cement manufacturing operations. As we understand this, material is now being exported from the site to be processed, but this processing will now be done on site. The approximate location of this facility is shown on the rock plan "survey" topography map and on the plan diagram as submitted.

Based upon the representations contained in the letter of your attorney, Thomas P. O'Donnell, submitted to us on September 16, 1991, we concur in Kaiser's view that no discretionary permits are necessary from the County for the proposed modifications and additions. The proposal is consistent with Kaiser's historical quarrying uses. I also checked with Jim Sirr (County Surveyor) and he stated that the use is exempt from grading permit requirements as an incidental quarry use pursuant to County Ordinance C12-421(l) and, so long as the facility is to be located within the area shown on the submitted drawings, will not require Architectural and Site Approval.

We hope this letter clarifies your questions. Thank you for reviewing this proposed modification with this department.

Very truly yours,

Lucas S. Stamos
Zoning Administrator

cc: Central Permit Office
Thomas P. O'Donnell
Jim Sirr, County Surveyor

Kaiser FILE 2250-84P
rs/Corres

Board of Supervisors: Michael Honda, Zoe Lofgren, Ron Gonzales, Rod Diridon, Dianne McKenna
County Executive: Sally R. Reed

UNITED STATES
DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT

STATE OF CALIFORNIA
DEPARTMENT OF CONSERVATION
MINE REPORTING & RECLAMATION COMPLIANCE

SURFACE MINING INSPECTION REPORT

Form MRRC-1 Page 1 (New 5/91)

Instructions for completing this form are on the reverse side. Attach notices of violation and orders to comply for all observed non-compliance.

I. Mining Operation Name	CA Mine ID #
Kaiser Cement Permanente Quarry	91-43-0004

II. Lead Agency Name		
Santa Clara County Planning & Development Dept.		
Inspector		Telephone 408-
Ransom Bratton		2992454
Title	Organization	
Sec. A. & S.A. Committee	CURRENT PLANNING OFFICE	
Mailing Address		
7th Floor, EAST WING, County Govermnt. Ctr. 70 W. Hedding		
City	State	ZIP
San Jose	CA	95014

III. BLM ID #	Resource Area	
Contact Person		Telephone
Mailing Address		
City	State	ZIP

IV. Mine Operator		
Kaiser Cement		
Contact Person		Telephone
Mark McKenna		408-996-4158
Mailing Address		
24001 Stevens Creek Blvd		
City	State	ZIP
Cupertino	CA	95014

V. Date Inspection Began	Time Inspection Began	Duration of Inspection
Sept 1, 1993	1:00 AM (PM)	1.5 hrs
Reason for Inspection Code(s)	Date Inspection Ended	Weather Code(s)
R.I	Sept 1, 1993	CL
Reinspection Code(s)	Joint Inspection Agency Code(s)	Post-inspection Agency Code(s)

DISTRIBUTION: White - Operator; Green - State (by Lead Agency); Canary - BLM (if required); Pink - Lead Agency; Goldenrod - State (by Operator)

UNITED STATES
DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT

STATE OF CALIFORNIA
DEPARTMENT OF CONSERVATION
MINE REPORTING & RECLAMATION COMPLIANCE

SURFACE MINING INSPECTION REPORT

Form MRRC-1 Page 2 (New 5/91)

VI. Does the operation have:	P	NR	YES	NO	ND
An approved Reclamation Plan?			↘		
A permit to mine?		↘	↘		
Approved financial assurances?			↘		

	NR	YES	NO	ND
Has the operator filed a Mining Operation Annual Report (MRRC-2)?		↘		

FOR BLM USE	OK	VN	NA	NI
Approved Plan of Operations*				
Cyanide Management				
Other				

Is the operation in compliance with provisions of the approved reclamation plan with respect to:	OK	VN	NA	NI
Wildlife Habitat	↘			
Revegetation	↘			
Agricultural Land			↘	
Stream Protection	↘			
Tailings and Mine Waste Management	↘			
Building, Structure and Equipment Removal			↘	
Topsoil Salvage, Maintenance, and Redistribution	↘			
Backfilling, Regrading, Slope Stability, and Recontouring	↘			
Drainage, Diversion Structures, Waterways, and Erosion	↘			
Other				

VII. Comments/Description of Violations and Corrective Measures Required
(Note: Please indicate if you have attached notices of violations and correction orders in lieu of description on this form.)

VIII. Number of Violations	Inspector's Signature	Date Signed
0	Ransom Bratton	Sept 1, 1993

DISTRIBUTION: White - Operator; Green - State (by Lead Agency); Canary - BLM (if required); Pink - Lead Agency; Goldenrod - State (by Operator)

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION
MRRC-1 Page 1 (Rev. 04/94)

SURFACE MINING INSPECTION REPORT

Instructions for completing this form are on the reverse side. Attach notice(s) of violation(s) and order(s) to comply for all observed non-compliance.

I. Mine Name as Reported by Operator on Mining Operation Annual Report	CA MINE ID #
PERMANENTE Quarry	91 - 43 - 0004

II. SMARA Lead Agency Name (City or County only)		
COUNTY OF SANTA CLARA		
Inspector: Ransom Bratton		Telephone: (408) 299 - 2454
Title: Sec. of Arch & Site Approval	Organization: Planning Office	
Mailing Address: 7th Floor, East Wing, County Govt Ctr, 70 W. Hedding St		
City: San Jose	State: CA	ZIP Code: 95110

III. Mine Operator		
Kaiser Cement		
Contact Person: Mark McKenna		Telephone: (408) 996 - 4158
Mailing Address: 24001 Stevens Creek Blvd.		
City: Cupertino	State: CA	ZIP Code: 95014

IV. Does the operation have:	P	NR	NO	ND	YES
An approved Reclamation Plan?					RP# 2250-13-66-84P
A permit to mine?		✓			Permit #
Approved financial assurance(s)?					Amount $ 627,255.
Has the operator filed a Mining Operation Annual Report (form MRRC-2)?					

V. Inspecting Agency Code(s):	Reason for Inspection Code(s):	BLM or USFS ID#:
5	RI	8
Is this operation on Federal Lands? Circle one: Yes (No)		Inspection Date: Oct. 19, 1995

DISTRIBUTION: White–Operator Green–State (by Lead Agency) Pink–Lead Agency Goldenrod–State (by Operator) Canary–BLM or USFS (if required)

94 97749

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION
MRRC-1 Page 2 (Rev. 04/94)

SURFACE MINING INSPECTION REPORT

VI. Is the operation in compliance with provisions of the approved Reclamation Plan and Mining Permit with respect to:	OK	VN	NI	NA	CA Mine ID # 91-43-0004
Wildlife Habitat	✓				Weather Code(s):
Revegetation	✓				CL
Agricultural Land				✓	Duration of Inspection:
Stream Protection	✓				1.0 hr.
Tailings and Mine Waste Management	✓				Approximate Disturbed Acreage:
Building, Structure, and Equipment Removal				✓	300 Acs
Topsoil Salvage, Maintenance, and Redistribution	✓				Status of Operation Code(s):
Backfilling, Regrading, Slope Stability, and Recontouring	✓				A
Drainage, Diversion Structures, Waterways, and Erosion	✓				Status of Reclamation Code(s):
Other (list or explain below)					R

VII. Comments/Description of Violation(s) and Corrective Measure(s) Required (NOTE: please indicate if you have attached notice(s) of violation(s) and correction order(s), in lieu of description on this form):

VIII. Number of Violations: 0	Inspector's Signature: Ramsden Britton	Date Signed: OCT 19 1995

DISTRIBUTION: White—Operator Green—State (by Lead Agency) Pink—Lead Agency Goldenrod—State (by Operator) Canary—BLM or USFS (if required)

94 97750

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION
MRRC-1 Page 1 (Rev. 04/94)

SURFACE MINING INSPECTION REPORT

Instructions for completing this form are on the reverse side. Attach notice(s) of violation(s) and order(s) to comply for all observed non-compliance.

I. Mine Name as Reported by Operator on Mining Operation Annual Report	CA MINE ID #
Permanente Quarry	91 - 43 - 0004

II. SMARA Lead Agency Name (City or County only)		
County of Santa Clara		
Inspector: Gary Rudholm		Telephone: (408) 299 - 2454
Title: Secy. of Architectural & Site Appr.	Organization: Planning Office	
Mailing Address: 70 W. Hedding Street, East Wing, Seventh Fl.		
City: San Jose	State: CA	ZIP Code: 95110

III. Mine Operator		
Kaiser Cement		
Contact Person: Ralph J. Venturino		Telephone: (408) 996 - 4158
Mailing Address: 24001 Stevens Creek Bl.		
City: Cupertino	State: CA	ZIP Code: 95014

IV. Does the operation have:	P	NR	NO	ND	YES
An approved Reclamation Plan?					RP# 2250-13-66-84P
A permit to mine?		✓			Permit #
Approved financial assurance(s)?					Amount $ 627,255
Has the operator filed a Mining Operation Annual Report (form MRRC-2)?					Yes, 6-20-96

V. Inspecting Agency Code(s):	Reason for Inspection Code(s):	BLM or USFS ID #:
0	RI	0
Is this operation on Federal Lands? Circle one: Yes (No)		Inspection Date: Nov. 8, 1996

DISTRIBUTION: White–Operator; Green–State (by Lead Agency); Pink–Lead Agency; Goldenrod–State (by Operator); Canary–BLM or USFS (if required)

94 97749

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION
MRRC-1 Page 2 (Rev. 04/94)

SURFACE MINING INSPECTION REPORT

VI. Is the operation in compliance with provisions of the approved Reclamation Plan and Mining Permit with respect to:	OK	VN	NI	NA
Wildlife Habitat	✓			
Revegetation	✓			
Agricultural Land				✓
Stream Protection	✓			
Tailings and Mine Waste Management	✓			
Building, Structure, and Equipment Removal				✓
Topsoil Salvage, Maintenance, and Redistribution	✓			
Backfilling, Regrading, Slope Stability, and Recontouring	✓			
Drainage, Diversion Structures, Waterways, and Erosion	✓			
Other (list or explain below)				

CA Mine ID #: 91-43-0004

Weather Code(s): CR

Duration of Inspection: 1.0 Hr.

Approximate Disturbed Acreage: 250

Status of Operation Code(s): A

Status of Reclamation Code(s): R

VII. Comments/Description of Violation(s) and Corrective Measure(s) Required [NOTE: please indicate if you have attached notice(s) of violation(s) and correction order(s), in lieu of description on this form]:

VIII. Number of Violations:	Inspector's Signature:	Date Signed:
3	Gary Rudholm	11-12-96

DISTRIBUTION: White—Operator Green—State (by Lead Agency) Pink—Lead Agency Goldenrod—State (by Operator) Canary—BLM or USFS (if required)

94 97750

OF CONSERVATION
MINE RECLAMATION
e 1 of 2 (Rev. 04/97)

SURFACE MINING INSPECTION REPORT

Instructions for completing this form are on the reverse side. Attach notice(s) of violation(s) and order(s) to comply for all observed non-compliance.

I. Mine Name as Reported by Operator on Mining Operation Annual Report	CA MINE ID #
Permanente Quarry	91 - 43 - 0004

II. SMARA Lead Agency Name (City or County only)	
County of Santa Clara	4209
Inspector: Gary Ruchman	Telephone: (408) 299 - 2454
Title: Assoc Planner	Organization: Planning Office
Mailing Address: 70 W. Hedding Street, E. Wing, 7th Floor	
City: San Jose	State: CA / ZIP Code: 95110

III. Mine Operator	
Kaiser Cement	
Contact Person: Dan Howard (prev. R. Venturino)	Telephone: (408) 996 - 4158
Mailing Address: 24001 Stevens Creek Blvd.	
City: Cupertino	State: CA / ZIP Code: 95014

IV. Does the operation have:	P	NR	NO	YES
An approved Reclamation Plan?			✓	RP# 2250-13-66-84P
A permit to mine?		✓		Permit #
An approved financial assurance?				Amount $ 627,255
Has the financial assurance undergone the required annual review?		X	✓	Date:
Has the operator filed a Mining Operation Annual Report (form MRRC-2)?				6-25-97

V. Inspecting Agency Code(s):	Reason for Inspection Code(s):	BLM or USFS ID#
0	RI	0
Is this operation on Federal Lands? Circle one: Yes (No)		Inspection Date: 11-20-97

DISTRIBUTION: White–Operator Green–State (by Lead Agency) Pink–Lead Agency Goldenrod–State (by Operator) Canary–BLM or USFS (if required)

97 90880

SURFACE MINING INSPECTION REPORT

VI. Is the operation in compliance with provisions of the approved Reclamation Plan and Mining Permit with respect to:	OK	VN	NI	NA	CA Mine ID # 91-43-0004
Wildlife Habitat	✓				Weather Code(s): CL
Revegetation	✓				
Agricultural Land				✓	Duration of Inspection: 2.0 hrs.
Stream Protection	✓				
Tailings and Mine Waste Management	✓				Approximate Disturbed Acreage: 200
Building, Structure, and Equipment Removal				✓	
Topsoil Salvage, Maintenance, and Redistribution	✓				Status of Operation Code(s): A
Backfilling, Regrading, Slope Stability, and Recontouring	✓				
Drainage, Diversion Structures, Waterways, and Erosion	✓				Status of Reclamation Code(s): R
Other (list or explain below)					

VII. Comments/Description of Violation(s) and Corrective Measure(s) Required [NOTE: please indicate if you have attached notice(s) of violation(s) and correction order(s), in lieu of description on this form]:

VIII. Number of Violations: 0	Inspector's Signature: Harry Rudholm	Date Signed: 11-24-97

DISTRIBUTION: White–Operator Green–State (by Lead Agency) Pink–Lead Agency Goldenrod–State (by Operator) Canary–BLM or USFS (if required)

97 90

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION
MRRC-1 Page 1 of 2 (Rev. 04/97)

SURFACE MINING INSPECTION REPORT

Instructions for completing this form are on the reverse side. Attach notice(s) of violation(s) and order(s) to comply for all observed non-compliance.

I. Mine Name as Reported by Operator on Mining Operation Annual Report	CA MINE ID #
	91 - 43 - 0004

II. SMARA Lead Agency Name (City or County only)		
County of Santa Clara		
Inspector: Gary Rudholm		Telephone: (408) 299 - 2454
Title: Assoc. Planner	Organization: Planning Office	
Mailing Address: 70 W. Hedding Street, East Wing, Seventh Floor		
City: San Jose	State: CA	ZIP Code: 95110

III. Mine Operator		
Hanson Permanente Cement		
Contact Person: David Dishrow		Telephone: (408) 996 - 4190
Mailing Address: 24001 Stevens Creek Blvd.		
City: Cupertino	State: CA	ZIP Code: 95014

IV. Does the operation have:	P	NR	NO	YES
An approved Reclamation Plan?				RP# 2252-17-66-84P
A permit to mine?		✓		Permit #
An approved financial assurance?				Amount $ 627,255.00
Has the financial assurance undergone the required annual review?		X	✓	Date:
Has the operator filed a Mining Operation Annual Report (form MRRC-2)?				June 28, 1999

V. Inspecting Agency Code(s):	Reason for Inspection Code(s):	BLM or USFS ID#:
0	RI	0
Is this operation on Federal Lands? Circle one: Yes (No)		Inspection Date: June 15, 2000

DISTRIBUTION: White–Operator Green–State (by Lead Agency) Pink–Lead Agency Goldenrod–State (by Operator) Canary–BLM or USFS (if required)

97 90880

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION
MRRC-1 Page 2 of 2 (Rev. 04/97)

SURFACE MINING INSPECTION REPORT

VI. Is the operation in compliance with provisions of the approved Reclamation Plan and Mining Permit with respect to:	OK	VN	NI	NA	CA Mine ID # 91-43-0014
Wildlife Habitat	✓				Weather Code(s): CR
Revegetation	✓				
Agricultural Land				✓	Duration of Inspection: 2.0 hr.
Stream Protection	✓				
Tailings and Mine Waste Management	✓				Approximate Disturbed Acreage: 200
Building, Structure, and Equipment Removal				✓	
Topsoil Salvage, Maintenance, and Redistribution	✓				Status of Operation Code(s): A
Backfilling, Regrading, Slope Stability, and Recontouring	✓				
Drainage, Diversion Structures, Waterways, and Erosion	✓				Status of Reclamation Code(s): R
Other (list or explain below)					

VII. Comments/Description of Violation(s) and Corrective Measure(s) Required [NOTE: please indicate if you have attached notice(s) of violation(s) and correction order(s), in lieu of description on this form]:

The previous inspection of the site took place on Nov. 2, 1997. This inspection report is to cover the calendar years of 1998, 1999 and 2000.

VIII. Number of Violations: 0	Inspector's Signature: Harry Ruckhaber	Date Signed: 7-27-2000

DISTRIBUTION: White–Operator Green–State (by Lead Agency) Pink–Lead Agency Goldenrod–State (by Operator) Canary–BLM or USFS (if required)

97 90880

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION
MRRC-1 Page 1 of 2 (Rev 04/97)

SURFACE MINING INSPECTION REPORT

Instructions for completing this form are on the reverse side. Attach notice(s) of violation(s) and order(s) to comply for all observed non-compliance.

I. Mine Name as Reported by Operator on Mining Operation Annual Report	CA MINE ID #
Hanson Permanente Cement Quarry	91 - 43 - 0004

II. SMARA Lead Agency Name (City or County only)		
Gary Rudholm		
Inspector: Senior Planner		Telephone: (408) 299 - 5747
Title: County of Santa Clara	Organization: Planning Office	
Mailing Address: 70 West Hedding Street E. Wing 7th Floor		
City: San Jose	State: CA	ZIP Code: 95110

III. Mine Operator		
Hanson Permanente Cement		
Contact Person: David Disbrow		Telephone: (408) 996 - 4190
Mailing Address: 24001 Stevens Creek Blvd.		
City: Cupertino	State: CA	ZIP Code: 95014

IV. Does the operation have:	P	NR	NO	YES
An approved Reclamation Plan?				RP# 2250-13-66-84P
A permit to mine?		✓		Permit #
An approved financial assurance?				Amount $ 627,255.00
Has the financial assurance undergone the required annual review?		X	✓	Date:
Has the operator filed a Mining Operation Annual Report (form MRRC-2)?				June 28, 2002

V. Inspecting Agency Code(s):	Reason for Inspection Code(s):	BLM or USFS ID#
Is this operation on Federal Lands? Circle one: Yes No		Inspection Date: Dec. 9, 2002

DISTRIBUTION: White-Operator Green-State (by Lead Agency) Pink-Lead Agency Goldenrod-State (by Operator) Canary-BLM or USFS (if required)

97 90880

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION
SMRC-1 Page 2 of 2 (Rev. 04/97)

SURFACE MINING INSPECTION REPORT

VI. Is the operation in compliance with provisions of the approved Reclamation Plan and Mining Permit with respect to:	OK	VN	NI	NA	CA Mine ID #
					91-43-0004
Wildlife Habitat	✓				Weather Code(s):
Revegetation	✓				CL
Agricultural Land				✓	Duration of Inspection:
Stream Protection	✓				2.5 hr.
Tailings and Mine Waste Management	✓				Approximate Disturbed Acreage
Building, Structure, and Equipment Removal	✓				200
Topsoil Salvage, Maintenance, and Redistribution	✓				Status of Operation Code(s):
Backfilling, Regrading, Slope Stability, and Recontouring	✓				A
[illegible]pe, Diversion Structures, Waterways, and Erosion	✓				Status of Reclamation Code(s)
Other (list or explain below)					R

VII. Comments/Description of Violation(s) and Corrective Measure(s) Required (NOTE: please indicate if you have attached notice(s) of violation(s) and correction order(s), in lieu of description on this form)

A landslide occurred near the lip of the Hanson Quarry pit. The quarry operator has filed for a grading permit to fix the slide and prevent further movement. Two other slides exist adjacent to the quarry, one of which is inside the pit and was previously addressed with work associated with a grading permit. These slides may or may not require modification of the existing reclamation plan. The Planning Office will continue to monitor the situation in 2003.

VIII. Number of Violations: 0	Inspector's Signature: Gary Ruckdashel	Date Signed: 12-10-02

DISTRIBUTION: White–Operator Green–State (by Lead Agency) Pink–Lead Agency Goldenrod–State (by Operator) Canary–BLM or USFS (if required)

INSTRUCTIONS FOR COMPLETING SURFACE MINING INSPECTION REPORT

Form MRRC-1 Page 1 (Rev. 4/97)

This report documents observations concerning compliance with California's Surface Mining and Reclamation Act (SMARA) and related reporting requirements (Public Resources Code Sections 2207 and 2710–2796) and, for operations located partly or solely on Bureau of Land Management (BLM) lands, Title 43, Parts 3500, 3600, and 3800 of the Code of Federal Regulations and other agency requirements that are designed to prevent or minimize adverse environmental effects of mining.

Lead Agencies must file a copy of each inspection report, along with any notices of violation and orders for compliance issued within 30 days of completion of the inspection. Mine Operators must attach a copy of this report to their next Mining Operation Annual Report (form MRRC-2).

BLOCK I: Enter the name of the mining operation and the California Mine ID # (if ID # is unknown, enter "unknown")

BLOCK II: For "Lead Agency", enter the name of the certified SMARA Lead Agency that is conducting this inspection. Acceptable entries include the name of a city, county, Bay Conservation and Development Commission (BCDC), and State Mining and Geology Board (SMGB). For "Organization", enter the name of the agency, firm, or other organization that employs the inspector. If the inspector is an independent contractor, enter "independent contractor".

BLOCK III: Enter the name of the mine operator; also the name, mailing address, and phone number of the person (the operator or a person acting on the operator's behalf) who will serve as a contact for any follow-up correspondence or discussions regarding the inspection or violations noted.

BLOCK IV: Check the appropriate boxes.

[illegible]	=	Pending (on appeal or awaiting approval by Lead Agency)
NR	=	Not Required for this operation at the time this inspection was completed
NO	=	No
YES	=	Yes; supply information

BLOCK V: Inspecting Agency Codes. Please identify any agencies, other than the Lead Agency noted above, that participated in this inspection.

None	=	None
DOC	=	Department of Conservation
BLM	=	Bureau of Land Management
USFS	=	U.S. Forest Service
RB	=	Regional Water Quality Control Board
DFG	=	Department of Fish and Game
AQ	=	Air Quality Management District/Air Pollution Control District
NMFS	=	National Marine Fisheries Service
O	=	Other

Reason for Inspection Codes.

OA	=	Other Agency Request
CC	=	Citizen Complaint
RI	=	Routine Inspection
FI	=	Final Inspection, prior to release of financial assurance(s)
	=	Reinspection following violation and order to comply (1 = first reinspection to determine if violation(s) have been corrected; 2 = second; 3 = third, etc.)

INSTRUCTIONS FOR COMPLETING SURFACE MINING INSPECTION REPORT

Form MRRC-1 Page 2 (Rev. 04/97)

BLOCK VI: Check the appropriate boxes.

OK	=	Inspected, Found in Compliance	NA	=	Not Applicable for this operation (use when an issue is not addressed in the reclamation plan, or when the reclamation plan contains no requirements relating to the issue listed)
VN	=	Inspected, Violations Noted			
NI	=	Not Inspected (explain in Block VII)			

Weather Codes: CR = Clear; CL = Cloudy; RN = Rain; SN = Snow; WD = Windy

For "Duration of Inspection", indicate number of hours at the site (round to the nearest half hour) devoted to this inspection (do not include travel time in this figure).

Status of Operation Codes.

I	=	Idle	AB	=	Abandoned (site deserted by operator)
A	=	Active During Inspection	MC	=	Mining Completed
AD	=	Active During Past Year			

Status of Reclamation Codes

R	=	Reclamation in Progress	RC	=	Reclamation Complete
RN	=	Reclamation Not Begun	P	=	Post Reclamation Monitoring

BLOCK VII: Inspectors may use this area for comments, to describe violations, correction orders, etc., and to explain any limits to the inspection conducted. You may attach copies of any notices of violations and orders to comply in lieu of a description on this form; however, copies of such notices and orders must be attached to each copy of this Inspection Report

BLOCK VIII: Enter the number (quantity) of violations noted during this inspection. Sign and date the Inspection Report.

DISTRIBUTION INSTRUCTIONS:

The white (original) and goldenrod (fourth) copies of this completed Inspection Report (both pages) shall be given to the Mine Operator

The Lead Agency must submit the green (second) copy of this Inspection Report to:

Department of Conservation
Office of Mine Reclamation
801 K Street, MS 09-06
Sacramento, CA 95814-3529

The Lead Agency shall retain the pink (third) copy of this Inspection Report.

If any part of the operation inspected is on BLM or USFS land, the canary (last) copy of this Inspection Report should be forwarded to the appropriate BLM or USFS office.

The Mine Operator must attach the goldenrod (fourth) copy of this Inspection Report to the next required Mining Operation Annual Report (form MRRC-2) submitted to the State.

PLEASE NOTE: A Memorandum of Understanding between the U.S. Department of Interior, Bureau of Land Management (BLM); U.S. Department of Agriculture, Forest Service (USFS); the State of California, Department of Conservation; and the State Mining and Geology Board, effectively implements California's Surface Mining and Reclamation Act on lands in California under the jurisdiction of BLM and the USFS

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION
MRRC-1 Page 1 (Rev. 04/94)

SURFACE MINING INSPECTION REPORT

Instructions for completing this form are on the reverse side. Attach notice(s) of violation(s) and order(s) to comply for all observed non-compliance.

I. Mine Name as Reported by Operator on Mining Operation Annual Report	CA MINE ID #
PERMANENTE Quarry	91 - 43 - 0004

II. SMARA Lead Agency Name (City or County only)
County of Santa Clara

Inspector	Telephone
Ransom Bratton	(408) 299 - 2454
Title	**Organization**
Sec. of Arch. & Site Approval	Planning Office
Mailing Address	
7th Floor, East Wing, County Govt Center, 70 W. Hedding, San Jose	
City	**State** / **ZIP Code**
San Jose	CA 95110

III. Mine Operator
Kaiser Cement

Contact Person	Telephone
Mark McKenna	( ) -
Mailing Address	
24001 Stevens Creek Blvd	
City	**State** / **ZIP Code**
Cupertino	CA 95014

IV. Does the operation have:	P	NR	NO	ND	YES
An approved Reclamation Plan?					RP # 2250-13-66-84P
A permit to mine?		✓			Permit #
Approved financial assurance(s)?					Amount $ 627,255.00
Has the operator filed a Mining Operation Annual Report (form MRRC-2)?					yes 6/21/94

V. Inspecting Agency Code(s):	Reason for Inspection Code(s):	BLM or USFS ID #
3	RI	0
Is this operation on Federal Lands? Circle one: Yes (No)		**Inspection Date:** Oct. 7, 1994

DISTRIBUTION: White–Operator Green–State (by Lead Agency) Pink–Lead Agency Goldenrod–State (by Operator) Canary–BLM or USFS (if required)

94 97749

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION
MRRC-1 Page 2 (Rev. 04/94)

SURFACE MINING INSPECTION REPORT

VI. Is the operation in compliance with provisions of the approved Reclamation Plan and Mining Permit with respect to:	OK	VN	NI	NA	CA Mine ID# 91-43-0004
Wildlife Habitat	✓				Weather Code(s):
Revegetation	✓				CL
Agricultural Land				✓	Duration of Inspection:
Stream Protection	✓				1.5 hrs
Tailings and Mine Waste Management	✓				Approximate Disturbed Acreage:
Building, Structure, and Equipment Removal				✓	200 Acres
Topsoil Salvage, Maintenance, and Redistribution	✓				Status of Operation Code(s):
Backfilling, Regrading, Slope Stability, and Recontouring	✓				A
age, Diversion Structures, Waterways, and Erosion	✓				Status of Reclamation Code(s):
Other (list or explain below)					R

VII. Comments/Description of Violation(s) and Corrective Measure(s) Required [NOTE: please indicate if you have attached notice(s) of violation(s) and correction order(s), in lieu of description on this form]:

VIII. Number of Violations:	Inspector's Signature:	Date Signed:
—	Ramsay Bratton	Oct 17 1994

DISTRIBUTION: White—Operator Green—State (by Lead Agency) Pink—Lead Agency Goldenrod—State (by Operator) Canary—BLM or USFS (if required)

94 97750

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION
MRRC-1 Page 1 of 2 (rev. 04/97)

SURFACE MINING INSPECTION REPORT

Instructions for completing this form are on the reverse side. Attach notice(s) of violation(s) and order(s) to comply for all observed non-compliance.

I. Mine Name as reported by Operator on Mining Operation Annual Report	CA MINE ID #
Hanson Permanente	91-43-0004

II. SMARA Lead Agency Name (City or County only)		
Santa Clara Co. Planning Office		
Inspector: Douglas Garrison		Telephone: County: (408) 299-5747 Consultant: (916) 983-9193
Title: SMARA Consultant	Organization: County Contact: Gary Rudholm	
Mailing Address: 70 West Hedding St. East Wing 7th Floor		
City: San Jose	State: CA	ZIP Code: 95110

III. Mine Operator		
Hanson Permanente		
Contact Person: David Disbrow		Telephone: (408) 996-4190
Mailing Address: 24001 Stevens Creek Blvd.		
City: Cupertino	State: Ca	ZIP Code: 95014-5659

IV. Does the operation have:	P	NR	NO	
An approved Reclamation Plan?				RP# 2250-13-66-84P
A permit to mine?		X		Permit # Vested
An approved financial assurance?				Amount$ 627,255 (current bond) 404,894 (revised FAE)
Has the financial assurance undergone the required annual review?				Date: Yes: December, 2004
Has the operator filed a Mining Operation Annual Report (form MRRC-2)?				Yes

V. Inspecting Agency Code(s):	Reason for Inspection Code(s):	BLM or USFS ID#:
None	RI	N/A
Is this operation on Federal Lands? Circle one: Yes (No)		Inspection Date: 12/16/2004

DISTRIBUTION: Operator, State (by Lead Agency), Lead Agency, State (by Operator), BLM or USFS (if required)

97 90880

SURFACE MINING INSPECTION REPORT

VI. Is the operation in compliance with provisions of the approved Reclamation Plan and Mining Permit with respect to:	OK	VN	NI	NA	CA Mine ID# 91 - 43 - 00004
Wildlife Habitat	X				Weather Code(s):
Revegetation	X				CR
Agricultural Land				X	Duration of Inspection:
Stream Protection	X				1.0 hours
Tailings and Mine Waste Management	X				Approximate Disturbed Acreage:
Building, Structure, and Equipment Removal				X	200
Topsoil Salvage, Maintenance, and Redistribution	X				Status of Operation Code(s):
Backfilling, Regrading, Slope Stability, and Recontouring	X				A
Drainage, Diversion Structures, Waterways, and Erosion	X				Status of Reclamation Code(s):
Other (list or explain below)					R

VII. Comments/Description of Violation(s) and Corrective Measure(s) Required [NOTE: Please indicate if you have attached notice(s) of violation(s) and correction order(s) in lieu of description on this form]:

Reclamation Objective: Open Space

Reclamation Standards:
Setbacks: Fill slopes in "Area A" 30 ft. from Palo Alto City boundary. Cut slopes: 25 ft. from property boundary. "Area A" deposition not to exceed hgt. of ridgeline to north. Cut slopes: 1:1 Fill Slopes 3:1. "4 inches of topsoil, where practical." Revegetation: Per Sheet #L3 of Reclamation Plan. Primarily grasses, with islands of shrubs and oaks. Specific seedmix is provided in 2004 FAE.

Reclamation Status:
Site was active during inspection. Phased mining with concurrent reclamation. Hard rock pit is being excavated in a series of nearly vertical faces with benches separating faces. Approx. 10 benches mined to date. Overall slope appears to be approx. 1:1. Some slope instability observed near top of pit. Operator is making arrangements with adjacent property owner to allow access to repair and stabilize slopes. Geotechnical evaluation completed. Approximately 60 acres (West Overburden Area) is being used to stockpile overburden and store recyclable materials. Slopes are graded to 3:1 as overburden is added. The top of the overburden area is generally level. Perimeter bermed to control runoff. North and east facing slopes are being revegetated to reduce visual impacts. Approx. 5 acres of slopes were recently graded and seeded. East Overburden Area (approx. 15 acres) has been reclaimed. Revegetation appears to be self-sustaining. Ground coverage approaches 100% in most areas. A few scattered patches of less dense vegetation still remain. Plant diversity is good, dense shrubs (2-3 ft. high) are widespread and scattered trees (avg. 10 ft. high). No evidence of substantial erosion or offsite discharge observed.

Recommended Actions:
None at this time

Number of Violations:	Inspector's Signature:	Date Signed:
0		April 12, 2005

DISTRIBUTION: Operator, State (by Lead Agency), Lead Agency, State (by Operator), BLM or USFS (if required)

97-90880

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION
MRRC-1 Page 1 of 3

SURFACE MINING INSPECTION REPORT

Instructions for completing this form are on the reverse side. Attach notice(s) of violation(s) and order(s) to comply for all observed non-compliance.

I. Mine Name as reported by Operator on Mining Operation Annual Report	Inspection Date:	CA MINE ID#:
Hanson Permanente Quarry	December 14, 2006	91 – 43 – 0004

II. SMARA Lead Agency Name (City or County only)		
County of Santa Clara		
Inspector Gary Rudholm et al (refer to signature page and appendices)		Telephone (408) 299-5747
Title Senior Planner	Organization Department of Planning & Development	
Mailing Address 70 W Hedding Street		
City San Jose	State CA	ZIP Code 95110
E-mail Address (Optional) Gary.Rudholm@pln.sccgov.org		

III. Mine Operator		
Hanson Permanente Cement		
Contact Person John Giovanola		Telephone (408) 996-4158
Mailing Address 24001 Stevens Creek Blvd.		
City Cupertino	State CA	ZIP Code 95014-5659
E-mail Address (Optional)		

IV. Does the operation have:	P	NR	No	Yes
A permit to mine?			X	Vested mine.
An approved Reclamation Plan?				RP File # 2250-13-66-84P

Has the operator filed a Mining Operation Annual Report (form MRRC-2)? Check one: ☒Yes ☐No ☐Unknown

Is this operation on Federal Land? Check one: ☐Yes ☒No

If "Yes", provide one or both of the Federal Mine Land Identification Numbers below:

California Mining Claim Number (CAMC#): N/A

U.S. Forest Service Identification Number (USFS ID#): N/A

DISTRIBUTION: Original to Operator, Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION

SURFACE MINING INSPECTION REPORT

V. Does the Operator currently have a Lead Agency approved Financial Assurance? Check one: ☒Yes ☐No If "Yes", complete section below. If "No", refer to instructions on the reverse of this page and complete Section VI.		Inspection Date: December 14, 2006	CA MINE ID#: 91 – 43 – 0004
Type of Financial Assurance Mechanism(s)	Financial Assurance Mechanism Number(s)	Current Amount on File	Date of Expiration
☐ Surety Bond	280331, and 64S104790142BCM	$404,894.00, and $795,106.00	None
☐ Certificate of Deposit		$	
☐ Letter of Credit		$	
☐ Trust Fund		$	
☐ Pledge of Revenue		$	
☐ Budget Set Aside		$	
☐		$	
The Financial Assurance Amount must be adjusted annually. Attach a copy of the revised Financial Assurance Amount calculation with this report.		Date of Financial Assurance Amount Calculation:	
Does the current mechanism(s) on file cover the new annual calculation? ☐Yes ☐No		If "No", date operator was notified that a new mechanism is required:	

VI. Financial Assurance comments.

Prior to the 2006 SMARA inspection, and at the recommendation of the State Dept. of Conservation, Office of Mine Reclamation, the financial assurance on file with the County of Santa Clara was increased to a total amount of $1,200,000.00. This increase was an based on the OMR reclamation to triple the existing financial assurance. No new calculations were made to form the basis on this dollar amount. The consulting firm of Cotton, Shires & Associates has, based on the 2006 field inspection and review of plans and documents on file with the County, recommended a new FAE be calculated. Specific instructions of areas to include in the calculations are identified in their attached report. Hanson is directed through this report to submit the revised estimates in the Spring of 2007. In addition, Hanson has filed a modification of its Reclamation Plan. The County is processing this modification, and new FAE calculations will be required to incorporate an expanded plan boundary.

DISTRIBUTION: Original to Operator. Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION
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SURFACE MINING INSPECTION REPORT

VII. Is the operation in compliance with provisions of the approved Reclamation Plan with respect to:	OK	VN	NI	NA
Wildlife Habitat	✓			
Revegetation	✓			
Agricultural Land				✓
Stream Protection	✓			
Tailings and Mine Waste Management	✓			
Closure of Surface Openings	✓			
Building, Structure, and Equipment Removal				✓
Topsoil Salvage, Maintenance, and Redistribution		✓		
Backfilling, Regrading, Slope Stability, and Recontouring		✓		
Drainage, Diversion Structures, Waterways, and Erosion	✓			
Other (list or explain below)				

CA MINE ID #
91 – 43 – 0004

Inspection Date:
December 14, 2006

Weather Code(s):
CR

Duration of Inspection:
4 hours

Approximate Disturbed Acreage:
490.6 acres
(per operator's annual report)

Status of Operation Code(s):
A

Status of Reclamation Code(s):
R

VIII. Comments/Description of Violation(s) and Corrective Measure(s) Required

Refer to Attachment A for more information.

IX. Number of Violations:	Inspector's Signature:	Date Signed:
	Refer to signature page, attached.	March 6, 2007

DISTRIBUTION: Original to Operator. Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

SURFACE MINING INSPECTION REPORT

Form MRRC-1 Signature Page

Hanson Quarry, State ID #91-43-0004

March 6, 2007

Authorization to Release Report:

Valentin A. Alexeeff, DPA, Director,
Planning and Development Department

Report Reviewed and Approved for Release:

James Baker, CEG 1021, Engineering Geologist
Expires October 31, 2007

Report Reviewed and Approved for Release:

Christopher L. Freitas, P.E., Senior Civil Engineer
Registered Civil Engineer #42107
Expires March 31, 2008



03/06/07

Report Meets Acceptable Standards:

Gary Rudholm, MCRP, Senior Planner, Santa Clara County

Attachment A

ackground

Hanson Permanente Quarry is located along a sinuous, roughly east-west trending ridge within the Santa Cruz Mountains, west of Cupertino. The mine has a single, very large pit where limestone is quarried for cement. The operator has completed the mine pit floor to an approximate sump elevation of 710 feet. The current plan calls for a final pit floor elevation of 500 feet. West of the mine pit is an overburden stockpile area know as Area A.

Kaiser Cement Corporation first mined the Permanente Quarry in 1939. Hanson Building Materials America took over Kaiser Cement in 1987, and the name was changed to Hanson Permanente Cement in 1999. The mine is presently active with continued mining planned for another 20 to 25 years. The over 3,200-acre site includes a cement plant and associated facilities, the mine pit, overburden storage, and a network of roads.

In response to public concern over possible visual impacts, a portion of the ridgeline that separates the pit from the valley to the north (e.g. Palo Alto, Los Altos) was deeded to the County of Santa Clara in 1972 as a "Ridgeline Protection Easement" (RPE). The agreement stated that Kaiser Cement "would not lower the ridgeline ... for mining, quarrying or other purposes", and Kaiser Cement would install four fixed monuments on the future ridgeline. The easement would include a 25-foot wide planting strip. The RPE is intended to maintain a natural slope appearance without disturbance of the natural vegetation.

1987, a large rockslide approximately 500 to 1000 feet wide by 900 feet long began moving on the thwest slope of the pit. The rockslide presented safety concerns to workers in the mine pit, and also threatened the RPE. Consequently, the County allowed corrective grading (i.e. unloading by removal of material) of the rockslide to proceed within the RPE. We refer to this slope failure as the "1987 Rockslide."

In January 2001, Hanson Quarry personnel observed a slope failure at the top of the northwest slope of the mine pit (to the northeast of the 1987 Rockslide). This landslide is approximately 350 feet in width. The landslide encroached upon the RPE, and is referred to as the "Scenic Easement Rockslide".

During very heavy rainfall in November and December 2001, another rockslide was initiated at the top of the northeast side of the pit. This rockslide is approximately 500 feet wide and 400 feet in length, and the upper limits of the rockslide encroached upon approximately 0.5 acre of the southeast portion of Mid-Peninsula Regional Open Space Preserve's Rancho San Antonio Preserve. According to the quarry manager, Hanson Permanente has negotiated a land swap with the MPROSD in order to take possession of the encroachment area. The quarry plans to do some grading to mitigate this landslide and prevent further upslope migration. Based on our site inspection and discussions with quarry personnel, it is our understanding that survey monuments have been installed above the headscarp. We understand that these monuments were installed as part of an agreement with MPROSD and are intended to monitor headward encroachment of the rockslide. We refer to this slope failure as the "Mid-Pen Rockslide".

ing 2006, the California Department of Conservation, Office of Mine Reclamation (OMR) identified violations and issues of concern regarding Hanson Permanente Quarry. These include disturbed reas outside of the reclamation plan boundaries, total disturbed acreage exceeding the reported amount, and landslides on the quarry pit slopes. OMR recognized that the reclamation plan boundaries do not encompass all of the mined areas, disturbance caused by pit slope failures, haul

roads, or cement processing facilities. They stated that the total disturbed acreage exceeds the reclamation plan area by as much as 120%. They also recognized that two landslides on the northwest wall of the mine pit, the 1987 Rockslide and the Scenic Easement Rockslide, extend upslope into areas that are outside of the reclamation plan boundaries.

On August 31, 2007, the Director of the Santa Clara County Dept. of Planning & Development issued a letter that identified areas of dispute whether issues identified by the State OMR constituted violations of SMARA. Subsequently, in response to a 15-day Notice to the County of Santa Clara, the Director issued on October 10, 2006, a Order to Comply/Notice of Violation that directs the mine operator to file for modification of the existing Reclamation Plan. The operator submitted a modified reclamation plan proposal, with boundaries that extend over the disturbed portions of the property. The modified plan proposal does not include the cement plant within the boundaries of the revised reclamation plan, because that industrial use is permitted separately and is not within the scope of SMARA.

Areas of Concern and Issues to Monitor

The following items may need mitigation, or at least consideration, by the quarry operator:

1. Slope Stability

   A. In general, the mine pit slope stability has been poor. In several portions of the pit, the geologic conditions are unfavorable to slope stability. Apparently, these unfavorable geologic conditions were not characterized during previous design of the quarry pit, nor were they adequately evaluated during preparation of the reclamation plan. Throughout the quarry, small-scale rockfalls and rockslides are pervasive, and larger landslides occur locally. Given the very steep slope angles of the quarry pit and the history of landsliding, enlargement of existing landslides and generation of new ones appears likely unless appropriate mitigation measures are implemented.

   B. The overburden material that has been placed as non-engineered fill potentially presents a slope stability problem. Since the material is not compacted and the slope angles are mostly greater than 2:1, it appears that slope failures within this fill are inevitable, especially given the anticipated very strong ground shaking during a large magnitude earthquake on the San Andreas fault which is located 5 to 6 kilometers west of the site or the Berrocal fault which crosses the site near the cement plant.

2. Disturbance Outside of Reclamation Plan Boundaries: As recognized by OMR, a considerable area of quarry disturbance appears to extend beyond the reclamation plan boundaries. The landslides that continue to undermine areas adjacent to the quarry pit and outside of the reclamation plan boundaries have added to this encroachment situation.

3. Control of Runoff: Though the quarry has a site storm drain system to control runoff and sedimentation, apparently not all site runoff is directed into this system. Local runoff may enter nearby watersheds, particularly around Area A.

4. Topsoil Stockpiling: The material that has been stockpiled as topsoil does not appear to be an appropriate growth medium, and the quantity of material appears to be inadequate for re-vegetation of the site.

5. Other issues:

   A. No compliance reports on file or submitted as required by Reclamation Plan conditions of approval.

B. Setback of Area A from City of Palo Alto needs to be verified. (Will be possible with completed survey of the project site.)

C. Posting of signage for safety and prohibiting entry around the property needs to be verified in the field.

D. Submittal of geology report per conditions #13, complete of Area A / C.

E. Operator is advised that hydro-seeding should be scheduled to be complete in October of each year.

Directions to the Mine Operator

1. Hanson Permanente Quarry was required to submit an application to modify its reclamation plan to encompass all disturbed areas, including mined lands, material stockpiles, and access roads associated with the quarrying operations. (This application was submitted in January 2007.) Hanson is to complete this application as directed by the County in a Notice of Violation and Order to Comply.

2. The operator's geotechnical consultant should characterize the geologic conditions of the pit slopes and evaluate the long-term stability of these slopes taking past documented failures into account. Due to the variability of geologic conditions across the pit, the consultant should identify specific geologic domains within the quarry pit. The consultant should re-evaluate the design slope inclinations for each geologic domain, calculate the long-term factors of safety for these slopes, and make recommendations for mitigation of slope instability for each geologic domain, if needed. The consultant should provide geotechnical recommendations to mitigate the three documented rockslides along the northwest and northeast sides of the quarry.

3. The operator's geotechnical consultant should evaluate the stability of the existing fill that has been placed in Area A. Static and seismic factors of safety should be calculated, or seismic displacements should be estimated, using appropriate geotechnical methods. The consultant should make recommendations for mitigating fill slope instability.

4. The operator's civil engineering consultant should evaluate drainage throughout the property with particular attention to potential runoff from disturbed areas that can enter watersheds outside of the property. The consultant should make recommendations for controlling runoff from disturbed areas (including fills) and directing runoff into the site storm drain system.

5. The operator should continue to address existing encroachment onto the adjacent MROSD property and the RPE. In addition, they should take all steps necessary to prevent future encroachment onto adjacent properties and disturbance outside to the reclamation plan boundaries.

6. The operator's revegetation consultant should identify a source of useable topsoil material for revegetation of the site and incorporate the use of this material in the revised reclamation plan.

7. Revised financial assurance calculations are required to be submitted for review and approval by the County of Santa Clara, in keeping with the recommendations by Cotton, Shires and Associates in the attached report, which relate to observations made in the field in 2006 regarding compliance with the existing (1984) Reclamation Plan. These revised FAE calculations must be submitted by May 15, 2007.

State of California
DEPARTMENT OF CONSERVATION **REVISED June 13, 2007**
OFFICE OF MINE RECLAMATION
MRRC-1 Page 1 of 3

SURFACE MINING INSPECTION REPORT

Instructions for completing this form are on the reverse side. Attach notice(s) of violation(s) and order(s) to comply for all observed non-compliance.

I. Mine Name as reported by Operator on Mining Operation Annual Report	Inspection Date:	CA MINE ID#:
Hanson Permanente Quarry	December 14, 2006	91 – 43 – 0004

II. SMARA Lead Agency Name (City or County only)		
County of Santa Clara		
Inspector Gary Rudholm et al (refer to signature page and appendices)		Telephone (408) 299-5747
Title Senior Planner	Organization Department of Planning & Development	
Mailing Address 70 W Hedding Street		
City San Jose	State CA	ZIP Code 95110
E-mail Address (Optional) Gary.Rudholm@pln.sccgov.org		

III. Mine Operator		
Hanson Permanente Cement		
Contact Person John Giovanola		Telephone (408) 996-4158
Mailing Address 24001 Stevens Creek Blvd.		
City Cupertino	State CA	ZIP Code 95014-5659
E-mail Address (Optional)		

IV. Does the operation have:	P	NR	No	Yes
A permit to mine?			X	Vested mine.
An approved Reclamation Plan?				RP File # 2250-13-66-84P

Has the operator filed a Mining Operation Annual Report (form MRRC-2)? Check one: ☒**Yes** ☐No ☐Unknown

Is this operation on Federal Land? Check one: ☐Yes ☒**No**

If "Yes", provide one or both of the Federal Mine Land Identification Numbers below:

California Mining Claim Number (CAMC#): **N/A**

U.S. Forest Service Identification Number (USFS ID#): **N/A**

DISTRIBUTION: Original to Operator. Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

INSTRUCTIONS FOR COMPLETING SURFACE MINING INSPECTION REPORT

This report documents observations concerning compliance with California's Surface Mining and Reclamation Act (SMARA) and related reporting requirements (Public Resources Code Sections 2207 and 2710 *et seq.*) and, for operations located partly or solely on Bureau of Land Management (BLM) lands, Title 43, parts 3500, 3600, and 3800 of the Code of Federal Regulations and other agency requirements that are designed to prevent or minimize adverse environmental effects of mining.

Lead agencies must file a copy of each inspection report, along with any notices of violation and orders for compliance issued, within 30 days of completion of the inspection. Mine Operators must attach a copy of this report to their next Mining Operation Annual Report (Form MRRC-2).

BLOCK I: Enter the name of the Mining Operation, the date of the inspection, and the California Mine ID # (if ID# is unknown, enter "unknown").

BLOCK II: For "Lead Agency", enter the name of the certified SMARA Lead Agency that is conducting this inspection. Acceptable entries include the name of the city, county, Bay Conservation and Development Commission (BCD), and State Mining and Geology Board (SMGB). For "Organization", enter the name of the agency, firm or other organization that employs the inspector. If the inspector is an independent contractor, enter "independent contractor." The e-mail address is optional.

BLOCK III: Enter the name of the Mine Operator. Also, enter the name, mailing address, and phone number of the person (the operator or a person acting on the operator's behalf) who will serve as a contact for any follow-up correspondence or discussions regarding the inspection or violations noted. The e-mail address is optional.

BLOCK IV: Check the appropriate boxes.

P	=	Pending (on appeal or awaiting approval by Lead Agency)
NR	=	Not Required for this operation at the time this inspection was completed.
No	=	No
Yes	=	Yes, supply information.

REVISED June 13, 2007

SURFACE MINING INSPECTION REPORT

V. Does the Operator currently have a Lead Agency approved Financial Assurance? Check one: ☒Yes ☐No If "Yes", complete section below. If "No", refer to instructions on the reverse of this page and complete Section VI.		Inspection Date: December 14, 2006	CA MINE ID#: 91 – 43 – 0004
Type of Financial Assurance Mechanism(s)	Financial Assurance Mechanism Number(s)	Current Amount on File	Date of Expiration
☐ Surety Bond	280331, and 64S104790142BCM	$404,894.00, and $795,106.00	None
☐ Certificate of Deposit		$	
☐ Letter of Credit		$	
☐ Trust Fund		$	
☐ Pledge of Revenue		$	
☐ Budget Set Aside		$	
☐		$	
The Financial Assurance Amount **must** be adjusted annually. **Attach a copy of the revised Financial Assurance Amount calculation with this report.**		Date of Financial Assurance Amount Calculation:	
Does the current mechanism(s) on file cover the new annual calculation? ☐Yes ☐No		If "No", date operator was notified that a new mechanism is required:	

VI. Financial Assurance comments.

Prior to the 2006 SMARA inspection, and at the recommendation of the State Dept. of Conservation, Office of Mine Reclamation, the financial assurance on file with the County of Santa Clara was increased to a total amount of $1,200,000.00. This increase was an based on the OMR reclamation to triple the existing financial assurance. No new calculations were made to form the basis on this dollar amount. The consulting firm of Cotton, Shires & Associates has, based on the 2006 field inspection and review of plans and documents on file with the County, recommended a new FAE be calculated. Specific instructions of areas to include in the calculations are identified in their attached report. Hanson is directed through this report to submit the revised estimates in the Spring of 2007. In addition, Hanson has filed a modification of its Reclamation Plan. The County is processing this modification, and new FAE calculations will be required to incorporate an expanded plan boundary.

INSTRUCTIONS FOR COMPLETING SURFACE MINING INSPECTION REPORT

BLOCK V: Check "Yes" or "No" regarding the existence of an approved Financial Assurance Mechanism currently in place.

If "No" is checked, continue to Block VI and provide required information.

If "Yes" is checked, provide specific information required.

Type of Financial Assurance Mechanism(s): place a check mark in the appropriate box identifying the type of mechanism(s) that is on file. Fill in the blank box to supply information for a mechanism not listed. State the Financial Assurance Mechanism(s) document number(s). State the dollar amount of the Financial Assurance Mechanism(s) currently on file. State the date of expiration on the Financial Assurance Mechanism(s) currently on file.

Attach a copy of the current year's Financial Assurance Amount calculation with the Inspection Report. State the date of calculation.

Indicate "Yes" or "No" regarding whether or not the current mechanism(s) on file cover the new annual calculation.

The Financial Assurance Amount must be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. In order to determine what adjustments, if any, are appropriate to the Financial Assurance Amount, each mine operator must annually submit a revision of the written calculation of the Financial Assurance Amount to the Lead Agency. Attach a copy of the revised Financial Assurance Amount calculation with this report.

BLOCK VI: Use this block to add comments regarding the Operator's Financial Assurance status, or if "No" was checked in Block V. Explain in detail why this operation does not have a Lead Agency approved Financial Assurance, such as: "Pending" with Lead Agency, explanation, date submitted and status, "Appealed" – explanation, date submitted and status,

"Financial Assurance Mechanism is in process" – explanation, date submitted and status, "Change of Ownership" – explanation, date of notice and status, or "Other".

REVISED June 13, 2007

SURFACE MINING INSPECTION REPORT

VII. Is the operation in compliance with provisions of the approved Reclamation Plan with respect to:	OK	VN	NI	NA	CA MINE ID # 91 – 43 – 0004
Wildlife Habitat	✓				Inspection Date: December 14, 2006
Revegetation	✓				
Agricultural Land				✓	Weather Code(s): CL
Stream Protection	✓				Duration of Inspection: 4 hours
Tailings and Mine Waste Management	✓				
Closure of Surface Openings	✓				Approximate Disturbed Acreage: 523.4 acres (estimate determined through analysis with aerial photographs and GIS software)
Building, Structure, and Equipment Removal				✓	
Topsoil Salvage, Maintenance, and Redistribution		✓			Status of Operation Code(s): A
Backfilling, Regrading, Slope Stability, and Recontouring		✓			
Drainage, Diversion Structures, Waterways, and Erosion	✓				Status of Reclamation Code(s): R
Other (list or explain below)					

VIII. Comments/Description of Violation(s) and Corrective Measure(s) Required

Refer to Attachment A for more information.

IX. Number of Violations:	Inspector's Signature:	Date Signed:
2	Refer to signature page, attached.	March 6, 2007

DISTRIBUTION: Original to Operator. Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

INSTRUCTIONS FOR COMPLETING SURFACE MINING INSPECTION REPORT

BLOCK VII: Check the appropriate boxes:

OK = Inspected, found in compliance with reclamation standards (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Article 9, Section 3700 *et seq.*) listed).

VN = Inspected, Violations Noted

NI = Not inspected (explain in Block VIII)

NA = Not Applicable for this Operation (use this notation when an issue is not addressed in the reclamation plan, or when the reclamation plan contains no requirements related to the issue

Weather Codes: CR = Clear; CL = Cloudy; RN = Rain; SN = Snow; WD = Windy

Approximate Disturbed Acreage: Indicate all acreage disturbed by the surface mining operation, as defined by PRC Section 2729: "Mined Lands" includes the surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area,

land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools or other

materials or property which result from, or are used in, surface mining operations are located.

For "Duration of Inspection", indicate the number of hours spent at the site (round to the nearest half hour) performing the inspection (do not include travel time in this figure).

Status of Operations Codes:

I = Idle

A = Active during inspection

AD = Active during past year

AB = Abandoned (site deserted by operator)

MC = Mining completed

Status of Reclamation Codes:

R = Reclamation in progress

RN = Reclamation not begun

RC = Reclamation complete

P = Post reclamation monitoring

BLOCK VIII: Inspectors may use this area for comments, to describe violations, correction orders, etc., and to explain any limitations to the inspection conducted. You may attach copies of any notices of violations and orders to comply in lieu of a description on this form; however, copies of such notices and orders must be attached to **each copy** of this Inspection Report.

BLOCK IX: Enter the number (quantity) of violations noted during the inspection. Sign and date the Inspection Report.

DISTRIBUTION INSTRUCTIONS:

The original and one copy of this completed Inspection Report (all pages) shall be given to the Mine Operator.

The Lead Agency must retain one copy of this Inspection Report and submit one copy of this Inspection Report to:

Department of Conservation
Office of Mine Reclamation
801 K St, MS 09-06
Sacramento, CA 95814-3529

If any part of the operation inspected is on BLM or USFS land, one copy of this Inspection Report should be forwarded to the appropriate BLM or USFS office.
The Mine Operator must attach one copy of this Inspection Report to the next required Mining Operation Annual Report (Form MRRC-2) submitted to the State.

PLEASE NOTE: A Memorandum of Understanding between the U.S. Department of Interior, Bureau of Land Management (BLM); U.S. Department of Agriculture, Forest Service (USFS); the State of California, Department of Conservation; and the State Mining and Geology Board, effectively implements California's Surface Mining and Reclamation Act on lands in California under the jurisdiction of BLM and the USFS.

SURFACE MINING INSPECTION REPORT

Form MRRC-1 Signature Page

Hanson Quarry, State ID #91-43-0004

March 6, 2007

Authorization to Release Report:

_____

Valentin Alexeeff, DPA, Director,
Planning and Development Department

Report Reviewed and Approved for Release:

_____

James Baker, CEG 1021, Engineering Geologist
Expires October 31, 2007

Report Reviewed and Approved for Release:

_____

Christopher L. Freitas, P.E., Senior Civil Engineer
Registered Civil Engineer #42107
Expires March 31, 2008

Report Meets Acceptable Standards:

_____

Gary Rudholm, MCRP, Senior Planner, Santa Clara County

Attachment A

Hanson Permanente Quarry, State ID #91-43-0004

March 6, 2007; Revised June 13, 2007

Background

The following discussion is intended to provide background description of the mine, a brief historical narrative, and a brief technical description. It is not intended to be a comprehensive narrative of all the relevant facts. It purpose is solely to describe the site and the nature of certain, historical events that led to the current status in which the mine operates and which were considered as part of the 2006 SMARA inspection.

The Permanente Quarry is a limestone and aggregate mining operation in the Santa Clara County foothills, located along a sinuous, roughly east-west trending ridge within the Santa Cruz Mountains, west of the City of Cupertino's jurisdictional limits. Mining began in 1903 or earlier, according to state records. Modern-day quarrying began with the acquisition of 1300 acres along the Permanente Creek by Hanson's predecessors in 1939. Mining has taken place continuously since, and has been acknowledged by the County as a legal, non-conforming use.

Kaiser Cement Corporation first mined the Permanente Quarry in 1939. Hanson Building Materials America took over Kaiser Cement in 1987, and the name was changed to Hanson Permanente Cement in 1999. The mine is presently active with continued mining planned for another 20 to 25 years. The mine has a single, very large pit where limestone and aggregate are quarried. The operator has completed the mine pit floor to an approximate sump elevation of 710 feet. The current plan calls for a final pit floor elevation of 500 feet. West of the mine pit is an overburden stockpile area know as Area A. A much smaller area where over-burden was placed and re-vegetated is east of the mine pit, known as Area C.

In response to public concern over possible visual impacts, a portion of the ridgeline that separates the pit from the valley to the north (e.g. Palo Alto, Los Altos) is covered by an easement recorded with the County of Santa Clara in 1972, known as the "Ridgeline Protection Easement" (RPE). The agreement stated that Kaiser Cement "would not lower the ridgeline ... for mining, quarrying or other purposes", and Kaiser Cement would install four fixed monuments on the future ridgeline. The easement would include a 25-foot wide planting strip. The RPE is intended to maintain a natural slope appearance without disturbance of the natural vegetation.

In 1987, a large rockslide approximately 500 to 1000 feet wide by 900 feet long began moving on the northwest slope of the pit. The rockslide presented safety concerns to workers in the mine pit, and also threatened the RPE. Consequently, the County allowed corrective grading (i.e. unloading by removal of material) of the rockslide to proceed within the RPE. This slope failure is referred to as the "1987 Rockslide." In January 2001, Hanson Quarry personnel observed a slope failure at the top of the

northwest slope of the mine pit (to the northeast of the 1987 Rockslide). This landslide is approximately 350 feet in width. The landslide encroached upon the RPE, and is referred to as the "Scenic Easement Rockslide".

During very heavy rainfall in November and December 2001, another rockslide was initiated at the top of the northeast side of the pit. This rockslide is approximately 500 feet wide and 400 feet in length, and the upper limits of the rockslide encroached upon approximately 0.5 acre of the southeast portion of Mid-Peninsula Regional Open Space Preserve's Rancho San Antonio Preserve. According to the quarry manager, Hanson Permanente has negotiated a land swap with the MPROSD in order to take possession of the encroachment area. The quarry plans to do some grading to mitigate this landslide and prevent further upslope migration. Based on our site inspection and discussions with quarry personnel, it is our understanding that survey monuments have been installed above the headscarp. We understand that these monuments were installed as part of an agreement with MPROSD and are intended to monitor headward encroachment of the rockslide. We refer to this slope failure as the "Mid-Pen Rockslide".

On March 7, 1985, the County approved the current reclamation plan. The reclamation plan covers approximately 330 acres comprised of active excavation and material storage areas. The current reclamation plan does not encompass all past mining disturbance at the site or, with the exception of actual excavation areas, confine mining-related operations to specific areas. For instance, the reclamation plan does not include a rock plant to the southeast of the mining pit or access roads throughout the site. The omissions are consistent with the way that SMARA's requirements were interpreted at the time the reclamation plan was approved.

The reclamation plan also does not extend to the nearby cement plant operations by design. The cement plant was, and continues to be, operated under a May 8, 1939 use permit from the County that authorizes the "erection, construction and operation of a cement mill and the storage of cement... " The permit was issued consistent with 1937 zoning, under which commercial and manufacturing uses were allowed. The permit has no termination date. The cement plant has operated continuously since its inception and is estimated to account for one-third of Northern California's cement production.

The reclamation plan is designed to address mining activity over a 25-year period, and contemplates that it will be amended no later than April 1, 2010, to address later mining and reclamation activity. This is expressed both in the reclamation plan and in the 1985 conditions of approval.

During 2006 the California Department of Conservation, Office of Mine Reclamation (OMR), identified what it considered to be violations and issues of concern regarding Hanson Permanente Quarry. These include disturbed areas outside of the reclamation plan boundaries, total disturbed acreage exceeding the reported amount, and landslides on the quarry pit slopes. The OMR noted that the reclamation plan boundaries do not encompass all of the mined areas, disturbance caused by pit

slope failures, haul roads, or cement processing facilities. They stated that the total disturbed acreage exceeds the reclamation plan area by as much as 120%. They also noted that two landslides on the northwest wall of the mine pit, the 1987 Rockslide and the Scenic Easement Rockslide, extend upslope into areas that are outside of the reclamation plan boundaries.

Staff of OMR presented the information described above the State Mining and Geology Board in June 2006. On August 31, 2006, the Director of the Santa Clara County Dept. of Planning & Development issued a letter that identified areas of dispute whether issues identified by the State OMR constituted violations of SMARA. Subsequently, on September 22, 2006, OMR issued a 15-Day notice to the County of Santa Clara, directing the County to take action towards the mine operator with regard to these issues. As directed, the County Director of Planning & Development issued on October 10, 2006, an Order to Comply / Notice of Violation, which directs the mine operator to file for modification of the existing Reclamation Plan. The Order to Comply includes a schedule with several milestones that are to be met as part of an approval process for the proposed reclamation plan modification.

The operator submitted a modified reclamation plan proposal, with boundaries that extend over the disturbed portions of the property. The modified plan proposal does not include the cement plant within the boundaries of the revised reclamation plan, because that industrial use is permitted separately and is not within the scope of SMARA.

Description of Violations Noted

1. In a report presented to the State Mining & Geology Board in June 2006 the Office of Mine Reclamation noted three apparent violations of the approved reclamation plan. One violation is disturbed areas exist outside the reclamation plan boundary. A second is clearly determining the number of total disturbed acres within the site. A third is the occurrence of landslides along the north pit main wall. These issues are identified as violations of SMARA, consistent with direction the County received from OMR. These issues are being addressed by the County and be the mine operator through compliance with the October 10, 2006, Order to Comply, described in the preceding section.

2. A fourth issue identified by the OMR is accounting for the cement plant in the reclamation plan. The lead agency has long recognized the cement manufacturing plant as industrial use, one that is authorized by a separate conditional use permit issued by the County of Santa Clara. For this reason, the cement plant was not made part of the reclamation plan, and it was not made part of the inspection. In discussing the issue with OMR, the State advised the County to take no action until further notice is given. The County of Santa Clara is waiting for direction from the OMR regarding this point.

Areas of Concern and Issues to Monitor

The following items may need mitigation, or at least consideration, by the quarry operator:

1. Slope Stability

   A. Although the mine pit slopes conform to the approved reclamation plan, pit slope stability has been poor. In several portions of the pit, the geologic conditions are unfavorable to slope stability. Apparently, these unfavorable geologic conditions were not characterized during previous design of the quarry pit, nor were they adequately evaluated during preparation of the reclamation plan. Throughout the quarry, small-scale rockfalls and rockslides are pervasive, and larger landslides occur locally. Given the very steep slope angles of the quarry pit and the history of landsliding, enlargement of existing landslides and generation of new ones appears likely unless appropriate mitigation measures are implemented. The appropriate means of establishiing these mitigations is through a modified reclamation plan, as directed under the October 10, 2006, Order to Comply.

   B. The overburden material that has been placed as non-engineered fill potentially presents a slope stability problem. Although the current conditions are consistent with the approved reclamation plan, it appears that slope failures within this fill are inevitable because (1) the material is not compacted, (2) the slope angles are mostly greater than 2:1, and (3) given the anticipated very strong ground shaking during a large magnitude earthquake on the San Andreas fault (located 5 to 6 kilometers west of the site) or the Berrocal fault (which crosses the site near the cement plant).

2. Disturbance Outside of Reclamation Plan Boundaries: A considerable area of quarry disturbance extends beyond the reclamation plan boundaries, which was by design in the original reclamation plan approval in 1985. The landslides that continue to undermine areas adjacent to the quarry pit and outside of the reclamation plan boundaries have added to this encroachment situation. These issues should be addressed through the modified reclamation plan required by the Order to Comply described above.

3. Control of Runoff: Though the quarry has a site storm drain system to control runoff and sedimentation, as required and in keeping with the approved reclamation plan, apparently not all site runoff is directed into this system. Local runoff may enter nearby watersheds, particularly around Area A.

4. Topsoil Stockpiling: Material has been stockpiled as topsoil, which was identified as such during the field visit by the mine operator; however, does not appear to be an appropriate growth medium, and the quantity of material appears to be inadequate for re-vegetation of the site. The lack of available

topsoil may be due to pre-SMARA activity on the site. This issue should be addressed through the modified reclamation plan required under the Order to Comply described above.

5. Other issues:

   A. No compliance reports on file or submitted as required by Reclamation Plan conditions of approval.

   B. Setback of Area A from City of Palo Alto needs to be verified. (Will be possible with completed survey of the project site.)

   C. Posting of signage for safety and prohibiting entry around the property needs to be verified in the field.

   D. Submittal of geology report per conditions #13, complete of Area A / C.

   E. Operator is advised that hydro-seeding should be scheduled to be complete in October of each year.

Directions to the Mine Operator

1. Hanson Permanente Quarry was required to submit an application to modify its reclamation plan to encompass all disturbed areas, including mined lands, material stockpiles, and access roads associated with the quarrying operations. (This application was submitted in January 2007.) Hanson is to complete this application as directed by the County in a Notice of Violation and Order to Comply (NOV).

2. The operator's geotechnical consultant should characterize the geologic conditions of the pit slopes and evaluate the long-term stability of these slopes taking past documented failures into account. Due to the variability of geologic conditions across the pit, the consultant should identify specific geologic domains within the quarry pit. The consultant should re-evaluate the design slope inclinations for each geologic domain, calculate the long-term factors of safety for these slopes, and make recommendations for mitigation of slope instability for each geologic domain, if needed. The consultant should provide geotechnical recommendations to mitigate the three documented rockslides along the northwest and northeast sides of the quarry. These recommendations shall be incorporated in the reclamation plan modification, currently being administered by the County Planning Office, in keeping with the NOV.

3. The operator's geotechnical consultant should evaluate the stability of the existing fill that has been placed in Area A. Static and seismic factors of safety should be calculated, or seismic displacements should be estimated, using appropriate geotechnical methods. The consultant should make recommendations for mitigating fill slope instability. These recommendations

shall be incorporated in the reclamation plan modification, currently being administered by the County Planning Office, in keeping with the NOV.

4. The operator's civil engineering consultant should evaluate drainage throughout the property with particular attention to potential runoff from disturbed areas that can enter watersheds outside of the property. The consultant should make recommendations for controlling runoff from disturbed areas (including fills) and directing runoff into the site storm drain system. These recommendations shall be incorporated in the reclamation plan modification, currently being administered by the County Planning Office, in keeping with the NOV.

5. The operator should continue to address existing encroachment onto the adjacent MROSD property and the RPE. In addition, they should take all steps necessary to prevent future encroachment onto adjacent properties and disturbance outside to the reclamation plan boundaries.

6. The operator's re-vegetation consultant should identify a source of useable topsoil material for re-vegetation of the site and incorporate the use of this material in the revised reclamation plan.

7. Revised financial assurance calculations are required to be submitted for review and approval by the County of Santa Clara, in keeping with the recommendations by Cotton, Shires and Associates in the attached report, which relate to observations made in the field in 2006 regarding compliance with the existing (1984) Reclamation Plan. These revised FAE calculations must be submitted by May 15, 2007.

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION
MRRC-1 Page 1 of 3

SURFACE MINING INSPECTION REPORT

Instructions for completing this form are on the reverse side. Attach notice(s) of violation(s) and order(s) to comply for all observed non-compliance.

I. Mine Name as reported by Operator on Mining Operation Annual Report	Inspection Date:	CA MINE ID#:
Hanson Permanente Quarry	December 12, 2007	91 – 43 – 0004

II. SMARA Lead Agency Name (City or County only)		
County of Santa Clara		
Inspector Gary Rudholm		Telephone (408) 299-5747
Title Senior Planner	Organization Department of Planning & Development	
Mailing Address 70 W Hedding Street		
City San Jose	State CA	ZIP Code 95110
E-mail Address (Optional) Gary.Rudholm@pln.sccgov.org		

III. Mine Operator		
Hanson Permanente Cement, Inc.		
Contact Person Mike Gantenbein (alternate: John Giovanola)		Telephone (408) 996-4190
Mailing Address 24001 Stevens Creek Blvd.		
City Cupertino	State CA	ZIP Code 95014
E-mail Address (Optional)		

IV. Does the operation have:	P	NR	No	Yes
A permit to mine?			X	vested
An approved Reclamation Plan?				RP File # 2250-13-66-84P

Has the operator filed a Mining Operation Annual Report (form MRRC-2)? Check one: ☒**Yes** ☐No ☐Unknown

Is this operation on Federal Land? Check one: ☐Yes ☒**No**

If "Yes", provide one or both of the Federal Mine Land Identification Numbers below:

California Mining Claim Number (CAMC#): **N/A**

U.S. Forest Service Identification Number (USFS ID#): **N/A**

DISTRIBUTION: Original to Operator. Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

INSTRUCTIONS FOR COMPLETING SURFACE MINING INSPECTION REPORT

Form MRRC-1 Page 1

This report documents observations concerning compliance with California's Surface Mining and Reclamation Act (SMARA) and related reporting requirements (Public Resources Code Sections 2207 and 2710 *et seq.*) and, for operations located partly or solely on Bureau of
Land Management (BLM) lands, Title 43, parts 3500, 3600, and 3800 of the Code of Federal Regulations and other agency requirements that are designed to prevent or minimize adverse environmental effects of mining.

Lead agencies must file a copy of each inspection report, along with any notices of violation and orders for compliance issued, within 30 days of completion of the inspection. Mine Operators must attach a copy of this report to their next Mining Operation Annual Report (Form MRRC-2).

BLOCK I: Enter the name of the Mining Operation, the date of the inspection, and the California Mine ID # (if ID# is unknown, enter "unknown").

BLOCK II: For "Lead Agency", enter the name of the certified SMARA Lead Agency that is conducting this inspection. Acceptable entries include the name of the city, county, Bay Conservation and Development Commission (BCD), and State Mining and Geology Board (SMGB). For "Organization", enter the name of the agency, firm or other organization that employs the inspector. If the inspector is an independent contractor, enter "independent contractor." The e-mail address is optional.

BLOCK III: Enter the name of the Mine Operator. Also, enter the name, mailing address, and phone number of the person (the operator or a person acting on the operator's behalf) who will serve as a contact for any follow-up correspondence or discussions regarding the inspection or violations noted. The e-mail address is optional.

BLOCK IV: Check the appropriate boxes.

P	=	Pending (on appeal or awaiting approval by Lead Agency)
NR	=	Not Required for this operation at the time this inspection was completed.
No	=	No
Yes	=	Yes, supply information.

SURFACE MINING INSPECTION REPORT

V. Does the Operator currently have a Lead Agency approved Financial Assurance? Check one: ☒Yes ☐No If "Yes", complete section below. If "No", refer to instructions on the reverse of this page and complete Section VI.		Inspection Date: 12/12/07	CA MINE ID#: 91 – 43 – 0004
Type of Financial Assurance Mechanism(s)	Financial Assurance Mechanism Number(s)	Current Amount on File	Date of Expiration
☐ Surety Bond	Travelers Casualty & Surety, #64S104790142BCM	$7,570,047.00	None
☐ Certificate of Deposit		$	
☐ Letter of Credit		$	
☐ Trust Fund		$	
☐ Pledge of Revenue		$	
☐ Budget Set Aside		$	
☐		$	
The Financial Assurance Amount **must** be adjusted annually. **Attach a copy of the revised Financial Assurance Amount calculation with this report.**		Date of Financial Assurance Amount Calculation: **Pending, see below**	
Does the current mechanism(s) on file cover the new annual calculation? ☐Yes ☐No		If "No", date operator was notified that a new mechanism is required: Pending, see below	

VI. Financial Assurance comments.

The County received a financial assurance cost estimate (FACE) from the mine operator in April 2007. The County certified this estimate on October 5, 2007. The OMR provided a letter dated November 26, 2007, with comments regarding the adequacy of the calculations. The County will incorporate the comments from OMR into revised calculations as part of the 2007 SMARA inspection cycle. The revised cost estimate will supersede the previous FACE. These revisions are scheduled for completion by March 31, 2008. If the revised calculations determine that an increase to the financial assurance on file with the County, a copy of the revised instrument will be provided to OMR.

INSTRUCTIONS FOR COMPLETING SURFACE MINING INSPECTION REPORT

BLOCK V: Check "Yes" or "No" regarding the existence of an approved Financial Assurance Mechanism currently in place.

If "No" is checked, continue to Block VI and provide required information.

If "Yes" is checked, provide specific information required.

Type of Financial Assurance Mechanism(s): place a check mark in the appropriate box identifying the type of mechanism(s) that is on file. Fill in the blank box to supply information for a mechanism not listed. State the Financial Assurance Mechanism(s) document number(s). State the dollar amount of the Financial Assurance Mechanism(s) currently on file. State the date of expiration on the Financial Assurance Mechanism(s) currently on file.

Attach a copy of the current year's Financial Assurance Amount calculation with the Inspection Report. State the date of calculation.

Indicate "Yes" or "No" regarding whether or not the current mechanism(s) on file cover the new annual calculation.

The Financial Assurance Amount must be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. In order to determine what adjustments, if any, are appropriate to the Financial Assurance Amount, each mine operator must annually submit a revision of the written calculation of the Financial Assurance Amount to the Lead Agency. Attach a copy of the revised Financial Assurance Amount calculation with this report.

BLOCK VI: Use this block to add comments regarding the Operator's Financial Assurance status, or if "No" was checked in Block V. Explain in detail why this operation does not have a Lead Agency approved Financial Assurance, such as: "Pending" with Lead Agency, explanation, date submitted and status, "Appealed" – explanation, date submitted and status,

"Financial Assurance Mechanism is in process" – explanation, date submitted and status, "Change of Ownership" – explanation, date of notice and status, or "Other".

SURFACE MINING INSPECTION REPORT

VII. Is the operation in compliance with provisions of the approved Reclamation Plan with respect to:	OK	VN	NI	NA	CA MINE ID # 91 – 43 – 0004
Wildlife Habitat	✓				Inspection Date: 12/12/07
Revegetation	✓				
Agricultural Land				✓	Weather Code(s): CR
Stream Protection	✓				Duration of Inspection: 5.5 hours
Tailings and Mine Waste Management	✓				
Closure of Surface Openings	✓				Approximate Disturbed Acreage: 523.4 acres (estimate determined through analysis with aerial photographs and GIS software)
Building, Structure, and Equipment Removal	✓				
Topsoil Salvage, Maintenance, and Redistribution		✓			Status of Operation Code(s): A
Backfilling, Regrading, Slope Stability, and Recontouring		✓			
Drainage, Diversion Structures, Waterways, and Erosion	✓				Status of Reclamation Code(s): R
Other (list or explain below)					

VIII. Comments/Description of Violation(s) and Corrective Measure(s) Required

On October October 10, 2006, the County issued an Order to Comply to the mine operator to address the violations listed above. In January 2007, in compliance with that order, the operator submitted an application for a reclamation plan amendment intended to address the violations. (Later that same year Hanson Permanente Cement increased the financial assurance for the reclamation plan to $7,570,047.00, based on a revised FACE that was certified by the County. As noted above, this FACE is subject to the annual revision and review associated with the 2007 SMARA inspection process.) The reclamation plan amendment process is not complete due to the continued preparation of technical data and analysis, particularly geology, all of which must be included in the CEQA analysis associated with the project. Until this process is complete, and an amended plan approved these violations will continue to be noted.

On December 12, 2007, the County inspectors visited the site. The inspectors included County staff and a County retained geotechnical consulting firm. The County is completing its peer review of the report from its consultant. A detailed addendum to this report will be submitted to the State Office of Mine Reclamation no later than February 15, 2008.

IX. Number of Violations:	Inspector's Signature:	Date Signed:
2	Gary Rudholm	January 30, 2008

DISTRIBUTION: Original to Operator. Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

INSTRUCTIONS FOR COMPLETING SURFACE MINING INSPECTION REPORT

BLOCK VII: Check the appropriate boxes:

OK = Inspected, found in compliance with reclamation standards (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Article 9, Section 3700 *et seq.*) listed).

VN = Inspected, Violations Noted

NI = Not inspected (explain in Block VIII)

NA = Not Applicable for this Operation (use this notation when an issue is not addressed in the reclamation plan, or when the reclamation plan contains no requirements related to the issue

Weather Codes: CR = Clear; CL = Cloudy; RN = Rain; SN = Snow; WD = Windy

Approximate Disturbed Acreage: Indicate all acreage disturbed by the surface mining operation, as defined by PRC Section 2729: "Mined Lands" includes the surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area,

land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools or other

materials or property which result from, or are used in, surface mining operations are located.

For "Duration of Inspection", indicate the number of hours spent at the site (round to the nearest half hour) performing

the inspection (do not include travel time in this figure).

Status of Operations Codes:

I = Idle

A = Active during inspection

AD = Active during past year

AB = Abandoned (site deserted by operator)

MC = Mining completed

Status of Reclamation Codes:

R = Reclamation in progress

RN = Reclamation not begun

RC = Reclamation complete

P = Post reclamation monitoring

BLOCK VIII: Inspectors may use this area for comments, to describe violations, correction orders, etc., and to explain any limitations to the inspection conducted. You may attach copies of any notices of violations and orders to comply in lieu of a description on this form; however, copies of such notices and orders must be attached to **each copy** of this Inspection Report.

BLOCK IX: Enter the number (quantity) of violations noted during the inspection. Sign and date the Inspection Report.

DISTRIBUTION INSTRUCTIONS:

The original and one copy of this completed Inspection Report (all pages) shall be given to the Mine Operator.

The Lead Agency must retain one copy of this Inspection Report and submit one copy of this Inspection Report to:

Department of Conservation
Office of Mine Reclamation
801 K St, MS 09-06
Sacramento, CA 95814-3529

If any part of the operation inspected is on BLM or USFS land, one copy of this Inspection Report should be forwarded to the appropriate BLM or USFS office.
The Mine Operator must attach one copy of this Inspection Report to the next required Mining Operation Annual Report (Form MRRC-2) submitted to the State.

PLEASE NOTE: A Memorandum of Understanding between the U.S. Department of Interior, Bureau of Land Management (BLM); U.S. Department of Agriculture, Forest Service (USFS); the State of California, Department of Conservation; and the State Mining and Geology Board, effectively implements California's Surface Mining and Reclamation Act on lands in California under the jurisdiction of BLM and the USFS.

ADDENDUM

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION
MRRC-1 Page 1 of 3

SURFACE MINING INSPECTION REPORT

Instructions for completing this form are on the reverse side. Attach notice(s) of violation(s) and order(s) to comply for all observed non-compliance.

I. Mine Name as reported by Operator on Mining Operation Annual Report	Inspection Date:	CA MINE ID#:
Hanson Permanente Quarry	December 12, 2007	91 – 43 – 0004

II. SMARA Lead Agency Name (City or County only) County of Santa Clara		
Inspector Gary Rudholm		Telephone (408) 299-5747
Title Senior Planner	Organization Department of Planning & Development	
Mailing Address 70 W Hedding Street, East Wing 7th Floor		
City San Jose	State CA	ZIP Code 95110
E-mail Address (Optional) Gary.Rudholm@pln.sccgov.org		

III. Mine Operator Hanson Permanente Cement, Inc.		
Contact Person Mike Gantenbein (alternate: John Giovanola)		Telephone (408) 996-4190
Mailing Address 24001 Stevens Creek Blvd.		
City Cupertino	State CA	ZIP Code 95014
E-mail Address (Optional)		

IV. Does the operation have:	P	NR	No	Yes
A permit to mine?			X	vested
An approved Reclamation Plan?				RP File # 2250-13-66-84P

Has the operator filed a Mining Operation Annual Report (form MRRC-2)? Check one: ☒**Yes** ☐No ☐Unknown

Is this operation on Federal Land? Check one: ☐Yes ☒**No**

If "Yes", provide one or both of the Federal Mine Land Identification Numbers below:

California Mining Claim Number (CAMC#): **N/A**

U.S. Forest Service Identification Number (USFS ID#): **N/A**

DISTRIBUTION: Original to Operator. Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

ADDENDUM

INSTRUCTIONS FOR COMPLETING SURFACE MINING INSPECTION REPORT

Form MRRC-1 Page 1

This report documents observations concerning compliance with California's Surface Mining and Reclamation Act (SMARA) and related reporting requirements (Public Resources Code Sections 2207 and 2710 *et seq.*) and, for operations located partly or solely on Bureau of
Land Management (BLM) lands, Title 43, parts 3500, 3600, and 3800 of the Code of Federal Regulations and other agency requirements that are designed to prevent or minimize adverse environmental effects of mining.

Lead agencies must file a copy of each inspection report, along with any notices of violation and orders for compliance issued, within 30 days of completion of the inspection. Mine Operators must attach a copy of this report to their next Mining Operation Annual Report (Form MRRC-2).

BLOCK I: Enter the name of the Mining Operation, the date of the inspection, and the California Mine ID # (if ID# is unknown, enter "unknown").

BLOCK II: For "Lead Agency", enter the name of the certified SMARA Lead Agency that is conducting this inspection. Acceptable entries include the name of the city, county, Bay Conservation and Development Commission (BCD), and State Mining and Geology Board (SMGB). For "Organization", enter the name of the agency, firm or other organization that employs the inspector. If the inspector is an independent contractor, enter "independent contractor." The e-mail address is optional.

BLOCK III: Enter the name of the Mine Operator. Also, enter the name, mailing address, and phone number of the person (the operator or a person acting on the operator's behalf) who will serve as a contact for any follow-up correspondence or discussions regarding the inspection or violations noted. The e-mail address is optional.

BLOCK IV: Check the appropriate boxes.

P	=	Pending (on appeal or awaiting approval by Lead Agency)
NR	=	Not Required for this operation at the time this inspection was completed.
No	=	No
Yes	=	Yes, supply information.

ADDENDUM

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION

SURFACE MINING INSPECTION REPORT

V. Does the Operator currently have a Lead Agency approved Financial Assurance? Check one: ☒Yes ☐No If "Yes", complete section below. If "No", refer to instructions on the reverse of this page and complete Section VI.		Inspection Date: 12/12/07	CA MINE ID#: 91 – 43 – 0004
Type of Financial Assurance Mechanism(s)	Financial Assurance Mechanism Number(s)	Current Amount on File	Date of Expiration
☐ Surety Bond	Travelers Casualty & Surety, #64S104790142BCM	$7,570,047.00	None
☐ Certificate of Deposit		$	
☐ Letter of Credit		$	
☐ Trust Fund		$	
☐ Pledge of Revenue		$	
☐ Budget Set Aside		$	
☐		$	
The Financial Assurance Amount **must** be adjusted annually. **Attach a copy of the revised Financial Assurance Amount calculation with this report.**		Date of Financial Assurance Amount Calculation: **Pending, see below**	
Does the current mechanism(s) on file cover the new annual calculation? ☐Yes ☐No		If "No", date operator was notified that a new mechanism is required: Pending, see below	

VI. Financial Assurance comments.

The County received a financial assurance cost estimate (FACE) from the mine operator in April 2007. The County certified this estimate on October 5, 2007. The OMR provided a letter dated November 26, 2007, with comments regarding the adequacy of the calculations. The County will incorporate the comments from OMR into revised calculations as part of the 2007 SMARA inspection cycle. A revised estimate is expected from the operator by May 16, 2008. The revised cost estimate will supersede the previous FACE. If the revised calculations determine that an increase to the financial assurance on file with the County, a copy of the revised instrument will be provided to OMR.

ADDENDUM

DISTRIBUTION: Original to Operator. Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

INSTRUCTIONS FOR COMPLETING SURFACE MINING INSPECTION REPORT

Form MRRC-1 Page 2

BLOCK V: Check "Yes" or "No" regarding the existence of an approved Financial Assurance Mechanism currently in place.

If "No" is checked, continue to Block VI and provide required information.

If "Yes" is checked, provide specific information required.

Type of Financial Assurance Mechanism(s): place a check mark in the appropriate box identifying the type of mechanism(s) that is on file. Fill in the blank box to supply information for a mechanism not listed. State the Financial Assurance Mechanism(s) document number(s). State the dollar amount of the Financial Assurance Mechanism(s) currently on file. State the date of expiration on the Financial Assurance Mechanism(s) currently on file.

Attach a copy of the current year's Financial Assurance Amount calculation with the Inspection Report. State the date of calculation.

Indicate "Yes" or "No" regarding whether or not the current mechanism(s) on file cover the new annual calculation.

The Financial Assurance Amount must be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. In order to determine what adjustments, if any, are appropriate to the Financial Assurance Amount, each mine operator must annually submit a revision of the written calculation of the Financial Assurance Amount to the Lead Agency. Attach a copy of the revised Financial Assurance Amount calculation with this report.

BLOCK VI: Use this block to add comments regarding the Operator's Financial Assurance status, or if "No" was checked in Block V. Explain in detail why this operation does not have a Lead Agency approved Financial Assurance, such as: "Pending" with Lead Agency, explanation, date submitted and status, "Appealed" – explanation, date submitted and status,

"Financial Assurance Mechanism is in process" – explanation, date submitted and status, "Change of Ownership" – explanation, date of notice and status, or "Other".

ADDENDUM

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION

SURFACE MINING INSPECTION REPORT

VII. Is the operation in compliance with provisions of the approved Reclamation Plan with respect to:	OK	VN	NI	NA	CA MINE ID # 91 – 43 – 0004
Wildlife Habitat	✓				Inspection Date: 12/12/07
Revegetation	✓				
Agricultural Land				✓	Weather Code(s): CR
Stream Protection	✓				Duration of Inspection: 5.5 hours
Tailings and Mine Waste Management	✓				
Closure of Surface Openings	✓				Approximate Disturbed Acreage: 523.4 acres (estimate determined through analysis with aerial photographs and GIS software)
Building, Structure, and Equipment Removal	✓				
Topsoil Salvage, Maintenance, and Redistribution		✓			Status of Operation Code(s): A
Backfilling, Regrading, Slope Stability, and Recontouring		✓			
Drainage, Diversion Structures, Waterways, and Erosion	✓				Status of Reclamation Code(s): R
Other (list or explain below)					

VIII. Comments/Description of Violation(s) and Corrective Measure(s) Required

On October October 10, 2006, the County issued an Order to Comply to the mine operator to address the violations listed above. In January 2007, in compliance with that order, the operator submitted an application for a reclamation plan amendment intended to address the violations. The proposed reclamation plan amendment is subject to review under the California Environmental Quality Act (CEQA). The review under CEQA commenced in 2007. Through this process the County directed the operator to provide a detailed geology report, and work on this report commenced, which requires data collection in the field, analysis of the data, and report preparation. Until the geology report is complete the CEQA process will continue. Until the CEQA review is finished a final decision on the reclamation plan amendment will remain pending. Until the reclamation plan amendment is complete the County will continue to report the violations noted above because the amendment process is the means in place for their abatement.

IX. Number of Violations:	Inspector's Signature:	Date Signed:
2	Refer to attached signature page.	May 14, 2008

DISTRIBUTION: Original to Operator. Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

ADDENDUM

INSTRUCTIONS FOR COMPLETING SURFACE MINING INSPECTION REPORT

Form MRRC-1 Page 3

BLOCK VII: Check the appropriate boxes:

OK = Inspected, found in compliance with reclamation standards (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Article 9, Section 3700 *et seq.*)

VN = Inspected, Violations Noted

NI = Not inspected (explain in Block VIII)

NA = Not Applicable for this Operation (use this notation when an issue is not addressed in the reclamation plan, or when the reclamation plan contains no requirements related to the issue listed).

Weather Codes: CR = Clear; CL = Cloudy; RN = Rain; SN = Snow; WD = Windy

Approximate Disturbed Acreage: Indicate all acreage disturbed by the surface mining operation, as defined by PRC Section 2729: "Mined Lands" includes the surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area,

land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools or other

materials or property which result from, or are used in, surface mining operations are located.

For "Duration of Inspection", indicate the number of hours spent at the site (round to the nearest half hour) performing
the inspection (do not include travel time in this figure).

Status of Operations Codes:

I = Idle

A = Active during inspection

AD = Active during past year

AB = Abandoned (site deserted by operator)

MC = Mining completed

Status of Reclamation Codes:

R = Reclamation in progress

RN = Reclamation not begun

RC = Reclamation complete

P = Post reclamation monitoring

BLOCK VIII: Inspectors may use this area for comments, to describe violations, correction orders, etc., and to explain any limitations to the inspection conducted. You may attach copies of any notices of violations and orders to comply in lieu of a description on this form; however, copies of such notices and orders must be attached to **each copy** of this Inspection Report.

BLOCK IX: Enter the number (quantity) of violations noted during the inspection. Sign and date the Inspection Report.

DISTRIBUTION INSTRUCTIONS:

The original and one copy of this completed Inspection Report (all pages) shall be given to the Mine Operator.

The Lead Agency must retain one copy of this Inspection Report and submit one copy of this Inspection Report to:

Department of Conservation
Office of Mine Reclamation
801 K St, MS 09-06
Sacramento, CA 95814-3529

If any part of the operation inspected is on BLM or USFS land, one copy of this Inspection Report should be forwarded to the appropriate BLM or USFS office.
The Mine Operator must attach one copy of this Inspection Report to the next required Mining Operation Annual Report (Form MRRC-2) submitted to the State.

PLEASE NOTE: A Memorandum of Understanding between the U.S. Department of Interior, Bureau of Land Management (BLM); U.S. Department of Agriculture, Forest Service (USFS); the State of California, Department of Conservation; and the State Mining and Geology Board, effectively implements California's Surface Mining and Reclamation Act on lands in California under the jurisdiction of BLM and the USFS.

ADDENDUM

SURFACE MINING INSPECTION REPORT

Form MRRC-1 Signature Page

Hanson Permanente Quarry, State ID #91-43-0004

May 14, 2008

Authorization to Release Report:

Valentin Alexeeff, DPA, Director,
Planning and Development Department

Report Reviewed and Approved for Release:

James Baker, CEG 1021, Engineering Geologist
Expires October 31, 2009

Report Reviewed and Approved for Release:

Christopher L. Freitas, P.E., Senior Civil Engineer
Registered Civil Engineer #42107
Expires March 31, 2010

REGISTERED PROFESSIONAL ENGINEER
CHRISTOPHER L. FREITAS
No. C042107
EXP. 3/31/10
CIVIL
STATE OF CALIFORNIA

SIGNED
5/14/08

Report Meets Acceptable Standards:

Gary Rudholm, MCRP, Senior Planner, Santa Clara County

ADDENDUM

Attachment A

Hanson Permanente Quarry, State ID #91-43-0004

May 14, 2008

This report is an addendum to the initial SMARA Inspection Report form MRRC-1 submitted to the Office of Mine Reclamation on January 30, 2008.

Background

The following discussion, taken from the inspection report submitted to the OMR for the 2006 inspection, is intended to provide background description of the mine, a brief historical narrative, and a brief technical description. It is not intended to be a comprehensive narrative of all the relevant facts. It purpose is solely to describe the site and the nature of certain, historical events that led to the current status in which the mine operates and which were considered as part of the 2007 SMARA inspection.

The Permanente Quarry is a limestone and aggregate mining operation in the Santa Clara County foothills, located along a sinuous, roughly east-west trending ridge within the Santa Cruz Mountains, west of the City of Cupertino's jurisdictional limits. Mining began in 1903 or earlier, according to state records. Modern-day quarrying began with the acquisition of 1,300 acres along the Permanente Creek by Hanson's predecessors in 1939. Mining has taken place continuously since, and has been acknowledged by the County as a legal, non-conforming use.

Hanson's predecessors first mined the Permanente Quarry in 1939. Hanson Building Materials America acquired the site in 1987, and the name was changed to Hanson Permanente Cement in 1999. The mine is presently active with continued mining planned for another 20 to 25 years. The mine has a single, very large pit where limestone and aggregate are quarried. The operator has completed the mine pit floor to an approximate sump elevation of 710 feet. The current plan calls for a final pit floor elevation of 500 feet. West of the mine pit is an overburden stockpile area know as Area A. A much smaller area where over-burden was placed and re-vegetated is east of the mine pit, known as Area C.

In response to public concern over possible visual impacts, a portion of the ridgeline that separates the pit from the valley to the north (e.g. Palo Alto, Los Altos) is covered by an easement recorded with the County of Santa Clara in 1972, known as the "Ridgeline Protection Easement" (RPE). The agreement stated that Kaiser Cement "would not lower the ridgeline ... for mining, quarrying or other purposes", and Kaiser Cement would install four fixed monuments on the future ridgeline. The easement would include a 25-foot wide planting strip. The RPE is intended to maintain a natural slope appearance without disturbance of the natural vegetation.

In 1987, a large rockslide approximately 500 to 1000 feet wide by 900 feet long began moving on the northwest slope of the pit. The rockslide presented safety concerns to workers in the mine pit, and also threatened the RPE. Consequently, the County allowed corrective grading (i.e. unloading by removal of material) of the rockslide to proceed within the RPE. This slope failure is referred to as the "1987 Rockslide." In January 2001, Hanson Quarry personnel observed a slope failure at the top of the northwest slope of the mine pit (to the northeast of the 1987 Rockslide). This landslide is approximately 350 feet in width. The landslide encroached upon the RPE, and is referred to as the "Scenic Easement Rockslide."

ADDENDUM

During very heavy rainfall in November and December 2001, another rockslide was initiated at the top of the northeast side of the pit. This rockslide is approximately 500 feet wide and 400 feet in length, and the upper limits of the rockslide encroached upon approximately 0.5 acre of the southeast portion of Mid-Peninsula Regional Open Space Preserve's Rancho San Antonio Preserve. According to the quarry manager, Hanson Permanente has negotiated a land swap with the MPROSD in order to take possession of the encroachment area. The quarry plans to do some grading to mitigate this landslide and prevent further upslope migration. Based on our site inspection and discussions with quarry personnel, it is our understanding that survey monuments have been installed above the headscarp. We understand that these monuments were installed as part of an agreement with MPROSD and are intended to monitor headward encroachment of the rockslide. We refer to this slope failure as the "Mid-Pen Rockslide."

On March 7, 1985, the County approved the current reclamation plan. The reclamation plan covers approximately 330 acres comprised of active excavation and material storage areas. The current reclamation plan does not encompass all past mining disturbance at the site or, with the exception of actual excavation areas, confine mining-related operations to specific areas. For instance, the reclamation plan does not include a rock plant to the southeast of the mining pit or access roads throughout the site. The omissions are consistent with the way that SMARA's requirements were interpreted at the time the reclamation plan was approved.

The reclamation plan also does not extend to the nearby cement plant operations by design. The cement plant was, and continues to be, operated under a May 8, 1939 use permit from the County that authorizes the "erection, construction and operation of a cement mill and the storage of cement... " The permit was issued consistent with 1937 zoning, under which commercial and manufacturing uses were allowed. The permit has no termination date. The cement plant has operated continuously since its inception and is estimated to account for one-third of Northern California's cement production.

The reclamation plan is designed to address mining activity over a 25-year period, and contemplates that it will be amended no later than April 1, 2010, to address later mining and reclamation activity. This is expressed both in the reclamation plan and in the 1985 conditions of approval.

Reclamation Plan Amendment Process Currently Underway

As directed by the County under a combined Notice of Violation / Order to Comply issued in October 2006, the mine operator submitted an application together with plans and supporting documents for a reclamation plan amendment. Among the revisions included in the reclamation plan amendment is expansion of the reclamation boundary to include all areas of disturbance, most of which are historic disturbances that occurred prior to SMARA. The proposed revision also includes an expansion of the mine into area not previously disturbed. The reclamation plan amendment is still in process. The operator submitted the application in January 2007 in keeping with County directions. The County forwarded the reclamation-plan-amendment application to the State Office of Mine Reclamation for review.

The reclamation plan amendment requires preparation of an environmental impact report (EIR) consistent with the standards from the California Environmental Quality Act (CEQA). The County initiated this process in 2007 and convened two public scoping meetings to receive comments from the public regarding the scope of work to be covered by the draft EIR (DEIR). The County also

required the mine operator provide a detailed geology report to ascertain the potential geology impacts posed by the reclamation plan amendment. The geology analysis requires field data collection, analysis of the data, and report preparation. The operator provided a schedule for completing the report. This schedule estimates 24 months are necessary to complete this geology report. The County geologist reviewed the schedule and found the length of time it contains is reasonable. The County will issue a revised schedule to the Order to Comply previously sent to the mine operator, based on this timeline needed to complete the geology report, and subsequently complete the DEIR. Until the CEQA analyses are completed an action on the proposed reclamation plan amendment cannot be taken.

2007 SMARA Inspection Summary

Refer to the attached report from the Cotton, Shires & Associates, the County retained consultant providing field review and reporting assistance in the SMARA inspections for 2007 for a detailed discussion of the field conditions and areas of concern.

Description of Violations Noted

The current reclamation plan defines the area subject to reclamation only those areas where materials are stockpiled (identified in the approved plan as Areas A and C), and the pit where mineral extraction occurs or has occurred. There are many areas of disturbance outside the boundary of this plan, and the Office of Mine Reclamation pointed out in 2006 that this constitutes a violation under SMARA. In addition to the disturbed areas outside the reclamation plan boundary the mine has slope stability issues that must be resolved. These issues are included in the line titled "Backfilling, Regrading, Slope Stability, and Recontouring" found in the table on page 3 of the MRRC-1 form. Also, there does not appear to be sufficient topsoil stored or protected on site.

The mine operator filed an application for a reclamation plan amendment to address the violations described above. Although the CEQA review process commenced with this project the CEQA analysis is on hold pending receipt from the mine operator of significant geologic analysis, which must form a portion of the technical review to be included in a Draft Environmental Impact Report. Until the CEQA analysis is complete an action regarding the reclamation plan amendment cannot be taken. Until the CEQA and approval process for the proposed amendment is complete, and an amendment is approved that sufficiently addresses the areas of disturbance, slope stability, and topsoil management, the violations must be noted in the annual SMARA inspection report.

Areas of Concern and Issues to Monitor

The following issues may need mitigation, or at least consideration by the quarry operator:

1. Slope stability.
   As noted in the previous inspection report, there are slope stability problems that must be addressed. These stability issues are associated with the mine pit and stockpile areas, particularly the west materials storage area.

2. Disturbances outside the reclamation plan boundary.
   As noted in the previous inspection report, there are areas of disturbance that are outside the boundary of the approved reclamation plan.

ADDENDUM

3. Topsoil stockpiling.
   The inspection report from the field inspector notes a stockpile of material described as topsoil was found in the west materials storage area. This material was not adequately identified in the field, and does not appear to be a sufficient amount of soil for reclamation purposes.

Directions to the Mine Operator, Based on the Inspection:

1. The mine operator submitted a proposal for a reclamation plan amendment that is intended to address slope stability and areas of disturbance issues. The CEQA review of this proposal commenced, but requires detailed geology analysis before it can be completed. The mine operator shall provide the required information in keeping with a schedule for completion submitted to the County in December 2007.

2. The inspection report provided by Cotton, Shires & Associates (attached) identifies an area of disturbance that, although it is pre-SMARA, could affect stability of the slope below the west materials storage area. The mine operator shall submit an amendment to the reclamation plan amendment application, and include this area of the mine.

3. The mine operator shall provide signs in the field to identify the topsoil stockpile, to ensure it is not used as fill, or removed from the site, and shall submit to the County within 60 days from the date of this inspection report, a description of the method it will use to provide additional topsoil for reclamation purposes.

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION
MRRC-1 Page 1 of 3

SURFACE MINING INSPECTION REPORT

Instructions for completing this form are on the reverse side. Attach notice(s) of violation(s) and order(s) to comply for all observed non-compliance.

I. Mine Name as reported by Operator on Mining Operation Annual Report	Inspection Date:	CA MINE ID#:
Permanente Quarry	December 9, 2008	91 – 43 – 0004

II. SMARA Lead Agency Name (City or County only)		
County of Santa Clara		
Inspector Gary Rudholm et al (refer to signature page and appendix)		Telephone (408) 299-5747
Title Senior Planner	Organization Department of Planning & Development	
Mailing Address 70 W Hedding Street		
City San Jose	State CA	ZIP Code 95110
E-mail Address (Optional) Gary.Rudholm@pln.sccgov.org		

III. Mine Operator		
Lehigh Southwest Cement Company		
Contact Person Marvin Howell		Telephone (858) 577-2770
Mailing Address P. O. Box 639069		
City San Diego	State CA	ZIP Code 92163-9069
E-mail Address (Optional)		

IV. Does the operation have:	P	NR	No	Yes
A permit to mine?				vested
An approved Reclamation Plan?				RP File # 2250-13-66-84P

Has the operator filed a Mining Operation Annual Report (form MRRC-2)? Check one: ☒**Yes** ☐No ☐Unknown

Is this operation on Federal Land? Check one: ☐Yes ☒**No**

If "Yes", provide one or both of the Federal Mine Land Identification Numbers below:

California Mining Claim Number (CAMC#): **N/A**

U.S. Forest Service Identification Number (USFS ID#): **N/A**

DISTRIBUTION: Original to Operator. Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

INSTRUCTIONS FOR COMPLETING SURFACE MINING INSPECTION REPORT

Form MRRC-1 Page 1

This report documents observations concerning compliance with California's Surface Mining and Reclamation Act (SMARA) and related reporting requirements (Public Resources Code Sections 2207 and 2710 *et seq.*) and, for operations located partly or solely on Bureau of
Land Management (BLM) lands, Title 43, parts 3500, 3600, and 3800 of the Code of Federal Regulations and other agency requirements that are designed to prevent or minimize adverse environmental effects of mining.

Lead agencies must file a copy of each inspection report, along with any notices of violation and orders for compliance issued, within 30 days of completion of the inspection. Mine Operators must attach a copy of this report to their next Mining Operation Annual Report (Form MRRC-2).

BLOCK I: Enter the name of the Mining Operation, the date of the inspection, and the California Mine ID # (if ID# is unknown, enter "unknown").

BLOCK II: For "Lead Agency", enter the name of the certified SMARA Lead Agency that is conducting this inspection. Acceptable entries include the name of the city, county, Bay Conservation and Development Commission (BCD), and State Mining and Geology Board (SMGB). For "Organization", enter the name of the agency, firm or other organization that employs the inspector. If the inspector is an independent contractor, enter "independent contractor." The e-mail address is optional.

BLOCK III: Enter the name of the Mine Operator. Also, enter the name, mailing address, and phone number of the person (the operator or a person acting on the operator's behalf) who will serve as a contact for any follow-up correspondence or discussions regarding the inspection or violations noted. The e-mail address is optional.

BLOCK IV: Check the appropriate boxes.

P	=	Pending (on appeal or awaiting approval by Lead Agency)
NR	=	Not Required for this operation at the time this inspection was completed.
No	=	No
Yes	=	Yes, supply information.

SURFACE MINING INSPECTION REPORT

V. Does the Operator currently have a Lead Agency approved Financial Assurance? Check one: ☒Yes ☐No If "Yes", complete section below. If "No", refer to instructions on the reverse of this page and complete Section VI.		Inspection Date: December 9, 2008	CA MINE ID#: 91 – 43 – 0004
Type of Financial Assurance Mechanism(s)	Financial Assurance Mechanism Number(s)	Current Amount on File	Date of Expiration
☐ Surety Bond	See below.	$9,208,771.00	None
☐ Certificate of Deposit		$	
☐ Letter of Credit		$	
☐ Trust Fund		$	
☐ Pledge of Revenue		$	
☐ Budget Set Aside		$	
☐		$	
The Financial Assurance Amount **must** be adjusted annually. **Attach a copy of the revised Financial Assurance Amount calculation with this report.**		Date of Financial Assurance Amount Calculation: April 2008	
Does the current mechanism(s) on file cover the new annual calculation? ☒Yes ☐No		If "No", date operator was notified that a new mechanism is required:	

VI. Financial Assurance comments.

The operator submitted a financial assurance cost estimate (FACE) to the County in April 2008. The County certified this FACE and forwarded the calculations to the State Office of Mine Reclamation (OMR) for review. The County received an increased financial assurance (FA) from the operator for the amount of $9,208,771.00. In a letter dated June 27, 2008, the OMR determined the amount required under the FACE to be appropriate and requested a copy of the increased FA. The County forwarded a copy of the FA to OMR on July 7, 2008.

Financial assurance posted consists of the following two bonds:
Travelers Casualty and Surety Company of America Surety Bond #64S104790142BCM, and
Federal Insurance Company Bond #8213-68-81.

INSTRUCTIONS FOR COMPLETING SURFACE MINING INSPECTION REPORT

BLOCK V: Check "Yes" or "No" regarding the existence of an approved Financial Assurance Mechanism currently in place.

If "No" is checked, continue to Block VI and provide required information.

If "Yes" is checked, provide specific information required.

Type of Financial Assurance Mechanism(s): place a check mark in the appropriate box identifying the type of mechanism(s) that is on file. Fill in the blank box to supply information for a mechanism not listed. State the Financial Assurance Mechanism(s) document number(s). State the dollar amount of the Financial Assurance Mechanism(s) currently on file. State the date of expiration on the Financial Assurance Mechanism(s) currently on file.

Attach a copy of the current year's Financial Assurance Amount calculation with the Inspection Report. State the date of calculation.

Indicate "Yes" or "No" regarding whether or not the current mechanism(s) on file cover the new annual calculation.

The Financial Assurance Amount must be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. In order to determine what adjustments, if any, are appropriate to the Financial Assurance Amount, each mine operator must annually submit a revision of the written calculation of the Financial Assurance Amount to the Lead Agency. Attach a copy of the revised Financial Assurance Amount calculation with this report.

BLOCK VI: Use this block to add comments regarding the Operator's Financial Assurance status, or if "No" was checked in Block V. Explain in detail why this operation does not have a Lead Agency approved Financial Assurance, such as: "Pending" with Lead Agency, explanation, date submitted and status, "Appealed" – explanation, date submitted and status,

"Financial Assurance Mechanism is in process" – explanation, date submitted and status, "Change of Ownership" – explanation, date of notice and status, or "Other".

SURFACE MINING INSPECTION REPORT

VII. Is the operation in compliance with provisions of the approved Reclamation Plan with respect to:	OK	VN	NI	NA	CA MINE ID # 91 – 43 – 0004
Wildlife Habitat	✓				Inspection Date: December 9, 2008
Revegetation	✓				
Agricultural Land				✓	Weather Code(s): CR
Stream Protection	✓				Duration of Inspection: 6 hours
Tailings and Mine Waste Management	✓				
Closure of Surface Openings	✓				Approximate Disturbed Acreage: 523.4 acres
Building, Structure, and Equipment Removal	✓				
Topsoil Salvage, Maintenance, and Redistribution	✓				Status of Operation Code(s): A
Backfilling, Regrading, Slope Stability, and Recontouring		✓			
Drainage, Diversion Structures, Waterways, and Erosion	✓				Status of Reclamation Code(s): R
Other (list or explain below)		✓			

VIII. Comments/Description of Violation(s) and Corrective Measure(s) Required

- Refer to the attached letter report from Kit H. Custis, CEG 1219, CHG 254 for additional, detailed information.
- The County is processing an amendment to the approved reclamation plan. The amendment will address areas of disturbance that are currently not within the reclamation plan boundary. This amendment was filed in response to a Notice of Violation/Order to Comply issued by the County on October 10, 2006. The application process is in the CEQA analysis stage, with work focused on geology. A schedule issued by the County indicates the geology analysis should be complete by December 31, 2009, and the CEQA review complete approximately by March 2011. Until the reclamation plan amendment process is complete, however, a violation of SMARA must be noted in the inspection report.
- On June 20, 2008, the County issued a Notice of Violation for continued stockpiling of overburden material outside the reclamation plan boundary, in a location identified by the operator as the West Materials Storage Area. The operator has ceased bringing materials to this location and has installed erosion control as directed by the County. This material is located in the area of the proposed reclamation plan amendment discussed above, which is expected to abate this violation.

IX. Number of Violations:	Inspector's Signature:	Date Signed:
2	Refer to signature page, attached.	January 15, 2009

DISTRIBUTION: Original to Operator. Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

INSTRUCTIONS FOR COMPLETING SURFACE MINING INSPECTION REPORT

BLOCK VII: Check the appropriate boxes:

OK = Inspected, found in compliance with reclamation standards (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Article 9, Section 3700 *et seq.*) listed).

VN = Inspected, Violations Noted

NI = Not inspected (explain in Block VIII)

NA = Not Applicable for this Operation (use this notation when an issue is not addressed in the reclamation plan, or when the reclamation plan contains no requirements related to the issue

Weather Codes: CR = Clear; CL = Cloudy; RN = Rain; SN = Snow; WD = Windy

Approximate Disturbed Acreage: Indicate all acreage disturbed by the surface mining operation, as defined by PRC Section 2729: "Mined Lands" includes the surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area,

land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools or other

materials or property which result from, or are used in, surface mining operations are located.

For "Duration of Inspection", indicate the number of hours spent at the site (round to the nearest half hour) performing
the inspection (do not include travel time in this figure).

Status of Operations Codes:

I = Idle

A = Active during inspection

AD = Active during past year

AB = Abandoned (site deserted by operator)

MC = Mining completed

Status of Reclamation Codes:

R = Reclamation in progress

RN = Reclamation not begun

RC = Reclamation complete

P = Post reclamation monitoring

BLOCK VIII: Inspectors may use this area for comments, to describe violations, correction orders, etc., and to explain any limitations to the inspection conducted. You may attach copies of any notices of violations and orders to comply in lieu of a description on this form; however, copies of such notices and orders must be attached to **each copy** of this Inspection Report.

BLOCK IX: Enter the number (quantity) of violations noted during the inspection. Sign and date the Inspection Report.

DISTRIBUTION INSTRUCTIONS:

The original and one copy of this completed Inspection Report (all pages) shall be given to the Mine Operator.

The Lead Agency must retain one copy of this Inspection Report and submit one copy of this Inspection Report to:

Department of Conservation
Office of Mine Reclamation
801 K St, MS 09-06
Sacramento, CA 95814-3529

If any part of the operation inspected is on BLM or USFS land, one copy of this Inspection Report should be forwarded to the appropriate BLM or USFS office.
The Mine Operator must attach one copy of this Inspection Report to the next required Mining Operation Annual Report (Form MRRC-2) submitted to the State.

PLEASE NOTE: A Memorandum of Understanding between the U.S. Department of Interior, Bureau of Land Management (BLM); U.S. Department of Agriculture, Forest Service (USFS); the State of California, Department of Conservation; and the State Mining and Geology Board, effectively implements California's Surface Mining and Reclamation Act on lands in California under the jurisdiction of BLM and the USFS.

SURFACE MINING INSPECTION REPORT

Form MRRC-1 Signature Page

Permanente Quarry, State ID #91-43-0004

January 15, 2009

Report Reviewed and Approved for Release:

James Baker, CEG 1021, Engineering Geologist
Expires October 31, 2007

Report Reviewed and Approved for Release:

Christopher L. Freitas, P.E., Senior Civil Engineer
Registered Civil Engineer #42107
Expires March 31, 2010

REGISTERED PROFESSIONAL ENGINEER
CHRISTOPHER L. FREITAS
No. C042107
EXP. 3/31/10
CIVIL
STATE OF CALIFORNIA

1/16/09

Report Meets Acceptable Standards:

Gary Rudholm, MCRP
Senior Planner, Santa Clara County

PMC™

January 15, 2009

Mr. Gary Rudholm
Senior Planner
SANTA CLARA COUNTY
70 West Hedding Street
San Jose, CA 95110

Re: 2008 SMARA Mine Inspection
Permanente Quarry, 91-43-0004
Cupertino, California

Dear Mr. Rudholm:

This letter report summarizes the findings of Pacific Municipal Consultants' (PMC) annual SMARA site inspection of the Permanente Quarry in Cupertino, CA Mine ID #91-43-0004 that was conducted on December 9, 2008. PMC was retained by Santa Clara County to assist County staff with the annual SMARA mine inspections, to provide written documentation of our observations, issues of concern and recommendations.

The 2008 annual SMARA inspection was conducted for 6 hours on the morning and afternoon of December 9, 2008. In attendance along with myself were representatives of Lehigh Southwest Cement Company (Lehigh) and the Santa Clara County Planning and Development Department. The disturbed acreage remained the same as the 2007 inspection, approximately 523.4 acres. The mine was active during the inspection (A). Reclamation (R) has begun in some areas. The weather during the inspection was clear (CR) and cool. The mine's office is located near latitude 37° 18.945'N and longitude 122° 05.454'W.

BACKGROUND

The Permanente Quarry is a limestone and aggregate mining operation located on the north side of Permanente Creek west of the Town of Cupertino. The Permanente Quarry is owned by Hanson Permanente Cement, Inc. (HPC) and operated under contract with HPC by Lehigh. Mining began in the area around 1903, with the most recent operations beginning in 1939 on a 1300-acre site by Kaiser Cement Corporation (then known as The Permanente Corporation), HPC's predecessor in interest. In 1987, Hanson PLC acquired Kaiser Cement Corporation. The name of the operating company was changed in 1999 from Kaiser Cement Corporation to Hanson Permanente Cement, Inc. HeidelbergCement Group acquired HPC and its affiliates in 2007, and in 2008 Lehigh assumed operational responsibilities for the Permanente Quarry and the associated cement plant.

The County adopted the currently approved reclamation plan for the quarry site in 1985. The reclamation plan covers the open pit and the material storage area, an area of approximately 330 acres. The approved reclamation plan does not include all areas of past mining disturbance. For example, the 1985 reclamation plan does not include a rock plant to the southeast of the mining pit or access roads throughout the site. The reclamation plan also does not extend to the nearby cement plant operations. The cement plant was, and continues to be, operated under a Use Permit originally issued on May 8, 1939 by the County that authorizes the "erection, construction and operation of a cement mill and the storage of cement... " The permit was issued consistent with 1937 zoning, under which commercial and manufacturing uses were allowed. The permit has no termination date. According to Lehigh, the cement plant has operated continuously since its inception and is estimated to account for approximately 70 percent of the cement used in Santa Clara County and 50 percent used in the San Francisco Bay Area. The County considers the exclusion of these areas to be consistent with SMARA's requirements as they were interpreted at the time the 1985 reclamation plan was approved. An August 23, 2007 letter from the Department of Conservation's Office of Mine Reclamation confirmed that the cement plant is not part of the Permanente mining.

In 1972, the County recorded a "Ridgeline Protection Easement" (RPE) along the ridgeline above the northern pit highwall to mitigate potential visual impacts by maintaining a natural slope appearance without disturbance of the natural vegetation. The operator at that time, Kaiser Cement, agreed that they "would not lower the ridgeline ... for mining, quarrying or other purposes," and that they would install four fixed monuments on the ridgeline. The easement would also include a 25-foot wide planting strip.

The northern highwall of the open pit has developed three large rockslides. "Main Rockslide" the oldest area of slope instability is located on the northwest pit slope and is approximately 500 to 1000 feet wide. This rockslide was called the "1987 Rockslide" in the 2006 and 2007 annual SMARA inspection reports. Following a period of increased movement in 1987, this slide was considered a safety hazard for workers and threatened to disturb the RPE. The County has allowed corrective grading to remove material at the head of the slide. A second slide began in January 2001 with the failure of an approximately 350 foot wide section of the northwest pit slope to the east of the Main Rockslide. This slide is known as the "Scenic Easement Rockslide." A third slide occurred at the end of 2001 in the northeast portion of the pit slope that was approximately 400 to 500 feet wide and extended head ward into a portion of the adjoining Midpeninsula Regional Open Space District's Rancho San Antonio Preserve. According to the operator, a land swap has been negotiated (but not yet closed) that will allow the mine to take possession of the impacted land. This slide is known as the "Mid-Pen Rockslide."

In October 2006, the County issued an Order to Comply and Notice of Violation to the operator for mining related disturbances outside of the approved reclamation plan with the exception of the cement plant. The NOV required that the operator submit an amended reclamation plan that addresses the instability in the pit, encompasses all mining-related areas including the rock processing facility south of the cement plant. In January 2007, the operator submitted the required amendment to the County, which is being processed. The reclamation plan amendment is designed to address mining activity over the next 25-years. As part of this amendment, the operator's geotechnical consultant is evaluating the stability of the pit walls and the overburden disposal sites. The County has agreed to allow the operator's consultant 24 months to complete the geotechnical work. Parties anticipated that the amended reclamation plan would be approved in 2011. Until the CEQA process for the amended

reclamation plan is complete and the reclamation plan approved, SMARA violation for slope stability and disturbances outside of the reclamation plan will continue to be noted in the annual report.

SITE CONDITIONS

Overburden material from the quarry is being deposited in the western portion of the mine site on what is called the West Material Storage Area (WMSA), identified as Area A in the approved reclamation plan. The overburden slopes are undergoing re-grading to flatten their gradient to less than 2H:1V. The northern portions of the WMSA that are visible to the urban area below are being re-graded and re-vegetated (Photos 1 through 5). The easternmost portion of the northern slope has recently been re-graded and hydroseeded for erosion control. At the toe of this area there appears to be a small closed depression that may trap runoff. This depression should be evaluated and if necessary re-graded to prevent ponding. The portion of the overburden designated as the topsoil storage area has now been signed to warn drivers not to disturb the area, which corrects a previous violation.

The southern slopes of the WMSA abut a portion of the mine that is considered pre-SMARA (Photo 6). The operator's geotechnical consultant is evaluating the final slope configuration in this area and is aware that the post-SMARA stockpiles should not cause the pre-SMARA slopes to fail or erode. A horizontal setback from the top of the pre-SMARA slope will likely be needed to ensure their stability. Running across the pre-SMARA slopes is an old unpaved road that is not used in the current operations. A low point in this road causes runoff to discharge over the slope and appears to create a sedimentation problem for Permanente Creek (Photo 7).

In order to address the issue of the lack of topsoil for re-vegetation of the site, the operator is beginning a series of re-vegetation test plots to evaluate various soil treatments to determine what procedures are necessary for successful re-vegetation. One of these test plots is located in a flat area southeast of the WMSA (Photos 8 and 9). On the slope to the south of this flat test plot is a water distribution box and pipe that takes water pumped out of the pit and discharges it to a pond adjacent to Permanente Creek where it infiltrates (Photo 10). The infiltration pond is within an area of pre-SMARA disturbance. However, the current activities related to ongoing mining will bring a portion of this area into SMARA and this area is included in the amended reclamation plan, which is being processed by the County.

As discussed above, the northern highwall of the pit has had three large rockslides. The northeastern slide is called the Mid-Pen Rockslide and extends approximately half way down the highwall (Photo 11). The other slides are on the northwestern portion of the highwall. The easternmost slide, the Scenic Easement Rockslide, extends down slope approximately as far as the Mid-Pen Rockslide (Photo 12). This rockslide lowered the ridgeline contrary to the 1972 RPE and is being addressed in the reclamation plan amendment. The largest slide, the Main Rockslide, appears to extend across most of the current height of the northwestern highwall. During the 2008 inspection, the County geologist, James Baker, noted ongoing movement of a landslide on the western side of the pit. This area of movement was noted by Golder and Associates in their November 2007 Slope Stability Evaluation report and may extend below the toe of the eastern slope of the WMSA overburden stockpile (in the background area of Photo 9). Mr. Baker referred to this landslide as the "Haul Road Slide."

Rain that falls in the pit area collects in the bottom and is pumped out using a series of pumps, and this water is then used for dust control or discharged to the infiltration pond along the north side of Permanente Creek (Photos 13 and 10).

Past practices for handling overburden material included disposal in an area to the east of the pit that is outside of the reclamation plan boundary. This is called the East Material Storage Area (EMSA) and lies east of the previous Area C overburden area. The operator has created a lined drainage ditch to convey stormwater runoff into existing holding ponds in the cement plant site (Photos 14 and 15). A second re-vegetation test plot has been established on the north face of the EMSA to evaluate various soil treatments necessary for re-vegetation of slopes (Photo 16). Other slope areas of the EMSA have been recently hydroseeded for erosion control (Photo 17). The previous Area C overburden disposal site is visible to the west of the test plots and appears to have re-vegetated consistent with the surrounding native vegetation (Photo 18).

VIOLATIONS

As discussed above in the background section, violations of SMARA continue for slope stability, both the pit highwalls and the overburden stockpiles, and disturbances outside of the reclamation plan, the EMSA and the south rock processing area. At the time of this 2008 annual inspection, the violation for not signing the topsoil storage pile has been corrected to the County's satisfaction. The slope stability violation is partially being corrected through the re-grading of a portion of the WMSA slopes to a grade of approximately 3H:1V and re-vegetating. Re-grading of the slopes is ongoing. The operator's geotechnical consultant's study will address the final slope angle and stability of these fill slopes. Disturbances outside of the reclamation plan are being addressed in the amended reclamation plant, but until the amended plan is approved, these SMARA violations will continue to be noted.

AREAS OF CONCERN AND ISSUES TO MONITOR

Continue monitoring the WMSA for stability and erosion control. Evaluation of the potential ponding area at the toe of the easternmost portion of the WMSA's northern slope to ensure that it properly drains.

Monitor rockslides in pit's northern highwall, notify county if new landslides occur or the existing rockslides enlarge, particularly further into the RPE

Monitor re-vegetation test plots and report regularly to the County.

Evaluate runoff from the roadway running across the southern pre-SMARA area and implement mitigation measures, if necessary, under the mine's SWPPP to prevent sediment discharge to Permanente Creek.

FINANCIAL ASSURANCE

The operator submitted a financial assurance cost estimate (FACE) to the County in April 2008. The County certified this FACE and forwarded the calculations to the State Office of Mine Reclamation (OMR) for review. The County received an increased financial assurance (FA) from the operator for the amount of $9,208,771.00. In a letter dated June 27, 2008, the OMR determined the amount required under the FACE to be appropriate and requested a copy of the increased FA. The County forwarded a copy of the FA to OMR with a letter dated July 7, 2008. No further calculations are required of the operator at this time.

CONCLUSIONS AND RECOMMENDATIONS

Permanente Quarry is in general compliance with SMARA, except for the stability of the rockslides in the pit and rock storage piles, and disturbance of lands outside of the approved mine boundary. These issues are being addressed in the amended reclamation plan. The operator has taken steps to either correct the other violations (beginning the re-grading and re-vegetating the WMSA rock storage, signing the topsoil stockpile, and erosion control measures in EMSA), or is beginning the process to remedy the lack of topsoil by establishing re-vegetation test plots. The following tasks should be undertaken to control potential erosion and maintain slope stability on the site.

Re-grading and re-vegetation of the perimeter slope of the WMSA rock storage pile should continue.

Re-grading of the toe of the slope in the easternmost portion of the northern WMSA rock storage pile to prevent potential ponding of runoff.

The operator's geotechnical consultant should evaluate the long-term stability of the south side of the WMSA rock storage pile giving consideration the to presence of the pre-SMARA waste piles along the toe of the slope.

The potential sedimentation to Permanente Creek from the road across the southern pre-SMARA waste piles should be evaluated and mitigated if necessary. The operator should contact the California Department of Fish and Game for consultation, as well as the San Francisco Bay Regional Water Quality Control Board, to determine whether the issue falls under their jurisdictions.

The progress of the re-vegetation test plots should be regularly reported to the County.

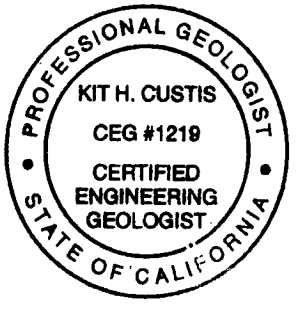
The drainage ditches constructed in EMSA rock storage area should be monitored and repaired as necessary.

The operator's geotechnical consultant should provide a letter that evaluates the status of the Haul Road Slide, describes any future studies that will be undertaken to assess the extent and condition of the slide, and makes recommendations, as necessary, for modification of the slide mass or the WMSA to ensure long-term stability.

LIMITATIONS

Our services are limited to providing professional opinions and recommendations made in accordance with generally accepted engineering geology principles and practices. No warranty, expressed or implied, of merchantability or fitness, is made or intended in connection with out work, by our proposal for consulting or other services, or by our oral or written reports or findings. Our services have been limited to review of the reclamation plan as provided by the County, review of previous available annual SMARA inspection reports, visual field inspections, discussions with the County and operator staff, and the preparation of this letter report.

If you have any questions please feel free to contact me at (530) 750-7076 or e-mail me at kcustis@pmcworld.com.



Sincerely,
PMC

Kit H. Custis
Engineering Geologist – Hydrogeologist
CEG 1219, CHG 254
Expires on 2/28/2010

KHC: KC: BM

Enclosures/Attachments

2008 SMARA Inspection Photos

Cc: Henrik Wesseling, Lehigh Southwest Cement Company

2008 SMARA Inspection Photos

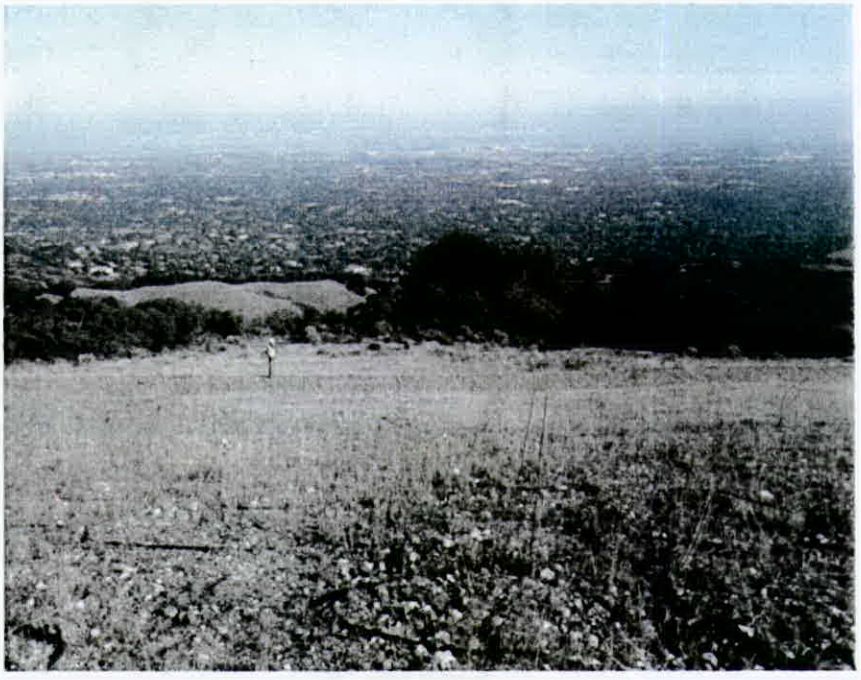


Photo 1: Recently re-vegetated north slope of West Material Storage Area (WMSA) at Permanente Quarry, looking north. Dated December 9, 2008.



Photo 2: Looking east at regarded and recently re-vegetated north slope of the WMSA. Dated December 9, 2008.



Photo 3: North slope of WMSA planted two years ago, looking north. Dated December 9, 2008.



Photo 4: Looking east at drainage ditch cut into north slope of WMSA at approximately mid-height. Ditch will eventually be removed. Dated December 9, 2008.

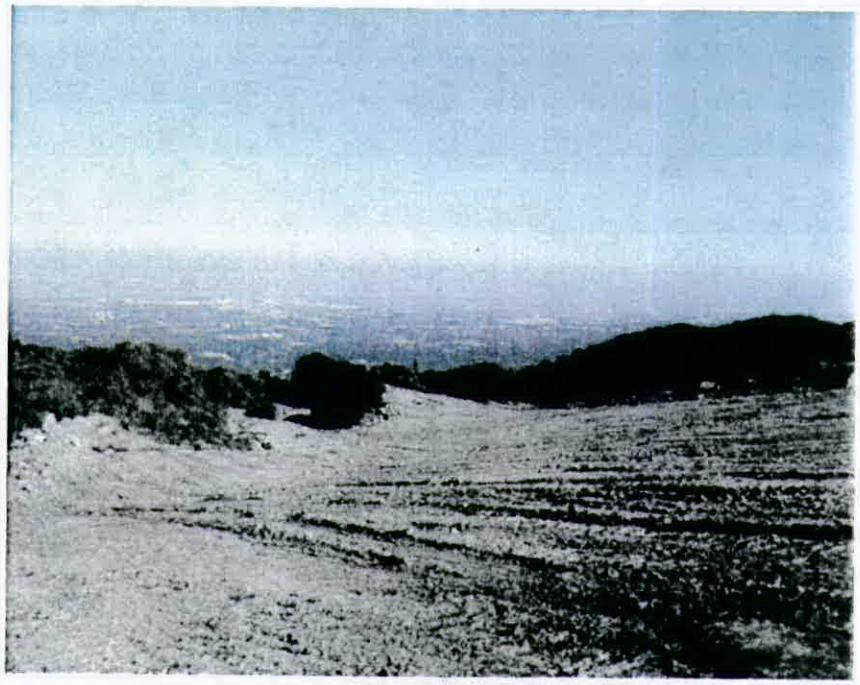


Photo 5: Recently regarded portion of WMSA slope just east areas shown in Photos 1 to 4. Area was recently hydroseeded for erosional control this winter. A potential small closed basin may be present at toe of regarded slope. Dated December 9, 2008.



Photo 6: Road through pre-SMARA slope south side of WMSA. Drainage to left is Permanente Creek. Dated December 9, 2008.



Photo 7: Low point in road through pre-SMARA slope. Permanente Creek at toe of slope. Dated December 9, 2008.

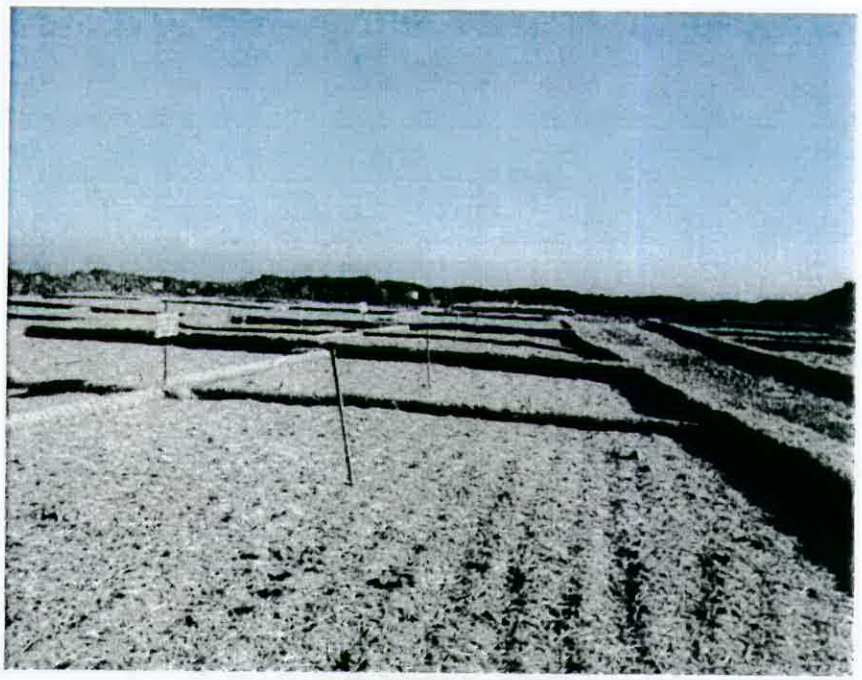


Photo 8: Re-vegetation test plot southeast side of WMSA, looking east. Date December 9, 2008.

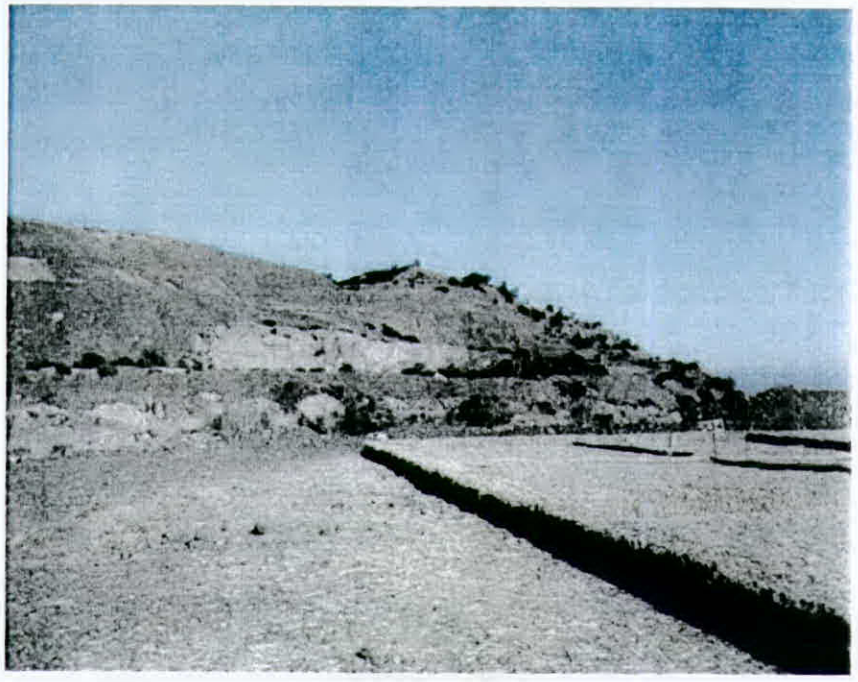


Photo 9: Re-vegetation test plot southeast side of WMSA, looking north at stockpile and top of quarry. Dated December 9, 2008.



Photo 10: Quarry de-watering discharge pond at end of road, looking east. Permanente Creek is to the right of road. Dated December 9, 2008.

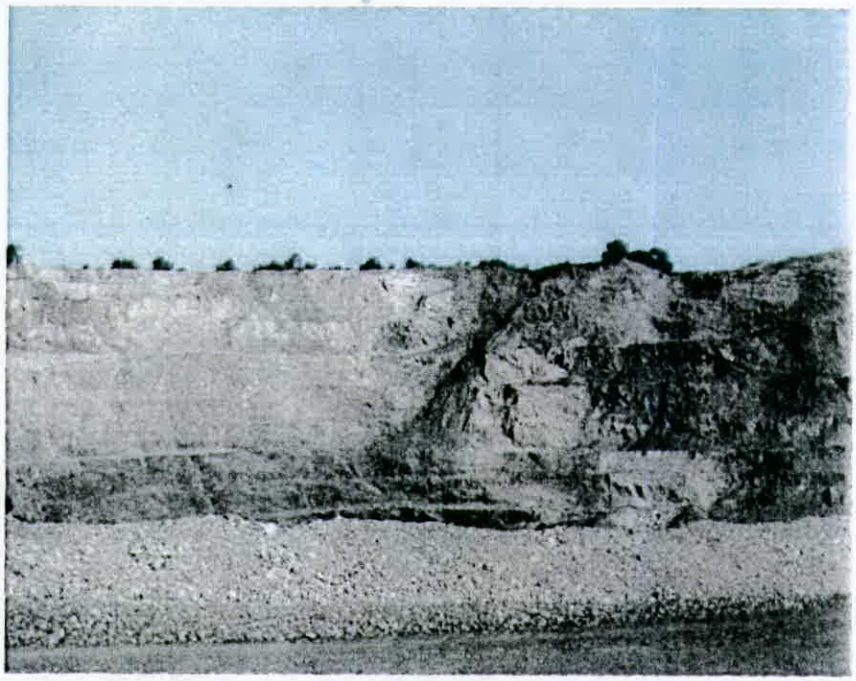


Photo 11: Northeast portion of the pit with Mid-Pen Rockslide at right center of photo, looking north. Dated December 9, 2008.



Photo 12: Northwest portion of the pit with Scenic Easement Rockslide at right center and the lower portion of Main Rockslide at left center of photo, looking north. Dated December 9, 2008.



Photo 13: Bottom of pit looking south. Water in pit is being pumped out, water is used for dust control or discharged into pond shown in Photo 10. Dated December 9, 2008.

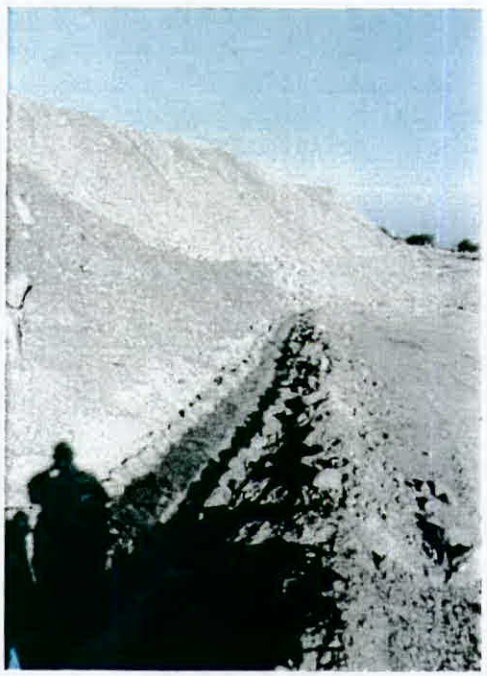


Photo 14: Stormwater drainage ditch installed in East Material Storage Area (EMSA) to direct runoff into holding ponds at plant site, looking north. Dated December 9, 2008.



Photo 15: Drainage diversion structure in stormwater ditch in EMSA. Culvert discharges to ditch shown in Photo 14. Dated December 9, 2008.

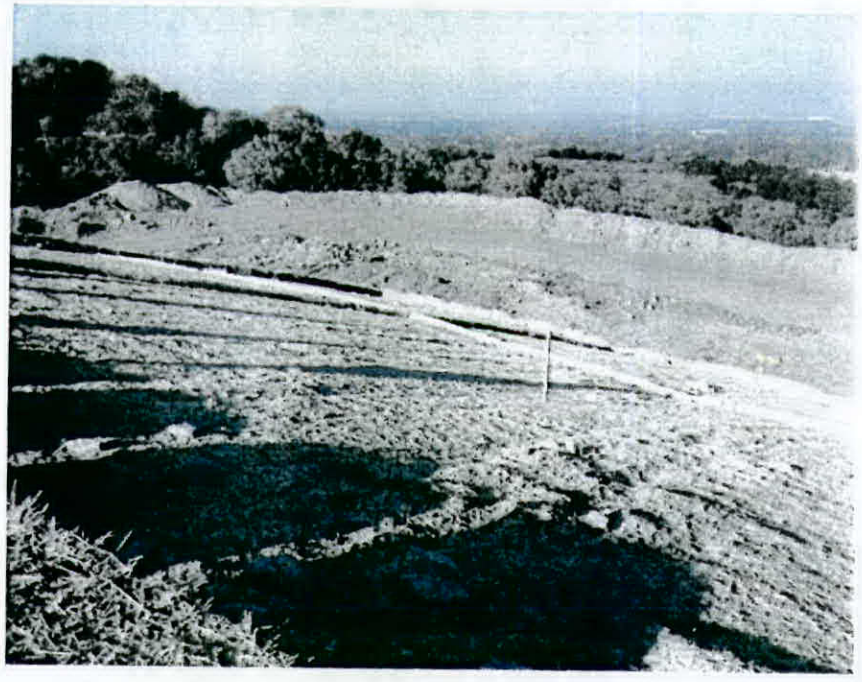


Photo 16: Re-vegetation test plots on north slope of EMSA, looking north. Dated December 9, 2008.



Photo 17: Recently hydroseeded north slope of EMSA, looking north. Dated December 9, 2008.

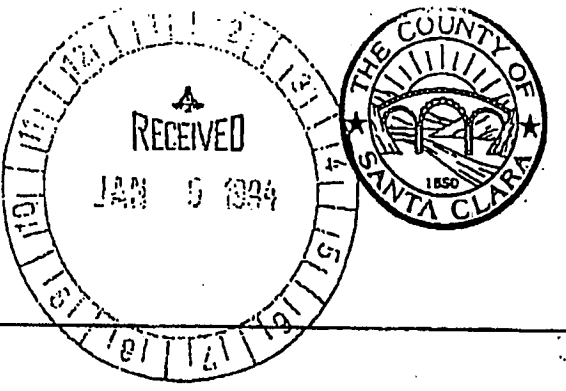


Photo 18: Looking west from EMSA at re-vegetated older rock storage area at center of image. Dated December 9, 2008.

ounty of Santa Clara
ce of the County Counsel

Government Center, East Wing
West Hedding Street
i Jose, California 95110-1770
8) 299-2111
8) 292-7240 (FAX)

ven M. Woodside
unty Counsel



MEMORANDUM

TO: Dianne McKenna, Supervisor Fifth District

FROM: Steven Woodside, County Counsel
James Lewis, Deputy County Counsel

RE: Kaiser Cement Company

DATE: January 4, 1994

Thank you for your referral regarding Kaiser Cement Company. A discussion of each question you have raised follows a summary of our conclusions.

Summary

Under its general police power, the County has the authority to regulate the trucking activities associated with uses which it conditionally approves, except in those areas the State of California has preempted. The Vehicle Code preempts such issues as truck speed, noise, weight and operating conditions, based upon the need and desirability for uniformity of such standards throughout the state. Limits on the timing of trucking operations, such as those imposed upon the Stevens Creek Quarry, are not preempted, though their subsequent imposition on a permitted activity will be constrained by equitable principles.

Once a person has invested substantial expenditures in reliance upon a duly issued permit, that person secures vested rights to continue the activity in accordance with the original conditions of the entitlement, subject to limited exceptions. As a general matter, the revocation of the entitlement, or, in our view, any subsequent modification of the conditions of the entitlement which materially affects the activity, must be based upon a finding that the activity constitutes a nuisance.

Whether an activity constitutes a nuisance, thereby supporting subsequent revocation or material modification of an entitlement, depends on whether the activity is conducted so as to be a substantial and unreasonable interference with another's free use and enjoyment of their property. In evaluating this factual issue, courts have looked to such factors as locality, surroundings, prior use, and the nature and extent of the injury caused thereby. In all

likelihood, a court would also consider Kaiser's efforts to mitigate the traffic impacts of its activities in evaluating whether nighttime trucking rises to the level of a nuisance.

Discussion

1. Under what land use authority does the Kaiser Cement facility operate?

Kaiser Cement Company operates under the authority of Use Permit #23, originally granted by the Planning Commission on April 28, 1939, and confirmed by the Board of Supervisors June 8, 1939, following appeal of the Planning Commission action. During the 1950's, Kaiser's original permit was amended to permit the installation of additional kilns.

In 1977, Kaiser began to secure necessary clearances for the modernization of its plant, applying on August 12, 1977, for a Categorical Exemption for the proposed modernization. Ultimately, the Planning Commission adopted the Categorical Exemption, and approved Architectural and Site Approval Committee conditions for the modernization. These actions were appealed to the Board of Supervisors, which denied the appeal, thereby upholding the Planning Commission's action, on December 5, 1977. It was as a result of the public debate concerning these actions that the Kaiser Committee was formed, leading to Kaiser's eventual commitment to install soundwalls, and to complete other mitigations of the noise associated with trucking.

2. Are there any restrictions or limitations on the Kaiser facility?

As is typical with many of our older use permits, very few specific conditions apply to the Kaiser facility, apart from the general requirement that the use "...shall be conducted and shall conform in all particulars to the provisions of all applicable laws and ordinances." The principal specific condition simply requires the dimensions of buildings to be in substantial conformity with the plant lay-out submitted to the Planning Commission, subject to "...such changes and/or modifications as may be desirable." The 1977 ASA conditions are more thorough and technical, but did not reach the number, timing, or other particulars regarding truck traffic.

3. Under what circumstances can the County modify or condition the operation of the Kaiser facility?

Section 50-5 of the Zoning Ordinance provides the Planning Commission authority to revoke or to modify any use permit if it reaches any one of the designated findings. Section 50-5(3) provides, for example:

> That a nuisance or detriment to the public health or safety arising from the exercise of the activity authorized by the permit or from changed circumstances necessitates the revocation of the permit, or the modification of or addition to the permit

conditions;

This authority is subject to general state law regarding vested interests. Since Kaiser has invested considerable sums in reliance upon their entitlement, they have a vested right to continue their operations without modification of conditions, except to the extent those operations constitute a nuisance. Their permit may not be revoked, nor, in our view, may new conditions be imposed which materially impact their business, without a finding that those operations are now a substantial and unreasonable interference with the use and enjoyment of others' property. In evaluating this factual determination, courts have traditionally looked to a variety of factors, including locality, surroundings, prior use, and the nature and extent of injury caused. Efforts to mitigate traffic impacts may also be relevant to this determination.

4. What is the process for initiating a modification?

The Planning Commission may initiate proceedings to revoke or modify a use permit on its own motion, or upon the request of an interested person. If requested to consider revocation or modification, our practice has been to agendize consideration of the request at the next Commission hearing, and agendize the hearing on revocation or modification at a subsequent hearing, should the Commission so direct.

5. Is a change in external conditions (encroaching residential development) sufficient cause to modify Kaiser's operation?

As appears above, under Section 50-5(3) of the Zoning Ordinance "...a nuisance or detriment to public health or safety arising ...from changed circumstances..." may support revocation or modification of a use permit. Such changed circumstances could include encroaching residential development, though equitable principles may constrain the imposition of new conditions which materially impact the business.

6. Does the County have the power to regulate trucking or limit business operations that may be determined to pose a threat to public health and/or are a public nuisance?

The County clearly has police power to mitigate traffic, noise and other impacts of an activity which it permits. At the time a discretionary approval is originally issued, or at such time as the original permit is modified, limits may be imposed upon the number of truck trips, or the hours during which such traffic may occur.

Once an applicant's rights to the permitted activity have vested, however, the subsequent imposition of such conditions depends on the findings noted above.

7. To what extent does the State Vehicle Code preempt County control over truck speed, noise, weight, or operating conditions?

The Vehicle Code would appear to preempt local regulation of each of these issues, as uniformity of regulation is necessary and desirable, and the State appears to have fully occupied the field.

8. Are there any actions that the City of Cupertino, the State, or other governmental units could take to deal with this problem -- either alone or in concert with the County?

9. Are there any other legal actions or avenues the County could take to achieve the goal of eliminating nighttime truck traffic?

Just as the County's ability to materially alter the conditions of the Kaiser use permit rests on a finding of nuisance, affected residents have standing to raise their concerns regarding night-time trucking in a civil action for the abatement of a private nuisance. To the extent a court were convinced that these concerns affect a significant number of people, either the City and the County may have standing to raise such issues in a civil action to abate a public nuisance.

In evaluating such claims, a court would look to the same factors noted above, in order to determine whether the challenged activities were a substantial and unreasonable interference with the rights of the public, as well as the further, remedial determination of whether those factors justify the issuance of an injunction. In deciding whether to issue an injunction, a court would balance the relative interests and harms involved.

10. The County imposes limits on nighttime trucking at Stevens Creek Quarry. How does the County's authority over Stevens Creek Quarry differ from the County's' authority over Kaiser Cement?

The County's authority over Stevens Creek Quarry differs only with respect to the vested rights that Kaiser Cement has by virtue of its 1939 entitlement, and subsequent development in reliance thereon. The County imposed trucking limits on Stevens Creek Quarry at the time the use permit was modified, following meetings between the Quarry and neighborhood representatives.

As noted above, the imposition of such limits is within the police power of the County when it originally considers a discretionary permit, or at the time of its modification. Accordingly, were Kaiser Cement to apply for an modification of its use permit, the County would have the authority to impose limits on nighttime trucking as a condition to the granting of such further discretionary entitlement.

PILLSBURY WINTHROP LLP

2550 HANOVER STREET PALO ALTO, CA 94304-1115 650.233.4500 F: 650.233.4545

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May 9, 2003

Wayne M. Whitlock
Phone: 650.233.4528
wwhitlock@pillsburywinthrop.com

VIA FEDERAL EXPRESS

Mr. Gary Rudholm
Senior Planner
County of Santa Clara - Planning Office
County Government Center
East Wing, 7th Floor
70 West Hedding Street
San Jose, CA 95110

Re: Hanson Permanente Cement; Issues Associated with the Reclamation Plan (approved, 1985) and Request for Emergency Grading Authorization (#2002-4).

Dear Gary:

This is to follow up on our recent meeting and correspondence regarding the location and extent of the ridgeline easement granted to the County in 1972 and the rights and obligations of the County and Hanson associated with that easement.

As you recall, we agreed to address the issues associated with the quarry in a stepwise fashion. We look forward to continuing our dialogue on the issues addressed in our April 4, 2003 letter. In addition, with this letter, we are providing information and analysis on the subject of Hanson's current quarrying activities, its plans for mining in the future at Permanente and the relationship of both to the reclamation plan for this facility. In that regard, we are providing two maps that we discussed in our meetings and that you requested in your January 6, 2003 letter to David Disbrow.

A. Quarrying at the Permanente Facility and Hanson's Reclamation Plan

As you know, Permanente quarry has been in operation since before 1939. Because quarrying activities were in progress prior to the State's and the County's regulation of such activities, the right to quarry is a "grandfathered," or legal non-conforming, use. The California legislature passed the California Surface Mining and Reclamation Act (SMARA) in 1975.[1] In June 1982, the

[1] Public Resources Code section 2776 provides: "No person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit pursuant to this chapter as long as the vested right continues and as long as no substantial changes are made in the operation except in accordance with this chapter. A person shall be deemed to have vested rights if, prior to January 1, 1976, he or she has, in good faith and in reliance upon a permit or other authorization, *if the permit or other authorization was required*, diligently

(... continued)

County adopted surface mining and reclamation standards in compliance with SMARA.[2] Accordingly, the County's SMARA standards govern reclamation at the facility, while the mining at the site continues as a legal nonconforming use. Of course, although Hanson's mining and its mining plans operate under these independent rights, Hanson's mining plans are closely related to the reclamation plan governed by SMARA.

The County Planning Commission approved the reclamation plan for the Permanente facility on March 22, 1985. The reclamation plan, the underlying staff report, and the County's conditions of reclamation plan approval all characterize the approved plan is an interim one. By its terms, the reclamation plan addresses only "the next 25 years of the quarry's operation," i.e., until the plan's expiration in 2010 unless the Planning Commission renews or amends it prior to that date. Condition of Reclamation Plan Approval No. 5. The reclamation plan provides that "[u]ltimate reclamation of the pit area, or treatment of future quarry operations, will be addressed in a revised reclamation plan to be submitted around the year 2005 when this reclamation phase nears completion." Reclamation Plan at 2, 18, 23; see also Staff Report (March 7, 1985) at 2. The plan speculates as to the types of operations that could continue beyond the term of the plan. Id. at 23. It also states that "the time span of the total life of the operation is only an estimate and is subject to future modification." Id.

B. Standards for Reclamation Plan Amendments

SMARA, its implementing regulations and the Santa Clara County Code provide comprehensive procedures to amend approved reclamation plans. Under SMARA,

> Amendments to an approved reclamation plan may be submitted detailing proposed changes from the original plan. Substantial deviations from the original plan shall not be undertaken until such amendment has been filed with, and approved by, the lead agency. Pub. Res. Code § 2777; 14 Cal. Code Regs. § 3700(c).

Of course, the County serves as the lead agency for the reclamation plan. The County Code supplements SMARA's amendment procedures in Code sections 4.10.370(H) and (I). Subsection (I)(1) provides:

(... continued)
commenced surface mining operations and incurred substantial liabilities for work and materials necessary therefor." (emphasis added).

[2] Current surface mining and land reclamation provisions are located in section 4.10.370 of the Revised Zoning Ordinance of the Santa Clara County Code.

> Any person having an approved reclamation plan may file for modification of such an approved reclamation plan. Requests for modification shall be reviewed and acted upon by the planning commission.

Further, the Zoning Ordinance authorizes the Planning Commission to initiate modification of an approved plan:

> upon its own motion or upon the recommendation of staff... when it reasonably appears that implementation of such plan according to its original provisions will not achieve the reclamation goals originally intended or when it reasonably appears that completion of the plan is no longer technologically, economically or environmentally feasible. Santa Clara County Revised Zoning Ordinance § 4.10.370(I)(2).

C. The Process and Timing for Reviewing and Amending the Permanente Quarry Reclamation Plan

When the County responded to Hanson's recent emergency grading request, the County suggested that an amendment to the reclamation plan may be appropriate in the context of the County's review of that application. November 4, 2002 letter from Mr. Thomas Shih to Mr. David Disbrow. Further, in correspondence dated November 19, 2002 commenting on this matter, Mr. James S. Pompy of the California Department of Conservation stated his view that that the reclamation plan should be amended. Mr. Pompy stated: "We believe that the enlargement of the area affected by mining constitutes a substantial change in the reclamation plan for this site." November 19, 2002 letter from Mr. James Pompy to Mr. James Sirr. The County's November 4 letter did not explain its statement that a reclamation plan amendment may be needed. However, based on our subsequent discussions, we understand that the County has questions as to whether, based on current conditions, the standard set forth in the County ordinance for amending a reclamation plan has been triggered.

As discussed below and reflected on the enclosed map, entitled *Scenic Easement / Quarry Reclamation Map*, Hanson believes that the reclamation plan could be implemented according to its original provisions and that completion of the reclamation plan continues to be technologically, economically and environmentally feasible. If Hanson determined to cease mining at this point, it would be feasible to implement the plan within the quarry and, upon completion of reclamation, the quarry area would meet the contours set forth in the reclamation plan, with the possible exception of the areas at the top of the quarry affected by the slides labeled on the map as "Easement slide" and "Mid-Pen Slide." As the map reflects, in the area affected by the Main Slide, the current contours within the quarry are less aggressive than the finished contours the reclamation plan calls for at the time that mining is completed and the plan is implemented.

Further, as we discussed in our earlier meetings and in our April 4 letter, Hanson believes that the elevation profile set forth in the ridgeline easement has been maintained, so there has been no violation of the condition of reclamation plan approval requiring compliance with the ridgeline protection easement. Finally, the grading work Hanson has proposed outside the quarry area at the Midpeninsula Regional Open Space District property corner would not expand the quarry for mining purposes. No quarrying would be allowed; rather the work would be performed to stabilize these areas.

For all these reasons, Hanson believes that an amendment of the reclamation plan has not been triggered at this point. However, we acknowledge that by its own terms, the reclamation plan is "interim." Furthermore, it recognizes that the life of the quarry could be longer than the plan's original term, so it calls for a review of the plan starting "around 2005." Hanson is currently reviewing its mining plans and anticipates that this internal process will result in changes that will necessitate an amendment to the reclamation plan The map labeled *Possible Future Mining Plan Design Map* shows portions of the quarry that Hanson is considering in its planning process.[3] Therefore, while we believe that the amendment process has not been triggered at this point, we would like to work with you and County staff to develop a schedule for conducting a review of the current reclamation plan and developing and processing an amendment to it. Hanson expects to complete its internal mining plan process in the near future. We would like to meet with you before that time to discuss possible approaches for the reclamation plan review and amendment process and obtain your preliminary thoughts.

D. Enclosed Maps

In addition to the map showing the areas of the quarry under consideration in Hanson's internal mining plan process, we are submitting a map as you requested "showing the current geometry of the quarry, and the location of the scenic easement." This map is entitled *Scenic Easement / Quarry Reclamation Map.* It identifies the:

- boundary of the quarry as shown in the 1985 reclamation plan;
- Hanson/MROSD property line;
- boundaries of the three slides;
- current geometry of the quarry reflected in topographical contours;
- "finished" quarry design contours as shown in reclamation plan;

[3] In your January 6 letter you requested that the map show the future level of mining that would take place; the map provided shows the areas where changes to the previously anticipated levels of mining are under consideration. Because Hanson's planning process is not complete we have not shown actual future "levels" of mining on the map.

- profile of the 1972 Scenic Easement (based on Exhibit C to the Ridgeline Protection Easement Deed), the monuments referred to in Exhibit B of the Ridgeline Protection Easement Deed; and
- area outside the quarry boundary that was disturbed before reclamation plan approval and pursuant to grading plan approval received in 1987 (Grading Authorization No. 87-3).

E. Conclusion

As with the letter preceding our conversation regarding the scenic easement, we hope that this letter will help to set the stage for further discussions with the County to resolve the issues raised regarding the reclamation plan. We look forward to discussing this in person with you and outlining the next steps in this process. We will contact you to arrange for our next meeting at mutually convenient time.

Thank you for your cooperation.

Sincerely,

Wayne Whitlock

Wayne M. Whitlock

Enclosures

cc: Mr. Stewart Smith
Mr. David Disbrow

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

VIA HAND DELIVERY

June 7, 2006

Stephen M. Testa, Executive Officer
State Mining & Geology Board
801 K Street Suite 2015
Sacramento, CA 95814

Subject: Notice to Correct Deficiencies within 45 Days in Compliance with the Surface Mining and Reclamation Act of 1975 and Action Plan to Address Deficiencies in Conformance with SMARA

Dear Mr. Testa:

This letter and its attachments are in response to the Notice to Correct Deficiencies within 45 Days for Compliance with the Surface Mining and Reclamation Act of 1975 (SMARA) you mailed to the attention of Gary Rudholm, Senior Planner, of the Planning Office. The notice is dated April 19, 2006. It was received by this office on April 24, 2006, making the deadline for responding June 8, 2006.

The County of Santa Clara takes its responsibility as the lead agency in implementing SMARA seriously, and is committed to complying with the State's mandates. The discussion that follows provides responses to the alleged deficiencies identified in the Notice. Moreover, it articulates how the County already took steps to improve its SMARA compliance program, and steps it is committed to take that will build on what we have completed so far.

The County did not undertake annual inspections for all the mines within our jurisdiction in 2000 and 2001 due to increased demands from both workload and insufficient staffing. As a result we were behind in our inspections and in the review of financial assurance estimates. Recognizing this, steps were taken to obtain adequate technical

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

staff. In 2003 the County contracted with a third party consultant to assist in conducting inspections and conduct review of the financial assurance estimates from the mine operators. Moreover, in the Spring of 2005 the County hired an additional staff person who was assigned to help administer the program. This individual is obtaining training in SMARA, so far by attending courses from U. C. Davis Extension and the Office of Mine Reclamation (OMR), as well as through attending quarry inspections with our consultant and OMR.

As a result of these changes, the quality of the inspections has improved significantly, and, as noted by staff from OMR in its presentation to the SMGB on April 13, 2006, the amount of funding posted through increased financial assurance mechanisms on file by the mine operators was significantly increased. Refer to a tabulation of the financial assurances on file with the County in Attachment 6, along with supporting documents.

We understand that more work needs to take place, and the County is committed to improving its SMARA Program and being in full compliance with state law. Among the attachments to this letter is the outline of an action plan listing changes to the program, including regular training of staff; regular communications with OMR staff, mine operators, and the community; reporting to the County Planning Commission the status of the program; and continuous use of new and better tools to assure monitoring of the nine mines with compliance of their reclamation plans and posting of adequate financial assurances.

This process includes partnering with staff of the Office of Mine Reclamation who provided assistance in the past and may continue to advise and support us in our efforts. We believe that this team approach — the use of fully trained County staff, use of technical consultants, and advice from State OMR staff — will result in an effective and fully compliant program. The mine operators within Santa Clara County have also expressed their intent to comply fully with SMARA, and their intent cooperatively to work with the County to achieve that goal.

***Deficiency 1**: During the period from 2000 through 2005, the County failed to perform an annual review, adjustment or recalculation of the financial assurance amounts for eight mine sites in 2001, and all nine sites for the years 2002, 2003, and 2004 (Category 1 violation pursuant to PRC Section 2774.4; deficiency pursuant to PRC Sections 2773.1(a)(3) and 2774(b)):*

Azevedo Quarry
Calaveras Quarry

Curtner Products
Freeman Quarry (Mine activity commenced in 2002)
Permanente Quarry
Lexington Quarry
Polak Pit Quarry
Serpa Pit
Stevens Creek

Response:
The County acknowledges that, due to work load and staff resource issues, it did not conduct financial assurance estimate review as part of the annual SMARA inspections from 2000 through 2003 because in-house staff assigned to conduct the inspections and administer SMARA compliance did not have adequate expertise, background, or training for this purpose. This was noted in reports on the standard MRRC-1 forms submitted to the State. County staff realized that it needed assistance. Consequently, Planning Office staff sought and obtained authority from the County Board of Supervisors in 2003 to collect additional fees from the mine operators to cover the costs of retaining and using a third party consultant for this purpose. The Planning Office then solicited proposals from third party consultants who could provide such services. (Refer to documents contained in Attachment 2.)

In 2004 the County retained a consultant who conducted the annual SMARA inspections with staff, and prepared the annual report that was reviewed and approved by staff. As part of this process the consultant assisted the County staff in obtaining revised financial assurance estimates (FAE) from the mine operators. The consultant provided review of the estimates and advised County staff regarding the adequacy of them. Following this submittal and review process the County approved the revised estimates and required increased financial assurance mechanisms for five of nine mine operations. It was determined that the financial assurances for three of the mines, the Calaveras Quarry, Curtner Quarry, and the Polak Pit Quarry, were adequate. It was also determined that the financial assurances for the Hanson Permanente Quarry may be reduced.

In the case of the Calaveras Mine, during the 2004 SMARA inspection the consultant retained by the County, based on his professional judgment and experience in the field, advised staff that the amount of work required to adequately establish proper slopes to the land, re-vegetate the property, and restore the site to its proposed end use, as open

hillside space, would not be extensive. The consultant prepared an FAE for the County that determined the existing financial assurance mechanism was adequate.

In the case of the Polak Pit Quarry, most of the reclamation work was completed by the 2004 inspection. Earth moving activities were complete, the irrigation system was installed and much of the new vegetation was planted. The activities necessary for Polak in subsequent years were limited to monitoring the growth of vegetation, and establishing the necessary habitat as a result of the vegetation growth. Therefore, the County concluded that no increase in the amount of financial assurances for this particular mine site were warranted and, in fact, a reduction likely would be warranted in the future. Therefore an increase in the financial assurance mechanism was not required. In the case of the Curtner Quarry the existing financial assurance was found to be adequate and no change was required.

The updated financial assurance mechanisms for five of the remaining six mines were significantly increased in the 2005 calendar year; one mine, Hanson Permanente was allowed to decrease its financial assurance mechanism following the submittal of its FAE and the third party, independent review. Copies of the revised financial assurance mechanisms are included with this letter in Attachment 6. The adjusted mechanisms were received from six of the quarries in 2005. Based on the County's 2005 SMARA inspections, which included the annual review of the financial assurance mechanisms, the County determined that the financial assurances on file for those six quarries did not require further adjustments that year. The County believes the review of the financial assurances in 2004 and 2005 were consistent with SMARA and the SMARA Financial Assurance Guidelines because the approach used by the County's consultant includes tabulating costs in several categories. These categories include a review of acreage and volumes for soil and back fill, a review of grading and vegetation, maintenance and monitoring vegetation, and removal of applicable equipment and structures, along with direct and indirect costs.

In 2005 County staff received correspondence from Office of Mine Reclamation staff regarding the financial assurance estimates provided by the mine operators and reviewed and approved by the County as part of the 2004 annual inspections. The County believed that any potential problems with the FAEs could be addressed during the 2005 inspections and annual FAE review, and that a separate response to the OMR correspondence was not necessary. County staff has since learned that the obligation to provide such response regarding the FAEs cannot be deferred to the next inspection.

As part of the improvements to our inspection program, all such correspondence will be addressed within the 45 day time frame mandated by SMARA.

The use of the third party consultant was instrumental in the County increasing its technical ability to adequately advise the mine operators of their SMARA obligations related to conducting the financial assurance estimates. It also led to significant increases in most of the bonds posted for the financial assurance mechanisms on file with the County. The staff available for administering SMARA-related tasks has increased, thanks to recent staff recruitment. New, additional staff is assigned to SMARA implementation and is obtaining training. While the County will continue to use the services of a third party consultant to assist with annual inspections and to ensure that financial assurance estimates are thoroughly reviewed by technically competent and experienced personnel and comply with State law and regulations, the County understands that it must be actively involved in these matters and cannot delegate its lead agency responsibilities to consultants.

The County will continue to use the services of a third party consultant, in conjunction with County staff, to conduct the annual inspections of the surface mines in unincorporated Santa Clara County. The County will submit FAEs along with the annual SMARA inspection report to the State Office of Mine Reclamation. In compliance with SMARA, the County will promptly respond to comments provided by the State Office of Mine Reclamation regarding the inspection reports and/or the FAEs. County staff will, in implementing the attached SMARA Action Plan, continuously obtain training in SMARA requirements and in conducting mine reclamation inspections.

***Deficiency 2**: The County failed to take steps to make adjustments to the financial assurance mechanisms promptly following increases in the financial assurance amounts, for two mine sites (Category 1 violation pursuant to PRC Section 2774.4; deficiency pursuant to PRC sections 2773.1(a)(3) and 2774(b)):*

Calaveras Quarry
Azevedo Quarry.

Response:
The Calaveras Quarry was an idle mine for twenty years, and was maintained consistent with an approved interim management plan. No additional harvesting or ground disturbance took place during that time. The erosion controls and surface water management measures put in place remained effective in preventing erosion and

managing storm water runoff. The mine operator, through its consultant, advised County staff verbally that it did not intend to recommence mine operations.

The County informed the mine operator, both to its consultant and a representative, that the interim management plan had expired, and that the operator must either enter into a new interim management plan or commence reclamation. All of this communication was done verbally (during meetings at the County, over the telephone, and during the 2004 and 2005 SMARA field inspections). County staff believed the mine operator understood its responsibilities and that a revised reclamation plan would be submitted.

During the 2004 SMARA inspection, the consultant retained by the County advised staff that the amount of work required to adequately establish proper slopes to the land, re-vegetate the property, and restore the land to its proposed "open space" land use, would not be extensive. The consultant estimated that the existing bond posted by the operator was sufficient, and that a new or adjusted financial assurance is not required. (The existing financial assurance posted is in the amount of $70,380.65; the consultant's independent calculation to reclaim the site was in the amount of $72,210.00, a difference of ±3 percent.) For this reason the County did not require a new bond or bond rider be posted to increase the financial assurance mechanism. Please refer to correspondence found in Attachment 6.

A review of the financial assurance estimates did require an increase in the financial assurance mechanism on file for the Azevedo Quarry. The mine operator was advised of this requirement in a letter dated May 5, 2005. In June 2005 the mine operator submitted a Reclamation Surety Bond Increase consistent with the required FAE stipulated by the County. A copy of the increase rider may be found in Attachment 6.

***Deficiency 3**: The County failed to require mine operators to submit amended reclamation plans as a result of observed SMARA violations for at least two mine sites (Category 1 violation pursuant to PRC Section 2774.4; deficiency pursuant to PRC Section 2774(b) and 2774.1(a)):*

Lexington Quarry
Permanente Quarry.

Response Regarding Lexington Quarry:
In the case of the Lexington Quarry, the mine operator timely filed to renew its existing Use Permit and also modify the permit to expand the area subject to quarrying. The operator also filed for modification of the associated reclamation plan. At the time of

application submittal it was recognized by the applicant and by staff that the mine operator had located its scale house and office outside of the Use Permit area. The mine operator also disclosed that, in working with the Regional Water Quality Control Board, it had moved material and expanded a sediment pond outside of the Use Permit area. During the processing of the Lexington Quarry application, County staff was informed by the environmental consultant preparing the CEQA documentation for the applications that it appeared that material used to expand the sedimentation pond came from an area outside its use permit and reclamation plan boundary. Upon further review, this information was confirmed.

When a permit applicant is working with the County toward the issuance of new permits and a violation is found in the course of processing the application, the normal practice by the County is to continuously work with the applicant until the violation is abated and the site is brought into compliance. For this reason, the County Planning Commission modified the permit conditions to clearly require strict compliance with the boundaries in the existing use permit and reclamation plan, and the quarry agreed to adhere to these conditions while its applications were being processed. Staff did not realize that SMARA mandated a process to cite the mine operator for a SMARA violation and, instead, responded by requiring the mine operator modify its Use Permit and Reclamation Plan applications to include the area where the additional disturbance had occurred. Those applications are still being processed. An estimated timeline for completing the project EIR and bringing the matter before the County Planning Commission is included in Attachment 4.

Staff recently received another report that the operator might be conducting quarrying activities outside the existing Use Permit and Reclamation Plan boundaries. Staff required the applicant to provide engineered diagrams to demonstrate that the operator had not exceeded these boundaries. The mine operator provided the diagrams, which included an aerial photograph of the site taken less than one week prior to submitting them. Staff conducted a site visit with these diagrams in hand on May 31, 2006, to compare the information with the field. This inspection found that no violation had occurred, and that the mining activities were and remain within the Use Permit and Reclamation Plan boundaries.

Response Regarding Permanente Quarry:

In the case of the Permanente Quarry, also known as the Hanson Permanente Quarry, staff has been working with the mine operator for approximately four years to address

several issues. (Refer to copies of correspondence and progress reports addressed to the Board of Supervisors found in Attachment 5.) The County believes that the boundary encroachments that the State observed are actually landslides at the rim of the mine pit. These slides are not located in areas actively being mined. Because the slides appear to be caused by a combination of natural forces (e.g., heavy rainfall, unstable soils) and mining activity in other areas, they were not deemed violations under SMARA. Nevertheless, the County recognized that repairing the slides needed to be addressed through appropriate slope stability remediation that expanded beyond the boundaries of the existing reclamation plan. This remediation would affect a portion of land owned by another party – the Midpeninsula Regional Open Space District ("Midpen").

The County required the mine operator to modify the existing reclamation plan to address the slope stability and other issues (including impacts to a scenic ridge easement held by the County). In order to accomplish this, the mine operator was required to work with and negotiate a land exchange (or "land swap") and subsequent lot line adjustment with Midpen. Staff from Midpen met with County staff to impress upon the County the importance of the land swap it was pursuing with the Permanente Quarry. The exchange of land is expected to benefit Midpen and the community by improving the alignment of a trail that runs the Midpen land holdings. Staff has met with the mine operator several times to discuss this and other issues associated with the mine, and has been actively monitoring the progress made in this regard. Unfortunately, the negotiations between Midpen and the Quarry have taken much longer than anticipated. Other issues include potential impacts to a ridgeline easement established by the County in 1972, and slope stability of the hillside adjacent to certain mined areas of the quarry. The mine operator intends to file for modification of the reclamation plan in 2006 to address the various landslide issues.

When a proposal for modification to the existing Hanson Permanente Quarry's reclamation plan is submitted, the County will refer the proposal to the State Office of Mine Reclamation for comments as required under SMARA. A referral to OMR will also take place with the associated CEQA document, when it is ready. The County intends to contract with its outside consultants with expertise in this area for assistance in reviewing the proposed reclamation plan modification, to assist in preparing the CEQA document, and assist in preparing reclamation standards to include in the revised reclamation plan.

***Deficiency 4**: The County failed to perform SMARA mine inspections for eight of the nine mine sites in 2001, although the County performed annual SMARA inspections for all nine mine sites from the years 2002 through 2005. However, the quality of the inspections is uncertain. Notably, the County failed to issue any violations from 2001 through 2005 (Categories 2 and 4 violations pursuant to PRC Section 2774.4; deficiency pursuant to PRC Section 2774(b) and 2774.1(a)).*

Azevedo Quarry
Calaveras Quarry
Curtner Products
Permanente Quarry
Lexington Quarry
Polak Pit Quarry
Serpa Pit
Stevens Creek

In regards to the Lexington Quarry, three violations were reported by the Office of Mine Reclamation's (OMR) in their July 2005 inspection report for the site; whereas, the County's inspector referenced such violations but provided no quantification or description of the violations. The County did not issue a notice of violation.

Response:
The County acknowledges it did not conduct inspections during 2000 and 2001. The 2002 reports were submitted to the State Office of Mine Reclamation and clearly stated that the 2002 inspections were to cover the 2000 through 2002 time frame, due to the break between site visits. Annual inspections have occurred since 2002. The County therefore believes that this deficiency has been remedied.

As described previously, County staff was stretched in 2000 and 2001 and did not adequately keep up with its inspections, nor did staff realize the potential consequences of failing to conduct the inspections. Realizing the need for additional assistance, staff proceeded to (1) obtain authority from the Board of Supervisors to collect fees from the mine operator to cover the expense of retaining a consultant, and (2) begin searching for a qualified consulting firm who could augment staff's role by providing the technical services and advice necessary for the County to satisfy this requirement.

In 2003 staff solicited proposals from consultants to provide services for SMARA inspections and review of financial assurances. In that same year the Board authorized staff to collect fees from the mine operators to cover the costs of a consultant, along with administrative fees for managing the contract. (Refer to Attachment 2 for copies of

the staff report to the Board of Supervisors, which led to authorization of a fee increase, the Request for Proposals (RFP), and responses to the RFP.)

In late 2003 the contract and fee collection to cover the consultant expenses were not complete. For this reason, the County staff visited the surface mines and completed the State report forms, which were submitted in December 2003. (Refer to Attachment 7 for copies of the forms provided at that time.) We did not receive any feedback from the State regarding any problems with the reports.

In 2004 the County consultant conducted the annual SMARA inspections and assisted staff in informing the mine operators of the requirement to submit revised financial assurance estimates (FAE). Revised estimates were received and reviewed by the County consultant. Based on advice from the consultant, the County informed five of the nine mine operators that they were required to provide increased financial assurances; a sixth was allowed to submit a decrease rider to its financial assurance. All six of the mine operators have provided adjusted financial assurances.

In regard to the Lexington Quarry, County staff was aware of the inspection report from OMR, which was not released until November 2005. That report identifies three violations. Those violations identified by the OMR report, and the County's response is as follows:

1) Slope West of Sediment Basin No. 2. The County has required the operator to take the corrective measures described in the OMR report as part of the Use Permit Renewal and Expansion, and the Reclamation Plan Amendment process. Because this corrective process was already in place, staff did not formally cite the operator. As previously stated, the normal procedures used by the County, when an application is being processed and violations are found, is to work with the applicant in order to achieve compliance.

2) Impacts to ground water. Based on allegation raised by neighbors, consultants working for the County through the Environmental Impact Review (EIR) process have been studying the water situation at Lexington Quarry to determine if there is any relationship between water at the quarry and problems with wells supplying ground water to nearby homes. That study has not yet been concluded. Consequently, at this time, it has not been factually established that the quarry operation actually impacts ground water resources. The study will be

completed and incorporated into the EIR according to the schedule which is included in Attachment 4. Should the study find that there are any existing or potential impacts to ground water, the County will evaluate all potential means to mitigate or avoid such impacts.

3) Revision of Financial Assurance. By the time the County received the report from OMR in November 2005 it had already required the mine operator to post a financial assurance mechanism, which exceeded the amount stated by OMR in its report. Staff therefore did not find it appropriate to cite the operator for a violation because the issue was already cured.

***Deficiency 5**: The County failed to enforce and seek forfeiture of the financial assurances of the Calaveras Quarry upon its abandonment by the operator (Category 4 violation pursuant to PRC Section 2774.4; deficiency pursuant to PRC Section 2773.1(b)).*

Response:
The County staff contacted the mine operator's representatives on several occasions by telephone. County staff pointed out to the mine operator in the field during the 2004 and 2005 SMARA inspections that it had an obligation to commence reclamation, or seek a Use Permit to recommence mining operations. The operator advised staff it did not intend to commence operations again, and would instead seek a modification of the existing reclamation plan because the approved reclamation plan would require an extensive amount of grading to establish the approved contours and elevations.

Following the 2005 SMARA inspection, and as stated in the 2005 Surface Mining Inspection Report filed with the State Office of Mine Reclamation, the mine operator was to work with County staff to develop final reclamation performance criteria for implementation by March 31, 2006. No proposals were submitted to the County by that deadline. Consequently, and under the advisement of staff from the State Office of Mine Reclamation, the County issued a Notice of Violation to the mine operator on April 12, 2006.

County staff stayed in contact with the mine operator's consultant, who informed staff that the plans to be submitted for review by the County for modification of its reclamation plan are being prepared and a submittal would be made within the 45 days. The deadline for this submittal was May 29, 2006, and the mine operator filed for the

modification on May 25, 2006, within the time frame stipulated in the Notice of Violation. Refer to Attachment 3 for copies of related documents.

***Deficiency 6**: The County failed to enforce and request from the operator of the Calaveras Quarry commencement of reclamation activities upon expiration of the Interim Management Plan (IMP) in August 2003 (Category 3 and 4 violations pursuant to PRC Section 2774.4; deficiency pursuant to PRC Section 2770(h)(6)).*

Please refer to response and comments under the previous section, "Deficiency 5."

***Deficiency 7**: The County failed to enforce and require surface mining operators to submit annual written calculations of the financial assurance amount for all eight mine sites in 2001, and all nine mine sites for years 2002, 2003 and 2004 (Category 4 violation pursuant to PRC Section 2774.4; deficiency pursuant to CCR Section 3805).*

Azevedo Quarry
Calaveras Quarry
Curtner Products
Permanente Quarry
Lexington Quarry
Polak Pit Quarry
Serpa Pit
Stevens Creek

Response:
As described in previous sections (Deficiencies 1 and 4), the County did not report on financial assurance review for the surface mines in 2000 through 2003 because County staff lacked sufficient background, experience, or training, to conduct the reviews. Recognizing this problem, the County sought the technical assistance of outside consultants. A consultant was retained and adequate fees were collected from the quarries to retain a consultant for both the field inspection and review of the financial assurance estimates and financial assurance mechanisms for the 2004 and 2005 inspection years.

The County intends to continue using a consultant for technical assistance with the financial assurance estimate reviews, and to require the quarries to provide adjusted financial assurance mechanisms. New County staff has been retained and is obtaining

training in SMARA administration,[1] This additional staff will continue to work closely with the State Office of Mine Reclamation, the County-retained consultant, and all the mine operators.

***Deficiency 8**: The County failed to submit copies of proposed financial assurances and calculations of financial assurances amounts for eight mine sites in 2001, and all nine sites for the years 2002, 2003 and 2004 (Category 6 violation pursuant to PRC Section 2774.4; deficiency pursuant to CCR Section 3805).*

Azevedo Quarry
Calaveras Quarry
Curtner Products
Freeman Quarry (Mine activity commenced in 2002)
Permanente Quarry
Lexington Quarry
Polak Pit Quarry
Serpa Pit
Stevens Creek

Response:
As described in detail in the Response to Deficiency 1, the County did not submit proposed financial assurance calculations or review of such calculations for 2002 and 2003 due to insufficient staff resources, and consequently sought then obtained a third party consultant to assist with such review. The mine operators were required to submit revised financial assurance calculations as part of their 2004 SMARA inspections and FAE review. The consultant conducted a thorough review of the financial assurance estimates and the results reported to the County. Five of the nine mine operations were required to significantly increase the financial assurance mechanisms on file with the County, and one mine was allowed to decrease its financial assurance. The remaining three quarries were found to have adequate bonds posted, and no adjustment was necessary. These adjusted financial assurance mechanisms were received by the County in 2005. Therefore, the County believes this deficiency has been remedied.

***Deficiency 9**: The County Failed to submit copies of inspection reports for eight mine sites in 2001 (Category 6 violation pursuant to PRC Section 2774.4; deficiency pursuant to CCR Section 3504.3).*

Azevedo Quarry

[1] County Planner, Robert Salisbury attended the May 18 - 19, 2006, SMARA workshop conducted by staff from the Office of Mine Reclamation in Santa Rosa, California, and the Surface Mining and Reclamation Act course offered by UC Davis Extension on November 18, 2005.

Calaveras Quarry
Curtner Products
Permanente Quarry
Lexington Quarry
Polak Pit Quarry
Serpa Pit
Stevens Creek

Response:
The County acknowledges this deficiency as explained above. The County retained a consultant for technical assistance with fulfilling this requirement and all quarries were inspected, with reports submitted to the State Office of Mine Reclamation in 2004 and 2005. Therefore, the County believes this deficiency has been remedied.

***Deficiency 10**: The County failed to respond in a timely manner to OMR's request for the resubmission of financial assurance cost estimates for eight out of nine mine sites (Category 6 violation pursuant to PRC Section 2774.4; deficiency pursuant to CCR Section 3805.5, and PRC Section 2774(d)):*

Azevedo Quarry
Calaveras Quarry
Curtner Products
Permanente Quarry
Lexington Quarry
Polak Pit Quarry
Serpa Pit
Stevens Creek

Response:
In June 2005 the County received correspondence from OMR which evaluated the financial assurance estimates prepared and submitted by the mine operators as part of the 2004 inspections.. This marked the first time correspondence was received by the State in connection with the annual SMARA inspections conducted by the County. These comments did not stipulate a deadline by which responses were required. In a telephone conversation with OMR staff late in the summer of 2005, County staff asked for additional time to respond. The state staff offered no objection to the request for additional time, stated responses could be provided later.

The 2005 SMARA inspections were scheduled for November/December of that year, and the annual review of the financial assurance estimates would take place as part of that inspection. It was believed that the 2005 annual review of the financial estimates

would address the issues raised by the OMR correspondence, and the County believed any problems had either been corrected or would have been rendered moot based on the revised assurances. Based on recent follow up conversations between County and OMR staff, we understand the issues still need to be addressed, and that reliance on the subsequent round of financial assurance estimate review is not appropriate. In the future, the County will promptly respond to any comments from OMR to ensure the County has addressed any concerns and thereby remains in full compliance with SMARA.

Conclusion:
The County of Santa Clara takes its responsibility as the lead agency in implementing SMARA seriously, and is committed to complying with the State's mandates. We believe any substantive deficiencies have been remedied and that an action plan — including the team work of increased County staff, a technical consultant, and advice from OMR staff — has been put in place to avoid any future deficiencies and refine our operation. If the Board or OMR believe there are still problems to be addressed, then the County is ready and willing to discuss these issues and take whatever steps are needed to remedy any noncompliance issues.

We respectfully request that the Mining and Geology Board not assume the lead agency role in Santa Clara County and, instead, direct staff from the Office of Mine Reclamation to continue to monitor our efforts and work in conjunction with us to ensure the County of Santa Clara and all the affected mine operations are in full compliance with SMARA. If you have any questions regarding this matter you may call me at (408) 299-6741.

Sincerely,

Valentin Alexeeff, Director
Department of Planning & Development

ATTACHMENTS:

Attachment 1: SMARA Implementation Action Plan, Preliminary Outline

Attachment 2: Staff Report to the Board of Supervisors requesting authorization for fee change related to contracting with outside consultants.

Request for Proposals (RFP) from qualified consultants to conduct SMARA related inspections and review of financial assurances.

Responses to the RFP for qualified consultants

Attachment 3: Documents related to the Calaveras Quarry

Attachment 4: Documents related to the Lexington Quarry

Attachment 5: Documents related to monitoring of Hanson Quarry

Attachment 6: Financial Assurances posted by the surface mine operators by 2005

Attachment 7: SMARA inspection reports

cc: Santa Clara County Board of Supervisors
Surface Mine Operators within Santa Clara County

County of Santa Clara
Environmental Resources Agency
Planning Office
County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

August 8, 2002

Mr. John Giovanola
Hanson Permanente Cement
24001 Stevens Creek Boulevard
Cupertino, CA 95014-5659

Subject: Jacobs Associates 3rd Party Review Cost Estimate - Hanson Quarry
File # 2250-13-66-84P

Dear Mr. Giovanola:

You may recall that at our meeting of May 31, 2002 Jacobs Associates (JA) was going to submit a cost estimate to conduct a third party geotechnical review of a report on the failure and stability of the Northern slope of the Hanson Quarry. The report is to be prepared by Call & Nicholas Inc. (C&N).

JA has recently submitted a cost estimate and an outline of the proposed work, which would entail the following tasks:

1. Review the report contents, scope of work, and method of investigation followed by C&N to determine completeness with regard to: a) the County's scope of work and b) recommendations, as detailed in JA's letter of February 27, 2002, addressed to Lizanne Reynolds. At the meeting on May 31, 2002 these recommendations were discussed, and Hanson with C&N undertook to revise the previous report to meet these recommendations.
2. Prepare a letter report providing review comments, conclusions, and recommendations.
3. Attend one meeting at the County Offices to present and discuss the report with County representatives.
4. If requested by County staff, attend a second meeting at the County Offices for follow-up.

JA will provide the services above on a time and material basis with an estimate of $7,200. They will invoice using actual rates for individuals who will be allocated to the tasks by JA. The proposed team will be headed by an geotechnical engineering specialist, Dr. Rick Nolting, an associate with JA. Dr. Nolting is both a registered CEG and PE of California. For your information, Colin Speers and D. Scott Kieffer are not presently affiliated with this project.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall Jr., Liz Kniss
County Executive: Richard Wittenberg

Please review the above information with appropriate staff and inform me of any issues you see outstanding. I will be out of town until August 21, 2002 and will call you upon my return to discuss this matter and to coordinate future actions including funding for JA review.

Sincerely,

Michael M. Lopez
Planning & Development Coordinator

cc: James Baker
Lizanne Reynolds

JACOBS ASSOCIATES
Engineers/Consultants

August 9, 2002

Ms. Lizanne Reynolds
Deputy Assistant County Counsel
County of Santa Clara
70 West Hedding Street
San Jose, CA 95110

Subject: Hanson Quarry, Santa Clara County, California
3rd Party Review Services (Phase 2)
Re: Proposal for Review of C&N Report

Dear Ms. Reynolds:

Jacobs Associates (JA) has prepared this proposal to conduct a 3rd party geotechnical review of a report by Call & Nicholas Inc. (C&N) regarding a landslide on the northern slope of the Hanson Quarry. Mike Lopez and Jim Baker requested the proposal at a meeting held at the Santa Clara County offices on May 31, 2002 that was attended by JA, C&N, and Hanson Quarry (Hanson).

The report by C&N, prepared on behalf of Hanson, addresses issues having to do with short-term and long-term stability of the northern slope of the Hanson Quarry following the failure of that slope in January 2001. A preliminary report on the failure was prepared by C&N and submitted to the County but was not considered sufficiently complete for review. At the meeting on May 31, 2002, Hanson and C&N agreed to make requested revisions to the first report and resubmit it to the County. It is proposed that JA review the revised report only.

Proposed Approach

The report will be reviewed in accordance with generally accepted geotechnical practice for slope stability evaluation. JA is experienced in the stability evaluation of deep excavations, quarries, and natural slopes. A recent project of relevance was the Guadalupe Valley Quarry in San Mateo County, California, where the regional geology and seismicity are basically the same as for the Hanson Quarry. As in that case, the long-term stability of the Hanson Quarry slopes in a seismically active location would be of particular concern. The objective of our review would be to determine whether or not the revised report presents a sufficiently complete geologic review and analysis of the slope failure to answer the County's questions regarding future slope stability at the Quarry and effects on the existing scenic easement. At this stage, we have not

included any detailed slope stability analysis by JA for the purposes of checking the C&N analyses because the need for additional analysis depends on the review findings.

The proposed work would entail the following tasks:

1. Review the report contents, scope of work, and method of investigation followed by C&N to determine completeness with regard to: a) the County's original scope of work and b) the recommendations, as detailed in JA's letter of February 27, 2002, addressed to you. At the meeting on May 31, 2002 these recommendations were discussed, and Hanson with C&N undertook to revise the previous report to meet these recommendations.
2. Prepare a letter report providing review comments, conclusions, and recommendations.
3. Attend one meeting at the County Offices to present and discuss the report with County representatives.
4. If requested by County staff, attend a second meeting at the County Offices for follow-up.

Our cost proposal provides for time to carry out and complete the above tasks only.

Cost

JA would provide the services outlined above on a time and material basis with an estimate of $7,200. We will invoice using actual rates for individuals who will be allocated to the tasks by JA. Our proposed team will be headed by one of our geotechnical engineering specialists, Dr. Rick Nolting, an associate with JA. Dr. Nolting is both a registered CEG and PE of California. Dr. Mike McRae, a principal with JA and experienced in evaluating the behavior of deep open excavations, will act as an internal reviewer for JA. Other senior staff members will be allocated as required.

Schedule

We could begin working on this analysis as soon as we receive written authorization from the County, which should also state the agreed scope of work and the budget allowed, and the revised report by C&N, provided through yourselves. We anticipate that a draft of our letter report could be delivered to you two weeks after you authorize our work to start. After discussions with your officials, inclusive of the first meeting, we would revise the draft report and formally submit it to you.

Deliverable

A draft report will be initially issued to you. Following the first meeting at the County offices, at which the draft report will be discussed with the County, the draft report will be revised and the final report signed off by Dr. Nolting and Dr. Mike McRae. We recommend that you submit only the final report to Hanson.

We look forward to our continued work together on this project. If you have any questions please call.

Yours very truly,

JACOBS ASSOCIATES

Rick Nolting, C.E.G and P.E.
Associate

cc: Mike McRae, Jacobs Associates
P1405 File

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: August 29, 2002

SUBJECT: **Hanson Quarry Update - off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Lis Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

As reported in the July 2002 update memorandum, the County's geologic consultant, Jacobs Associates (JA), was in the process of preparing an estimate of costs involved in conducting a third party geotechnical review of a report on the failure and stability of the northern slope of the Hanson Quarry. The cost estimate was submitted to County staff in early August.

Subsequent to receipt and review of the aforementioned cost estimate, staff communicated the appropriate information in the cost estimate to Hanson Quarry representatives and indicated that future contact would be forthcoming with the intent of coordinating future actions on the study (Attachment A).
A September 4, 2002 meeting has been scheduled among staff and Hanson Quarry representatives for to discuss coordinating future actions on the report, including funding for JA.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall Jr., Liz Kniss
County Executive: Richard Wittenberg

Hanson Quarry Update – off agenda
August 29, 2002

Attachment A:
August 8, 2002 County Planning Office letter summarizing Jacob Associates cost estimate.

cc: Richard Wittenberg
Tim Chow
Ann Draper
Lizanne Reynolds
Jim Baker
Jim Sirr
Clerk of the Board
John Giovanola
File 2250

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: September 30, 2002

SUBJECT: **Hanson Quarry Update - off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Lis Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

On September 4, 2002 staff and Hanson Quarry representatives met to discuss submittal of the geologic report being prepared by Call & Nicholas and funding for the County's geologic consultant, Jacobs Associates. Hanson representatives indicated that the geologic reports and the funding for County review would be forthcoming by the end of the month. To date, because of unanticipated delays, no reports or funding have been submitted. However, based on recent discussions, staff anticipates submittal of the geologic reports and funding within the next 2-3 weeks.

At the same meeting, Hanson Quarry representatives inquired about the process involved in obtaining a permit to address an "emergency grading situation". The quarry representative indicated that a certain amount of sliding had taken place on the quarry face and that remedial action was going to be required. The slide area is easterly of the scenic easement, but not immediately adjacent to the easement.

Depending on the exact proposal and its land use ramifications, granting such permission may require a use permit and public hearings. Staff informed the quarry representatives that the County's Land Development Engineering and Surveying representative would contact them and determine the appropriate process to address the existing situation.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall Jr., Liz Kniss
County Executive: Richard Wittenberg

Subsequent correspondence from the quarry has indicated that the amount of grading involved in this application might be as high as 850,000 cubic yards (Exhibit A). On September 30, 2002, the County Geologist and a representative from County Land Development Engineering and Surveying met on site to discuss and further evaluate the proposed emergency grading project. A synopsis of this situation will be included in next month's report.

Attachment A:
September 24, 2002 letter from Hanson Quarry representative addressing the proposed emergency grading project

cc: Richard Wittenberg
Tim Chow
Ann Draper
Lizanne Reynolds
Jim Baker
Jim Sirr
Clerk of the Board
John Giovanola
File 2250

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: November 1, 2002

SUBJECT: **Hanson Quarry Update - off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Lis Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

In accord with prior conversations, on November 1, 2002 Hanson Quarry's representative submitted copies of a geotechnical report addressing a slide which occurred at the crest of the north side of the Hanson Quarry. The report, prepared by Call & Nicholas, presents the results of their investigation of a slide that appears to have encroached into the County's scenic easement on the Hanson property.
In addition, Hanson Quarry's representative submitted a check for $7,200 to provide funding for the County's geologic consultant, Jacobs Associates (JA) to review the report. Staff has begun the process of arranging for JA to commence its review services as outlined in their August 2002 proposal.

Emergency grading in another area of the quarry:
Last month's off agenda report included discussion pertaining to Hanson Quarry's "emergency grading situation" in which a certain amount of sliding (needing remedial action) had taken place on the eastern side of the quarry. The amount of grading involved to rectify the entire problem might be as high as 850,000 cubic yards. However, the amount of grading needed in the short term to address the existing immediate "emergency" is approximately 100,000 cubic yards. In the memorandum sent to the Board last month, this new slide area was described as being located east of the eastern end of the scenic easement. New information suggests that the area of new sliding may affect the scenic easement.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall Jr., Liz Kniss
County Executive: Richard Wittenberg

The County's Land Development Engineering and Surveying representatives have been working with Hanson Quarry representatives to determine the scope, term and conditions for authorizing "emergency grading" to allow the removal of approximately 100,000 cubic yards (55,000 cubic yards on Hanson property and 45,000 cubic yards on Midpeninsula Regional Open Space District (MROSD) property). The terms and conditions intended to insure safety in the immediate area of the slide.
Further authorization, which will include compliance with the California Environmental Quality Act (CEQA), will be required for grading the remaining 740,000 cubic yards. County staff will work with Hanson Quarry and MROSD representatives to insure that proper environmental and land use requirements are followed.

cc: Richard Wittenberg
Tim Chow
Ann Draper
Lizanne Reynolds
Jim Baker
Jim Sirr
Clerk of the Board
John Giovanola
File 2250

County of Santa Clara

Environmental Resources Agency
Building Inspection/Land Development Engineering and Surveying
County Government Center, East Wing
70 West Hedding Street, 7th Floor
San Jose, California 951 10
Bldg. Inspec. (408) 299-5700 Land Devel. 299-5730 FAX 279-8537
www.sccbuilding.org

November 4, 2002

Hanson Permanente Cement
Attn: Mr. David Disbrow, Quarry Manager
24001 Stevens Creek Blvd.
Cupertino, CA 95014

RE: Request for EMERGENCY GRADING AUTHORIZATION #2002-4, Slide Repair for the Hanson Permanente Quarry and adjacent Midpeninsula Regional Open Space District Property

Dear Mr. Disbrow:

Hanson Permanente Cement has requested that the County of Santa Clara issue an Emergency Grading Authorization for slide repair on the Hanson Permanente Quarry site and on the adjacent lands of the Midpeninsula Regional Open Space District (MROSD).

The emergency grading work is generally described in the report of Sierra Geotechnical Company dated 10/4/2002 and in the letters of Hanson Permanente Cement to the County, dated 9/4/2002 and 10/4/2002, although that written request has now been modified by verbal communication from your office to Mr. Jim Sirr, P.E., Sr. Civil Engineer, of this office.

The amount of the emergency grading work requested is now estimated at 100,000 cubic yards total, with approximately 55,000 cubic yards or less of earthwork located on the Hanson Permanente property and approximately 45,000 cubic yards of earthwork located on the MROSD property.

This office has many concerns regarding this proposal. One major concern is how this work and the continuing slope instability problems at the quarry are affecting the County's ridgeline easement. In order for this office to give further consideration to the emergency grading authorization proposal, additional information must be submitted to more specifically define the proposed emergency grading project. This office is cognizant that the rainy

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Richard Wittenberg

season is imminent, but also takes note that it has been at least 10 months since the slope stability problems were identified, and that any areas that are identified as unsafe due to slope instability should be cordoned off and closed to workers for a safe distance. Hanson Permanente can and should suspend work in the area of the hazard until the area is made safe.

In addition to resolving the issues discussed above, the following items must be submitted in order for this office to give further consideration to the proposal:

(1). Submit a revised emergency grading plan and a revised letter of application that include the following:

(a) Submit a revised plan showing a clear demarcation the existing County of Santa Clara scenic easement relative to the proposed emergency grading work area. (A scenic easement was recorded in 1972, and a condition of the 1987 emergency grading permit approval of the Board of Supervisors was to record a revised ridgeline easement to include the entire East-North exposure of Kaiser Ridge. Please see the attached 1987 staff report to the Board of Supervisors.)

(b) Provide information regarding how the scenic easement will be observed and maintained.

(c) Submit a revised plan showing a clear delineation of the existing condition, the proposed emergency work (approximately 100,000 cubic yards), and the proposed future remedial work (approximately 740,00 cubic yards) including revised cross sections.

(d) Submit a revised plan and letter of application confirming the volume of earthwork proposed as emergency grading work at this time, the volume of remedial grading work to be proposed under a future standard grading permit or other land use permit, and indicating on which property each volume of earthwork is located.

(e) On the revised plan, show the location of the proposed stockpile for spoils to be removed from the MROSD easement parcel.

(f) On the revised grading plan, show the proposed erosion prevention and sediment control BMPs, and show how storm drainage will be conducted safely to the existing quarry pit and storm drainage system. Both during and after construction, Erosion Prevention and Sediment Control Measures and Best Management Practices shall be implemented, to prevent erosion, sediment transport, and storm water pollution. Special attention shall be paid to preventing sediment, mud, or rock flows into any watercourse. (A copy of the County Grading Ordinance and a copy of the Nonpoint Source Pollution Control Ordinance are enclosed, for your reference.)

(g) On the revised grading plan, show the location of adequate safety fencing designed to keep hikers off of the MROSD easement parcel, and a safe distance away from the work area.
(h) Submit an "Inspection of Work" form, with a wet signature by the Hanson Permanente Cement designated representative and the wet signature and stamp of the applicant's design and inspection engineer.

(2). File a "Notice of Intent" (NOI) for coverage under the State General Construction NPDES Storm Water Discharge Permit and prepare the required Storm Water Pollution Prevention Plan (SWPPP). These items are both required when the disturbed area is 5 acres or more, or the project is part of a 5 acres or larger plan of common development. The overall disturbed project area is well over 5 acres. (After March 10, 2003, the disturbed area trigger is reduced to 1 acre by order of the US/EPA.) Therefore, demonstrate coverage under the statewide NPDES General Permit or obtain an emergency waiver. Submit copies to this office.

(3). Contact the Community Projects Section of the Santa Clara Valley Water District, prior to final authorization. Obtain any permit that may be required, or obtain a waiver. Submit a copy to this office.

(4). Contact the San Francisco Bay Regional Water Quality Control Board and the State Department of Fish and Game. Obtain any permits that may be required, or obtain waivers. Submit copies to this office.

Prior to approval of an Emergency Grading Authorization, the County will require either (1) proof of ownership of the property by Hanson Permanente Cement, or (2) a wet signed document from the MROSD granting permission for work on district property. For your information and review, a list of potential conditions of approval for the Emergency Grading Authorization being considered by this department is enclosed. This list may be revised after the necessary resubmittal is reviewed. Also, please be advised that if the scenic easement cannot be maintained, then altering the present easement will require approval of the Board of Supervisors.

Please contact Sr. Civil Engineer James F. Sirr at (408) 299-5736, if there are any questions regarding these requirements.

Very truly,

Thomas Shih, P.E.
Director
Office of Development Services

CC: The Board of Supervisors
Richard Wittenberg, County Executive
W. T. Chow, Director of the Env. Resources Agency
County Planning Office
Midpeninsula Regional Open Space District
State of California Dept. of Fish and Game
San Francisco Bay Regional Water Quality Control Board
Santa Clara Valley Water District Community Projects Review
City of Cupertino
Cal/OSHA
Office of Mine Reclamation, State Dept. of Conservation
Marc Orman. P.E., G.E. (Design Engineer)
Sierra Geotechnical
15572 Sunnyglade Road
Grass Valley, CA 95949

Enclosures: List of potential conditions of approval under consideration
County Inspection of Work Form
Composite map of scenic easement area near the proposed repair
Staff report to the Board of Supervisors, 8/17/1987
County Grading Ordinance
County Nonpoint Source Pollution Control Ordinance

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: December 3, 2002

SUBJECT: **Hanson Quarry Update - off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Lis Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

As noted in the previous staff report on November 1, 2002 Hanson Quarry's representative submitted 3 copies of a geotechnical report and a check for $7200 to provide funding for the County's geologic consultant to review the report. Staff was to begin the process of arranging for Jacob Associates (JA), to commence its review services when it determined that the contract that had been in effect with JA had expired.
Before renewing the contract with JA, staff was informed that Cotton, Shires & Associates (CSA), a locally based geologic consultant with past knowledge of the quarry site, was presently engaged in geologic review work at the Hanson Quarry for Midpeninsula Regional Open Space District (MROSD). CSA's work involves a proposed trade of property in another area of the quarry near the County's scenic easement. Staff has contacted CSA to determine the feasibility of their reviewing the geotechnical report submitted in early November by Hanson's representatives. To date no written proposal for review services has been received.

Emergency Grading in another area of the quarry:
Since September 2002, the County's Office of Development Services representatives have continued to work with Hanson Quarry representatives to determine the scope, term and conditions for authorizing "emergency grading" to allow the removal of approximately 100,000 cubic yards (55,000 cubic yards on Hanson property and 45,000 cubic yards on Midpeninsula Regional Open Space District (MROSD) property).

Hanson Quarry Update
December 3, 2002

In correspondence dated November 4, 2002 (Exhibit A), the Office of Development Services responded to the "emergency grading" authorization request and noted its concern with how the proposed work and the continuing slope instability problems at the quarry would affect the county's ridgeline easement. The aforementioned letter also noted that additional information was needed in order to give further consideration to the proposal presented by Hanson Quarry. To date no response has been received from Hanson Quarry representatives.

Exhibit A: November 4, 2002 correspondence from the Office of Development Services responding to the "emergency grading" authorization request (enclosures not included)

cc: Richard Wittenberg
Tim Chow
Ann Draper
Lizanne Reynolds
Jim Baker
Jim Sirr
Clerk of the Board
John Giovanola
File 2250

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
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MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: December 31, 2002

SUBJECT: **Hanson Quarry Update - off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

Staff had previously been working with Jacob Associates (JA), for its review services when it determined that the contract that had been in effect with JA had expired. JA has recently indicated that it would not pursue a renewal of the aforementioned contract.

Since the December 1, 2002 update, staff has been in contact with Cotton, Shires & Associates (CSA) and has prepared a contract for review of the report prepared by Call & Nicholas for the Hanson Quarry. It is anticipated the contract will commence during January 2003 and CSA's review activities will be completed by the end of March 2003.

Emergency Grading in another area of the quarry:
As noted in prior updates the County's Office of Development Services representatives have been working with Hanson Quarry representatives to determine the scope, term and conditions for authorizing "emergency grading" to allow the removal of approximately 100,000 cubic yards. The Office of Development Services has requested additional information in order to give further consideration

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall Jr., Liz Kniss
County Executive: Richard Wittenberg

to the "emergency grading" proposal presented by Hanson Quarry. To date no response has been received from Hanson Quarry representatives.

cc: Richard Wittenberg
Ann Draper
Jim Baker
Clerk of the Board
File 2250
Tim Chow
Lizanne Reynolds
Jim Sirr
John Giovanola

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: February 4, 2003

SUBJECT: **Hanson Quarry Update - off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

Since the December 31, 2002 update, staff has been in negotiations with Cotton, Shires & Associates (CSA) for review of the October 2002 report prepared by Call & Nicholas (C&N) for the Hanson Quarry. CSA has signed the contract and it is anticipated the contract will be finalized by the County during the first week of February 2003. CSA's geologists are presently reviewing their in-house information and materials. They have also been in communication with the County Geologist in order to obtain County information necessary to accomplish their review activities. It is presently anticipated that CSA will complete their review of the C&N report by the end of March 2003.

Emergency Grading in another area of the quarry:
As noted in prior updates the County's Office of Development Services representatives have been working with Hanson Quarry representatives to determine the scope, term and conditions for authorizing "emergency grading" to allow the removal of approximately 100,000 cubic yards. The Office of Development Services has requested additional information in order to give further consideration to the "emergency grading" proposal presented by Hanson Quarry. As was the case at the end of December 2002, no response has been received from Hanson Quarry representatives.

cc: Richard Wittenberg Tim Chow
Ann Draper Lizanne Reynolds
Jim Baker Jim Sirr
Clerk of the Board John Giovanola
File 2250

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall Jr., Liz Kniss
County Executive: Richard Wittenberg

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Environmental Resources Agency
Planning Office

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70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
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MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: March 3, 2003

SUBJECT: **Hanson Quarry Update - off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

On February 28, 2003, County staff met with Cotton, Shires and Associates (CSA) to discuss the status of CSA's review of October 2002 report prepared by Call & Nicholas (C&N) for the Hanson Quarry. Discussion focused on the geometry of the 1972 Scenic Easement and the reported encroachment by a landslide that occurred in 2001. Following the meeting, CSA reviewed the County files regarding the quarry, and requested copies of several maps and documents. Staff has been informed that CSA plans to visit the quarry in the near future to conduct field review of the landslide. Subsequently, CSA will complete their review of the C&N report and provide the County with written comments. It is anticipated their work will be completed near the end of March or early April 2003. After receiving CSA's written comments and findings, staff will forward them and staff recommendations to the Board of Supervisors.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall Jr., Liz Kniss
County Executive: Richard Wittenberg

Emergency Grading in another area of the quarry:
As noted in prior updates the County's Office of Development Services representatives have been working with Hanson Quarry representatives to determine the scope, term and conditions for authorizing "emergency grading" to allow the removal of approximately 100,000 cubic yards. The Office of Development Services has requested additional information in order to give further consideration to the "emergency grading" proposal presented by Hanson Quarry. As was the case at the end of December 2002 and January 2003, no response has been received from Hanson Quarry representatives.

cc: Richard Wittenberg Tim Chow
Ann Draper Lizanne Reynolds
Jim Baker Jim Sirr
Clerk of the Board John Giovanola
File 2250

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: April 1, 2003

SUBJECT: **Hanson Quarry Update - off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

On March 17, 2003, geologists from Cotton, Shires and Associates (CSA) visited the Hanson Quarry and conducted field review of the landslide. Currently, CSA is evaluating the October 2002 Call and Nicholas report and is preparing a written report which is expected to be delivered to County Counsel by the end of April. After receiving CSA's written comments and findings, staff will forward them and staff recommendations to the Board of Supervisors.

Emergency Grading in another area of the quarry:
As noted in prior updates the County's Office of Development Services representatives have been working with Hanson Quarry representatives to determine the scope, term and conditions for authorizing "emergency grading" to allow the removal of approximately 100,000 cubic yards. The Office of Development Services has requested additional information in order to give further consideration to the "emergency grading" proposal presented by Hanson Quarry. As was the case at the end of December 2002, January 2003, and February 2003, no response has been received from Hanson Quarry representatives.

cc:
Peter Kutras
Ann Draper
Jim Baker
Clerk of the Board
File 2250
Tim Chow
Lizanne Reynolds
Jim Sirr
John Giovanola
Cotton Shires & Associates

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall Jr., Liz Kniss
County Executive: Richard Wittenberg

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
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MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: May 2, 2003

SUBJECT: **Hanson Quarry Update - off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

On April 22, 2003, Cotton, Shires and Associates (CSA), the County's independent geological consultant, delivered a preliminary draft of their report to the County. The draft report addresses CSA's geologic and geotechnical review of the following:

1. The rockslide that impacted the scenic easement ridgeline at the Hanson Quarry;
2. The geotechnical investigation of Displacement at Permanente (Hanson) Quarry, report prepared by Call & Nicholas, Inc., dated October 2002; and,
3. The "Permanente Quarry: Slide at -5000 east" letter report by Call and Nicholas, dated January 24, 2002.

At the present time staff is reviewing the preliminary draft report and will coordinate with CSA to develop a final report and staff recommendations to be presented to the Board of Supervisors.

Periodically, during the months of February, March, and April of 2003, County Planning staff has been communicating with Hanson Quarry representatives regarding preparation of a map to show the current status of the mined area(s). The aforementioned map has been a topic of discussion since an annual inspection for compliance with the approved reclamation plan took place last fall.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall Jr., Liz Kniss
County Executive: Richard Wittenberg

Before submitting a map, however, Hanson representatives want to clarify issues associated with the scenic easement. The approved reclamation plan recognizes the scenic easement, but does not depict its location.

Hanson representatives have raised questions regarding the official documents that describe the extent and location of the scenic easement, and until there is agreement on these two issues, the operator does not want to submit the map as requested by staff. To this end, in early April 2003, an attorney for the Hanson submitted his analysis regarding the scenic easement, and raised questions necessitating a response from the County.

County staff is presently reviewing the attorney's analysis and will respond appropriately. After a County response concerning the scenic easement analysis is delivered to Hanson, quarry representatives will prepare and submit the map county staff has requested.

Emergency Grading in another area of the quarry:

As noted in prior updates, the County's Office of Development Services representatives have been working with Hanson Quarry representatives to determine the scope, term and conditions for authorizing "emergency grading" to allow the removal of approximately 100,000 cubic yards in the area of another slide in the eastern portion of the quarry. The Office of Development Services has requested additional information in order to give further consideration to the "emergency grading" proposal presented by Hanson Quarry. As was the case at the end of December 2002, January 2003, February 2003, and March 2003, no response has been received from Hanson Quarry representatives regarding this matter.

cc: Peter Kutras
Ann Draper
Jim Baker
Clerk of the Board
File 2250
Tim Chow
Lizanne Reynolds
Jim Sirr
John Giovanola
Cotton Shires & Associates

County of Santa Clara

Environmental Resources Agency
Planning Office
County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: June 4, 2003

SUBJECT: **Hanson Quarry Update for May 2003- off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

The April 2003 status report (dated May 2, 2003) indicated that the county's independent geological consultant, Cotton, Shires and Associates (CSA), delivered a preliminary draft of their report, which evaluated the October 2002 Call & Nicholas (C&N) report, to the County. Staff review and comment on CSA evaluation is continuing. When this process is complete, staff will coordinate with CSA to develop a final report and staff recommendations to be presented to the Board of Supervisors.

The April 2003 status report also noted that an attorney for the Hanson Quarry (Hanson) submitted his analysis regarding the scenic easement, and raised questions necessitating a response from the County. This aforementioned analysis was augmented by May 9, 2003 correspondence with further analysis and a map showing the status of benching at the quarry. The letter provides information and analysis on the subject of Hanson's current quarrying activities, alludes to plans for mining in the future at the current site, and the relationship of both to the reclamation plan for the site. County staff is continuing review of the Hanson attorney's analysis and will respond in June 2003.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
Acting County Executive: Peter Kutras, Jr.

In addition to the map showing the areas of the quarry under consideration in Hanson's internal mining plan process, the map also shows information requested by staff, showing the current geometry of the quarry and the location of the scenic easement. County staff is also currently reviewing this information in conjunction with other available information.

Emergency Grading in another area of the quarry:
As noted in prior updates, the County's Office of Development Services representatives have been working with Hanson Quarry representatives to determine the scope, term and conditions for authorizing "emergency grading" to allow the removal of approximately 100,000 cubic yards in the area of another slide in the eastern portion of the quarry. The Office of Development Services has requested additional information in order to give further consideration to the "emergency grading" proposal presented by Hanson Quarry. Since December 2002, no response has been received from Hanson Quarry representatives regarding this matter.

cc: Peter Kutras
Ann Draper
Jim Baker
Clerk of the Board
File 2250
Tim Chow
Lizanne Reynolds
Jim Sirr
John Giovanola
Cotton Shires & Associates

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
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www.sccplanning.org

MEMORANDUM

TO: Supervisor Kniss and Members of the Board of Supervisors

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: July 8, 2003

SUBJECT: **Hanson Quarry Update for June 2003- off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

The April and May 2003 status reports (dated May 2, 2003 and June 4, 2003) indicated that the county's independent geological consultant, Cotton, Shires and Associates (CSA), delivered a preliminary draft of their report, which evaluated the October 2002 Call & Nicholas (C&N) report, to the County. Staff review and comment on CSA evaluation is continuing. When this process is complete staff will coordinate with CSA to develop a final report and staff recommendations to be presented to the Board of Supervisors.

The aforementioned status reports also noted that an attorney for Hanson Quarry (Hanson) submitted correspondence in April and May presenting analysis, future plans and questions regarding the scenic easement. County staff had intended to respond in writing in June 2003 but instead has scheduled a meeting with the Hanson representative in early July 2003.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
Acting County Executive: Peter Kutras, Jr.

Emergency Grading in another area of the quarry:
As noted in prior updates, the County's Office of Development Services representatives have been working with Hanson Quarry representatives to determine the scope, term and conditions for authorizing "emergency grading" to allow the removal of approximately 100,000 cubic yards in the area of another slide in the eastern portion of the quarry. The Office of Development Services has requested additional information in order to give further consideration to the "emergency grading" proposal presented by Hanson Quarry. Since December 2002, no response has been received from Hanson Quarry representatives regarding this matter.

cc: Peter Kutras
Ann Draper
Jim Baker
Clerk of the Board
File 2250
Tim Chow
Lizanne Reynolds
Jim Sirr
John Giovanola
Cotton Shires & Associates

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: August 6, 2003

SUBJECT: **Hanson Quarry Update for July 2003- off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

The April, May, and June 2003 status reports (dated May 2, 2003 and June 4, 2003) indicated that the county's independent geological consultant, Cotton, Shires and Associates (CSA), delivered a preliminary draft of their report, which evaluated the October 2002 Call & Nicholas (C&N) report, to the County. Staff review and comment on CSA evaluation is continuing. When this process is complete staff will coordinate with CSA to develop a final report and staff recommendations to be presented to the Board of Supervisors.

In early July 2003. county staff met with Hanson representatives and discussed the scenic easement, the pending emergency grading permit, the aforementioned October 2002 C&N report, and a pending future exchange of property between Mid Peninsula Open Space District (MPOSD) and Hanson Quarry.

Staff presented maps that showed the location of the reclamation plan boundaries, the location of the scenic easement, property lines, and the extent of landslides that have impacted the area of the scenic easement and the northerly rim of the quarry.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
Acting County Executive: Peter Kutras, Jr.

Hanson representatives repeated their understanding of the extent of the scenic easement in terms of its location. Staff indicated modification of the reclamation plan might be required. However, Hanson representatives indicated that they believed the existing reclamation plan could be implemented, but also recognized benefits in modifying the reclamation plan in light of contemplated changes to the mining operation. The Hanson representatives offered to consider staff's suggestion regarding the reclamation plan modification, as well as the mine operators business plans and the negotiations with MPOSD. They then offered a follow up meeting in August.

Emergency Grading in another area of the quarry:
As noted in prior updates the County's Office of Development Services representatives have been working with Hanson Quarry representatives to determine the scope, term and conditions for authorizing "emergency grading" to allow the removal of approximately 100,000 cubic yards in the area of another slide in the eastern portion of the quarry. The Office of Development Services has requested additional information in order to give further consideration to the "emergency grading" proposal presented by Hanson Quarry. Since December 2002, no response has been received from Hanson Quarry representatives regarding this matter.

cc: Peter Kutras
Ann Draper
Jim Baker
Clerk of the Board
File 2250
Tim Chow
Lizanne Reynolds
Jim Sirr
John Giovanola
Cotton Shires & Associates

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: September 9, 2003

SUBJECT: **Hanson Quarry Update for August 2003- off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

The April, May, June and July 2003 status reports indicated that the county's independent geological consultant, Cotton, Shires and Associates (CSA), delivered a preliminary draft of their report, which evaluated the October 2002 Call & Nicholas (C&N) report, to the County. Staff review and comment on CSA evaluation is continuing. Staff is also conferring with County Counsel on legal options and a confidential memo from County Counsel to the Board of Supervisors that will be forthcoming

Emergency Grading in another area of the quarry:
As noted in prior updates the County's Office of Development Services representatives have been working with Hanson Quarry representatives to determine the scope, term and conditions for authorizing "emergency grading" to allow the removal of approximately 100,000 cubic yards in the area of another slide in the eastern portion of the quarry. The Office of Development Services has requested additional information in order to give further consideration to the "emergency grading" proposal presented by Hanson Quarry. Since December 2002, no response has been received from Hanson Quarry representatives regarding this matter.

cc: Peter Kutras, Ann Draper, Jim Baker, Clerk of the Board, File 2250, Tim Chow, Lizanne Reynolds, Jim Sirr, John Giovanola, Cotton Shires & Associates

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

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Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: October 1, 2003

SUBJECT: **Hanson Quarry Update for September 2003- off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

As noted in the September 2003 status report, staff had been conferring with County Counsel regarding a confidential memo to the Board of Supervisors regarding the scenic easement and available legal options. County Counsel has finalized and sent the memo to the Board and County Executive.

Emergency Grading in another area of the quarry:
Prior updates have indicated that County's Office of Development Services representatives have been working with Hanson Quarry representatives to determine the scope, term and conditions for authorizing "emergency grading" to allow the removal of approximately 100,000 cubic yards in the area of another slide in the eastern portion of the quarry. The Office of Development Services has requested additional information in order to give further consideration to the "emergency grading" proposal presented by Hanson Quarry. Since December 2002, no response has been received from Hanson Quarry representatives regarding this matter.

cc:
Peter Kutras
Ann Draper
Jim Baker
Clerk of the Board
File 2250
Tim Chow
Lizanne Reynolds
Jim Sirr
John Giovanola
Cotton Shires & Associates

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

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Planning Office

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70 West Hedding Street
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(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: November 3, 2003

SUBJECT: **Hanson Quarry Update for October 2003- off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

In the previous (October 1, 2003) status report, staff noted that County Counsel had finalized a confidential memo regarding this matter and had sent the memo to the Board and County Executive. At this point in time staff is awaiting direction from the Board of Supervisors regarding this matter.

Emergency Grading in another area of the quarry:
Prior updates have indicated that County's Office of Development Services representatives have been working with Hanson Quarry representatives to determine the scope, term and conditions for authorizing "emergency grading" to allow the removal of approximately 100,000 cubic yards in the area of another slide in the eastern portion of the quarry. The Office of Development Services has requested additional information in order to give further consideration to the "emergency grading" proposal presented by Hanson Quarry. Since December 2002, no response has been received from Hanson Quarry representatives regarding this matter.

Recent correspondence from a Hanson Quarry representative notes that the issues surrounding the "emergency grading" are very complex and that although no formal response has been made since December 2002, quarry representatives have been working to resolve the matter. Hanson representatives have been meeting with County staff members and representatives from the Midpeninsula Open Space District to achieve a consensus agreement on the best way to proceed and that a formal submittal will be forthcoming at that time.

cc: Peter Kutras, Ann Draper, Jim Baker, Clerk of the Board, File 2250, Tim Chow, Lizanne Reynolds, Jim Sirr, John Giovanola, Cotton Shires & Associates

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

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Planning Office

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MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: December 2, 2003

SUBJECT: **Hanson Quarry Update for November 2003- off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

In the October 2003 status report, staff noted that County Counsel had finalized a confidential memo regarding this matter and had sent the memo to the Board and County Executive. At this point in time staff is awaiting direction from the Board of Supervisors regarding this matter.

During the month of November staff met separately with representatives of Midpeninsula Open Space District (Midpen) and Hanson Quarry. The meetings provided staff with information regarding the ongoing discussions between the parties and Hanson Quarry's potential amendment to the approved 1985 reclamation plan.

The meeting with Midpen representatives addressed potential property exchange scenarios that were being considered by Midpen and Hanson Quarry. County staff responded to inquiries regarding the status of Midpen as being exempt from the subdivision map act and the effect of a property exchange to the county's scenic easement.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

The meeting with Hanson Quarry representatives was, in part, motivated by the completion of a geologic study that contributed to a conceptual modification of the existing reclamation plan. The draft plan addresses how to deal with landsliding that has occurred in recent years, the storage of overburden materials, rehabilitative work, mining of reserve areas, and an amendment to the approved reclamation plan. Quarry representatives shared their ideas with staff and expect to return with a more definitive plan in the future.

Emergency Grading in another area of the quarry:
Prior updates have indicated that County's Office of Development Services representatives have been working with Hanson Quarry representatives to determine the scope, term and conditions for authorizing "emergency grading" to allow the removal of approximately 100,000 cubic yards in the area of a slide in the eastern portion of the quarry. The Office of Development Services has requested additional information in order to give further consideration to the "emergency grading" proposal presented by Hanson Quarry.

During the November meeting Hanson Quarry representatives repeated that the issues surrounding the "emergency grading" are very complex and that they have been meeting with County staff members and representatives from the Midpeninsula Open Space District to achieve a consensus agreement on the best way to proceed.

cc:
Peter Kutras
Ann Draper
Jim Baker
Clerk of the Board
File 2250
Tim Chow
Lizanne Reynolds
Jim Sirr
John Giovanola
Cotton Shires & Associates

County of Santa Clara

Environmental Resources Agency
Planning Office

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MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: January 2, 2004

SUBJECT: **Hanson Quarry Update for December 2003- off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

In the October 2003 status report, staff noted that County Counsel had finalized a confidential memo regarding this matter and had sent the memo to the Board and County Executive. At this point in time staff is awaiting direction from the Board of Supervisors regarding this matter.

During the month of December staff conducted its annual Surface Mining and Reclamation Act (SMARA) inspection and, upon receipt of the standard inspection fees, staff will file the appropriate paperwork with the state. In the course of its inspection Hanson Quarry representatives informed staff that the Quarry was proceeding with the preparation of a revised reclamation plan and would be submitting the plan for county review and approval.

Emergency Grading in another area of the quarry:
Prior updates have indicated that County's Office of Development Services representatives have been working with Hanson Quarry representatives to determine the scope, term and conditions for authorizing "emergency grading" to allow the removal of approximately 100,000 cubic yards in the area of a slide in the eastern portion of the quarry. The Office of Development Services has requested additional information in order to give further consideration to the "emergency grading" proposal presented by Hanson Quarry.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

During the November meeting Hanson Quarry representatives repeated that the issues surrounding the "emergency grading" are very complex and that they have been meeting with County staff members and representatives from the Midpeninsula Open Space District (Midpen) to achieve a consensus agreement on the best way to proceed. These discussions as well as discussions regarding potential property exchange scenarios between Hanson Quarry and Midpen are still active.

cc: Peter Kutras
Ann Draper
Jim Baker
Clerk of the Board
File 2250
Tim Chow
Lizanne Reynolds
Jim Sirr
John Giovanola
Cotton Shires & Associates

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: February 3, 2004

SUBJECT: **Hanson Quarry Update for January 2004 - off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

In the October 2003 status report, staff noted that County Counsel had finalized a confidential memo regarding this matter and had sent the memo to the Board and County Executive. At this point in time staff is awaiting direction from the Board of Supervisors regarding this matter.

During December 2003 Hanson Quarry representatives informed staff that the Quarry was proceeding with the preparation of a revised reclamation plan and would be submitting the plan for county review and approval. However, no revised plan has yet been submitted. Staff has been informed that the revised plan would be submitted during calendar year 2004.

Emergency Grading in another area of the quarry:
Prior updates have indicated that County's Office of Development Services representatives have been working with Hanson Quarry representatives to determine the scope, term and conditions for authorizing "emergency grading" to allow the removal of approximately 100,000 cubic yards in the area of a slide in the eastern portion of the quarry. The Office of Development Services has requested additional information in order to give further consideration to the "emergency grading" proposal presented by Hanson Quarry.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

During the November meeting Hanson Quarry representatives repeated that the issues surrounding the "emergency grading" are very complex and that they have been meeting with County staff members and representatives from the Midpeninsula Open Space District (Midpen) to achieve a consensus agreement on the best way to proceed. These discussions as well as discussions regarding potential property exchange scenarios between Hanson Quarry and Midpen are still active.

cc: Peter Kutras
Ann Draper
Jim Baker
Clerk of the Board
File 2250
Tim Chow
Lizanne Reynolds
Jim Sirr
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County of Santa Clara

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www.sccplanning.org

MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: **March 1, 2004**

SUBJECT: **Hanson Quarry Update for February 2004- off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

In the October 2003 status report, staff noted that County Counsel had finalized a confidential memo regarding this matter and had sent the memo to the Board and County Executive. At this point in time staff is awaiting direction from the Board of Supervisors regarding this matter.

During December 2003 Hanson Quarry representatives informed staff that the Quarry was proceeding with the preparation of a revised reclamation plan and would be submitting the plan for county review and approval. However, no revised plan has yet been submitted. Staff has been informed that the revised plan would be submitted during calendar year 2004.

No new information regarding either the County Counsel confidential memorandum or a revised reclamation plan was developed during the month of February.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

COMMITTEE FOR
GREEN FOOTHILLS

RECEIVED
PLANNING OFFICE
04 MAR 18 PM 3:20

March 17, 2004

Ann Draper, Planning Director
Santa Clara County Planning Office
70 West Hedding
San Jose, CA 95110
Fax (408) 288-9198

Craig Britton, General Manager
Midpeninsula Regional Open Space District
330 Distel Circle
Los Altos, CA 94022-1404

Dear Ann and Craig;

The Committee for Green Foothills urges Santa Clara County and the Midpeninsula Regional Open Space District to take action regarding the giant, highly visible scarring of a ridgeline above the Hanson Permanente Quarry, a scar that can be seen for miles throughout the Peninsula. In particular, the Committee urges the County and MROSD to seek a resolution of this problem together with potential violations by Hanson of publicly-owned property. We request that the County and MROSD confirm publicly whether these violations have occurred; that they seek an agreement with Hanson to reduce the scarring impact at the same time that public property is protected; and that the two agencies work together in resolving these problems.

Scarring from overburden deposit. For the last several years, Hanson has deposited quarry waste rock on a ridgeline overlooking Cupertino. This ridgeline deposit constitutes a uniquely visible scar on the hillsides, as all the other parts of the quarry are concealed within a valley and visible only from certain angles. The ridgeline deposit, by contrast, can be seen for miles. We understand that Hanson plans to continue depositing quarry waste in the area until it reaches the height limit specified in its Reclamation Plan, a process which could increase the unsightly scarring for a year or more. It will take several more years for a revegetation program to work in reducing the scarring. We further understand that Hanson plans to place additional waste rock in other areas of the ridgeline where the deposits supposedly will not be visible.

The Committee is not aware of any legal violations directly connected to the waste rock deposit, but the scarring is unquestionably a terrible aesthetic impact on the hillsides. We ask the County and MROSD to address the scarring in negotiations with Hanson over other likely legal violations.

Probable violation of the County's easement. In 1972, the previous owner of the Hanson Quarry (Kaiser Permanente) signed over to the County a Ridgeline Protection Easement, granting a property right to the County that prevented the quarry operators from lowering a ridgeline. County records now indicate that Hanson Quarry has violated this easement, apparently by quarrying so close to the ridgetop that it partially collapsed. It is not clear from the records we reviewed whether quarry operators simply disregarded the promised protection for the easement, or if they were insufficiently cautious and removed too much supporting material, leading to the ridgeline collapse. Regardless,

COMMITTEE FOR GREEN FOOTHILLS 3921 E. Bayshore Road Palo Alto, CA 94303 650.968.7243 PHONE 650.968.8431 FAX info@GreenFoothills.org www.GreenFoothills.org

Hanson appears to have violated a property right owned by the people of Santa Clara County. We request confirmation from the County that the public's rights have been violated.

Probable landslides onto MROSD property caused by the Quarry. County records also suggest that quarrying activities have either caused landslides onto adjacent property owned by MROSD or caused MROSD land to collapse. Again, the records we reviewed do not indicate why the landsliding occurred, but assuming that this activity did cross the property line (as suggested by the County records), it is either a trespass or a failure to provide support for adjoining property, both of which constitute legal violations. It raises the danger of reoccurrence, and also suggests a pattern where public property rights have been damaged by quarry operations. The Committee requests confirmation from MROSD that these violations have occurred.[1]

Appropriate solutions for potential violations and the hillside scarring. The Committee supports actions by the County and MROSD to fully and aggressively protect public property rights. Protecting those rights could include requiring Hanson to rebuild and stabilize the ridgeline in the easement area; to remove or stabilize the landslide material and prevent future landslides caused by the quarrying from affecting MROSD land; and to provide compensation for damages, including potential punitive damages.

We expect that Hanson may try to negotiate to do less than it would be legally required to do to fix the damages it has caused to the County-owned easement and to MROSD property. In particular, we note that the consultant hired by Hanson recommended in its January 22, 2002 letter that the company do virtually nothing about its easement violation, and potential future easement violations, other than plant a few trees.

The Committee strongly believes that letting Hanson do anything less than what would be fully required of it is unacceptable, unless Hanson also takes concrete steps to remedy the increasing visual impact from its ridgeline scarring. The common element between legal violations and the ridgeline scarring is the potential visual impact to the hillsides caused by the quarry. If Hanson seeks flexibility from government agencies, the company should show a similar flexibility with respect to public rights, and reduce the visual impact of the hillside scarring.

Reasonable steps to reduce visual impacts from scarring. Hanson Quarry should take the following steps to reduce the harm from scarring:

- Make a binding promise to finish placing overburden on the visible portion of the ridgeline by a date certain, preferably by the end of 2004. This will allow the revegetation process to be completed as soon as possible.

---

[1] One map in the County records shows an "Existing Rim 2002" from quarrying activities that crosses over MROSD property, suggesting the possibility that the quarry has illegally trespassed on and quarried several acres or more of MROSD land. The Committee requests clarification of this issue.

- Verify that alternative locations planned for overburden deposit after 2004 will not create scarring that is visible from the valley floor. The height limit for these locations should be adjusted if needed to keep scarring from becoming visible.

- Limit the active deposit of quarry waste to one section of the exposed ridgeline at a time, while revegetating the other sections. One way this could work would be to actively deposit the overburden waste rock on the southern third of the exposed ridgeline, while revegetating the northern two-thirds for an interim period. When the southern third reaches its height limit, permanent revegetation could begin for that section immediately, while the quarry reopens the middle third for active deposit, until that section reaches its height limit. The process could be repeated for the northernmost third. Other methods for limiting the visual impact of the scarring and speeding up the revegetation process could also be considered. While these methods may be inconvenient or more expensive for the quarry operators, the inconvenience should be something that Hanson would be willing to accept in return for flexibility from government agencies in how Hanson must repair the harm it has caused.

None of the above is meant to suggest that either the County or MROSD has responded inadequately to the potential legal violations. The Committee simply wants more public involvement in this process, and wants the environmental harm caused by the ridgeline scarring to be considered in the process of resolving the legal violations.

Please contact us if you have any questions. We look forward to hearing from you.

Sincerely,

Brian Schmidt
Legislative Advocate, Santa Clara County

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: March 31, 2004

SUBJECT: **Hanson Quarry Update for March 2004- off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

In the October 2003 status report, staff noted that County Counsel had finalized a confidential memo regarding this matter and had sent the memo to the Board and County Executive. At this point in time staff is awaiting direction from the Board of Supervisors regarding this matter.

During December 2003 Hanson Quarry representatives informed staff that the Quarry was proceeding with the preparation of a revised reclamation plan and would be submitting the plan for county review and approval. However, no revised plan has yet been submitted. Staff has been informed that the revised plan would be submitted during calendar year 2004."

No new information regarding either the County Counsel confidential memorandum or a revised reclamation plan was received by staff during the month of March.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

Emergency Grading in another area of the quarry:
Prior updates have indicated that County's Office of Development Services representatives have been working with Hanson Quarry representatives to determine the scope, term and conditions for authorizing "emergency grading" to allow the removal of approximately 100,000 cubic yards in the area of a slide in the eastern portion of the quarry. The Office of Development Services has requested additional information in order to give further consideration to the "emergency grading" proposal presented by Hanson Quarry.

During the November meeting Hanson Quarry representatives repeated that the issues surrounding the "emergency grading" are very complex and that they have been meeting with County staff members and representatives from the Midpeninsula Open Space District (Midpen) to achieve a consensus agreement on the best way to proceed. These discussions as well as discussions regarding potential property exchange scenarios between Hanson Quarry and Midpen are still active. **Through March no new information regarding the emergency grading permit has been submitted to County staff.**

cc: Peter Kutras
Ann Draper
Jim Baker
Clerk of the Board
File 2250
Tim Chow
Lizanne Reynolds
Jim Sirr
John Giovanola
Cotton Shires & Associates

County of Santa Clara

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MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: May 7, 2004

SUBJECT: **Hanson Quarry Update for April 2004- off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

In the October 2003 status report, staff noted that County Counsel had finalized a confidential memo regarding this matter and had sent the memo to the Board and County Executive. At this point in time staff is awaiting direction from the Board of Supervisors regarding this matter. **No new information regarding the aforementioned confidential memorandum was received during the month of April.**

During December 2003 Hanson Quarry representatives informed staff that the Quarry was proceeding with the preparation of a revised reclamation plan and would be submitting the plan for county review and approval. **Since that time Hanson representatives have been working to prepare their revised reclamation plan and to address the pending emergency grading permit application which proposes to remove approximately 100,000 cubic yards in the area of a slide in the eastern portion of the quarry.**

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

In late March and early April 2004, Planning staff received email and written correspondence from Committee for Green Foothills and 9 interested citizens. These communications discussed the visual impacts associated with scarring associated with the overburden deposit, landslides onto Midpen property, and possible violation of the County's scenic easement. Staff has taken note of this information and is addressing these issues in current discussions with quarry representatives and in reviewing future plans to be submitted by Hanson.

In late April 2004, County staff met with Hanson representatives to discuss Hanson's most recent plans and efforts regarding the quarry's future. Hanson's representatives indicated the following:

1. They would soon be meeting with representatives from the Committee for Green Foothills (CGF), representatives from the City of Cupertino, and staff from Supervisor Kniss' office. The purpose of the meeting is to promote positive dialogue between Hanson and the participants and to help Hanson better understand the issues of concern to CGF and the City of Cupertino
2. Negotiations regarding an exchange of lands with Midpeninsula Open Space District (Midpen) are still in progress and are anticipated to be completed during the 2004 calendar year.
3. Hanson is still in the process of preparing a modified reclamation plan for consideration by the County. They have retained Thomas Reid & Associates to conduct environmental analysis to identify and evaluate potential environmental issues which they will address in the plan to be submitted.
4. Hanson is revaluating the pending emergency grading permit application and is in the process of considering other alternatives

cc: Peter Kutras
Ann Draper
Jim Baker
Clerk of the Board
File 2250
Tim Chow
Lizanne Reynolds
Jim Sirr
John Giovanola

File COPY
File # 2250

County of Santa Clara

Environmental Resources Agency
Planning Office
County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

May 20, 2004

Brian Schmidt
Committee for Green Foothills
3921 E. Bayshore Road
Palo Alto CA 94303

HANSON QUARRY

This letter is to acknowledge receipt of your letter dated March 17, 2004 and to let you know that I am taking note of the issues you have identified.

As you know, every month I prepare an update regarding activities associated with Hanson Quarry for the Board of Supervisors.

This week I gave you copies of the monthly updates for March, April and May . Copies of future updates will be placed in county file #2250 and are available for public review. If I can be of further assistance; please feel free to contact me at 408.299.5772.

MICHAEL M. LOPEZ
SECRETARY, PLANNING COMMISSION
SANTA CLARA COUNTY
PLANNING OFFICE

mml:leg
ml-hanson quarry

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

County of Santa Clara

Environmental Resources Agency
Planning Office
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MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: June 2, 2004

SUBJECT: **Hanson Quarry Update for May 2004- off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

In the October 2003 status report, staff noted that County Counsel had finalized a confidential memo regarding this matter and had sent the memo to the Board and County Executive. At this point in time staff is awaiting direction from the Board of Supervisors regarding this matter. **No new information regarding the aforementioned confidential memorandum was received during the month of May.**

During December 2003 Hanson Quarry representatives informed staff that the Quarry was proceeding with the preparation of a revised reclamation plan and would be submitting the plan for county review and approval. Since that time Hanson representatives have been working to prepare their revised reclamation plan and to address the pending emergency grading permit application which proposes to remove approximately 100,000 cubic yards in the area of a slide in the eastern portion of the quarry.

In late March and early April 2004, Planning staff received email and written correspondence from Committee for Green Foothills and 9 interested citizens. These communications discussed the visual impacts associated with scarring associated with the overburden deposit, landslides onto Midpen property, and possible violation of the County's scenic easement. Staff has taken note of this information and is addressing these issues in current discussions with quarry representatives and in reviewing future plans to be submitted by Hanson.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

In late April 2004, County staff met with Hanson representatives to discuss Hanson's most recent plans and efforts regarding the quarry's future. Hanson's representatives indicated the following:

1. They would soon be meeting with representatives from the Committee for Green Foothills (CGF), representatives from the City of Cupertino, and staff from Supervisor Kniss' office. The purpose of the meeting is to promote positive dialogue between Hanson and the participants and to help Hanson better understand the issues of concern to CGF and the City of Cupertino.
2. Negotiations regarding an exchange of lands with Midpeninsula Open Space District (Midpen) are still in progress and are anticipated to be completed during the 2004 calendar year.
3. Hanson is still in the process of preparing a modified reclamation plan for consideration by the County. They have retained Thomas Reid & Associates to conduct environmental analysis to identify and evaluate potential environmental issues which they will address in the plan to be submitted.
4. Hanson is revaluating the pending emergency grading permit application and is in the process of considering other alternatives.

No information regarding the aforementioned meeting, negotiations, reclamation plan or emergency grading application was received during the month of May.

cc: Peter Kutras
Ann Draper
Jim Baker
Clerk of the Board
File 2250
Tim Chow
Lizanne Reynolds
Jim Sirr
John Giovanola
Cotton Shires & Associates

County of Santa Clara

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MEMORANDUM

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: July 2, 2004

SUBJECT: **Hanson Quarry Update for May 2004- off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

In the October 2003 status report, staff noted that County Counsel had finalized a confidential memo regarding this matter and had sent the memo to the Board and County Executive. At this point in time staff is awaiting direction from the Board of Supervisors regarding this matter. **No new information regarding the aforementioned confidential memorandum was received during the month of June.**

During December 2003 Hanson Quarry representatives informed staff that the Quarry was proceeding with the preparation of a revised reclamation plan and would be submitting the plan for county review and approval. Since that time Hanson representatives have been working to prepare their revised reclamation plan and to address the pending emergency grading permit application which proposes to remove approximately 100,000 cubic yards in the area of a slide in the eastern portion of the quarry.

In late March and early April 2004, Planning staff received email and written correspondence from Committee for Green Foothills and 9 interested citizens. These communications discussed the visual impacts associated with scarring associated with the overburden deposit, landslides onto Midpen property, and possible violation of the County's scenic easement. Staff has taken note of this information and is addressing these issues in current discussions with quarry representatives and in reviewing future plans to be submitted by Hanson.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

In late April 2004, County staff met with Hanson representatives to discuss Hanson's most recent plans and efforts regarding the quarry's future. Hanson's representatives indicated the following:

1. They would soon be meeting with representatives from the Committee for Green Foothills (CGF), representatives from the City of Cupertino, and staff from Supervisor Kniss' office. The purpose of the meeting is to promote positive dialogue between Hanson and the participants and to help Hanson better understand the issues of concern to CGF and the City of Cupertino.
2. Negotiations regarding an exchange of lands with Midpeninsula Open Space District (Midpen) are still in progress and are anticipated to be completed during the 2004 calendar year.
3. Hanson is still in the process of preparing a modified reclamation plan for consideration by the County. They have retained Thomas Reid & Associates to conduct environmental analysis to identify and evaluate potential environmental issues which they will address in the plan to be submitted.
4. Hanson is revaluating the pending emergency grading permit application and is in the process of considering other alternatives.

No information regarding the aforementioned meeting, negotiations, reclamation plan or emergency grading application was received during the month of June.

Staff anticipates the submittal of a revised reclamation plan within the next few months and will inform the Board of Supervisors when application is received.

Staff will continue to monitor activity at the quarry, but because of staff reductions, would request to reduce the frequency of these reports from monthly to quarterly.

cc: Peter Kutras
Ann Draper
Jim Baker
Clerk of the Board
File 2250
Tim Chow
Lizanne Reynolds
Gary Rudholm
John Giovanola

County of Santa Clara

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(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Interim Planning Director

DATE: October 7, 2004

SUBJECT: **Hanson Quarry Update for July, August, September 2004-off agenda item**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

In the October 2003 status report, staff noted that County Counsel had finalized a confidential memo regarding this matter and had sent the memo to the Board and County Executive. At this point in time staff is awaiting direction from the Board of Supervisors regarding this matter. **No new information regarding the aforementioned confidential memorandum was received during the months of July, August, or September.**

During December 2003 Hanson Quarry representatives informed staff that the Quarry was proceeding with the preparation of a revised reclamation plan and would be submitting the plan for county review and approval. Since that time Hanson representatives have been working to prepare their revised reclamation plan and to address the pending emergency grading permit application which proposes to remove approximately 100,000 cubic yards in the area of a slide in the eastern portion of the quarry.

In late March and early April 2004, Planning staff received email and written correspondence from Committee for Green Foothills and 9 interested citizens. These communications discussed the visual impacts associated with scarring associated with the overburden deposit, landslides onto Midpeninsula Regional Open Space District (MROSD) property, and possible violation of the County's scenic easement. Staff has taken note of this information and has addressed these issues in past discussions with quarry representatives and in reviewing preliminary conceptual plans with Hanson representatives.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

In late April 2004, County staff met with Hanson representatives to discuss Hanson's most recent plans and efforts regarding the quarry's future. Hanson's representatives indicated the following:

1. They would soon be meeting with representatives from the Committee for Green Foothills (CGF), representatives from the City of Cupertino, and staff from Supervisor Kniss' office. The purpose of the meeting is to promote positive dialogue between Hanson and the participants and to help Hanson better understand the issues of concern to CGF and the City of Cupertino.
2. Negotiations regarding an exchange of lands with Midpeninsula Open Space District (Midpen) are still in progress and are anticipated to be completed during the 2004 calendar year.
3. Hanson is still in the process of preparing a modified reclamation plan for consideration by the County. They have retained Thomas Reid & Associates to conduct environmental analysis to identify and evaluate potential environmental issues which they will address in the plan to be submitted.
4. Hanson is revaluating the pending emergency grading permit application and is in the process of considering other alternatives.

No information regarding the aforementioned meeting, negotiations, reclamation plan or emergency grading application was received during the month of July, August, or September.

Staff anticipates the submittal of a revised reclamation plan within the next few months and will inform the Board of Supervisors when application is received.

Staff will continue to monitor activity at the quarry, but because of staff reductions, will submit these reports on a quarterly basis, which was acceptable to Pattie DemelloPine, Chief Aide to Supervisor Kniss.

cc: Peter Kutras
Lizanne Reynolds
Jim Baker
Clerk of the Board
File 2250
Tim Chow
Pattie DeMelloPine
Gary Rudholm
John Giovanola

County of Santa Clara

Environmental Resources Agency
Planning Office

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70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Planning & Development Coordinator

DATE: January 6, 2005

SUBJECT: **Hanson Quarry Update for October, November, and December 2004- off agenda Quarterly Report**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

In the October 2003 status report, staff noted that County Counsel had finalized a confidential memo regarding this matter and had sent the memo to the Board and County Executive. At this point in time staff is awaiting direction from the Board of Supervisors regarding this matter. **No new information regarding the aforementioned confidential memorandum was received during the month of October, November, or December.**

During December 2003 Hanson Quarry representatives informed staff that the Quarry was proceeding with the preparation of a revised reclamation plan and would be submitting the plan for county review and approval. Since that time Hanson representatives have been working to prepare their revised reclamation plan and to address the pending emergency grading permit application which proposes to remove approximately 100,000 cubic yards in the area of a slide in the eastern portion of the quarry.

In late March and early April 2004, Planning staff received email and written correspondence from Committee for Green Foothills and 9 interested citizens. These communications discussed the visual impacts associated with scarring associated with the overburden deposit, landslides onto Midpen property, and possible violation of the County's scenic easement. Staff has taken note of this information and is addressing these issues in current discussions with quarry representatives and in reviewing future plans to be submitted by Hanson.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

In late April 2004, County staff met with Hanson representatives to discuss Hanson's most recent plans and efforts regarding the quarry's future. Hanson's representatives indicated the following:

1. They would soon be meeting with representatives from the Committee for Green Foothills (CGF), representatives from the City of Cupertino, and staff from Supervisor Kniss' office. The purpose of the meeting is to promote positive dialogue between Hanson and the participants and to help Hanson better understand the issues of concern to CGF and the City of Cupertino.
2. Negotiations regarding an exchange of lands with Midpeninsula Open Space District (Midpen) were still in progress and were anticipated to be completed during the 2004 calendar year.
3. Hanson was in the process of preparing a modified reclamation plan for consideration by the County. They had retained Thomas Reid & Associates to conduct environmental analysis to identify and evaluate potential environmental issues which they will address in the plan to be submitted.
4. Hanson was revaluating the pending emergency grading permit application and is in the process of considering other alternatives.

No information regarding the aforementioned meeting, negotiations, reclamation plan or emergency grading application was received during the month of October, November, December.

Staff anticipates the submittal of a revised reclamation plan within the next few months and will inform the Board of Supervisors when application is received.

Staff will continue to monitor activity at the quarry, but because of staff reductions, is reducing the frequency of these reports from monthly to quarterly.

cc: Peter Kutras
Lizanne Reynolds
Gary Rudholm
Clerk of the Board
Pattie DeMelloPine
Tim Chow
Jim Baker
John Giovanola
File 2250

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Interim Planning Director

DATE: April 8 , 2005

SUBJECT: **Hanson Quarry Update for January, February, and March 2005- off agenda Quarterly Report**

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

In the October 2003 status report, staff noted that County Counsel had finalized a confidential memo regarding this matter and had sent the memo to the Board and County Executive. At this point in time staff is awaiting direction from the Board of Supervisors regarding this matter. **No new information regarding the aforementioned confidential memorandum was received during the months of January, February, or March 2005.**

During December 2003 Hanson Quarry representatives informed staff that the Quarry was proceeding with the preparation of a revised reclamation plan and would be submitting the plan for county review and approval. Since that time Hanson representatives have been working to prepare their revised reclamation plan and to address the pending emergency grading permit application which proposes to remove approximately 100,000 cubic yards in the area of a slide in the eastern portion of the quarry.

In late March and early April 2004, Planning staff received email and written correspondence from Committee for Green Foothills and 9 interested citizens. These communications discussed the visual impacts associated with scarring associated with the overburden deposit, landslides onto Midpen property, and possible violation of the County's scenic easement. Staff has taken note of this information and is addressing these issues in current discussions with quarry representatives and in reviewing future plans to be submitted by Hanson.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

In late April 2004, County staff met with Hanson representatives to discuss Hanson's plans and efforts regarding the quarry's future. Hanson's representatives indicated the following:

1. They would be meeting with representatives from the Committee for Green Foothills (CGF), representatives from the City of Cupertino, and staff from Supervisor Kniss' office. The purpose of the meeting is to promote positive dialogue between Hanson and the participants and to help Hanson better understand the issues of concern to CGF and the City of Cupertino.
2. Negotiations regarding an exchange of lands with Midpeninsula Open Space District (Midpen) were still in progress and were anticipated to be completed during the 2004 calendar year.
3. Hanson was in the process of preparing a modified reclamation plan for consideration by the County. They had retained Thomas Reid & Associates to conduct environmental analysis to identify and evaluate potential environmental issues which they will address in the plan to be submitted.
4. Hanson was revaluating the pending emergency grading permit application and is in the process of considering other alternatives.

No information regarding the aforementioned meetings, negotiations, reclamation plan or emergency grading application was received during the month of January, February, or March 2005.

Staff anticipates the submittal of a revised reclamation plan within the next few months and will inform the Board of Supervisors when application is received.

On April 20, 2005, the Planning Commission will be visiting the Hanson Quarry as part of a field trip which also includes visits to the Stevens Creek Quarry and the Lexington Quarry. The visit is part of a scheduled workshop in which the Planning Commission will view the sites and learn about past, present, and future operations and plans.

Staff will continue to monitor activity at the quarry, but because of staff reductions, is reducing the frequency of these reports from monthly to quarterly.

cc: Peter Kutras
Gary Rudholm
Clerk of the Board
Jim Baker
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Lizanne Reynolds
John Giovanola
File 2250
Pattie DeMelloPine

County of Santa Clara

Department of Planning and Development
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Interim Planning Director

DATE: July 6, 2005

SUBJECT: Hanson Quarry Update for April, May, and June 2005- off agenda Quarterly Report

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Quarry. The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

In the October 2003 status report, staff noted that County Counsel had finalized a confidential memo regarding this matter and had sent the memo to the Board and County Executive. At this point in time staff is awaiting direction from the Board of Supervisors regarding this matter. No new information regarding the aforementioned confidential memorandum was received during the months of April, May, or June 2005.

During December 2003 Hanson Quarry representatives informed staff that the Quarry was proceeding with the preparation of a revised reclamation plan and would be submitting the plan for county review and approval. Since that time Hanson representatives have been working to prepare their revised reclamation plan and to address the pending emergency grading permit application which proposes to remove approximately 100,000 cubic yards in the area of a slide in the eastern portion of the quarry.

In late March and early April 2004, Planning staff received email and written correspondence from Committee for Green Foothills and 9 interested citizens. These communications discussed the visual impacts associated with perceived scarring associated with the overburden deposit, landslides onto Midpen property, and possible violation of the County's scenic easement. Staff has taken note of this information and is addressing these issues in current discussions with quarry representatives and in reviewing future plans to be submitted by Hanson.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

In late April 2004, County staff met with Hanson representatives to discuss Hanson's plans and efforts regarding the quarry's future. Hanson's representatives indicated the following:

1. They would be meeting with representatives from the Committee for Green Foothills (CGF), representatives from the City of Cupertino, and staff from Supervisor Kniss' office. The purpose of the meeting is to promote positive dialogue between Hanson and the participants and to help Hanson better understand the issues of concern to CGF and the City of Cupertino.

   Status as of 7/1/05: John Giovanola of Hanson Permanente facilitated multiple meetings with the Committee for Green Foothills (CGF), and other interested parties, since April 2004, in keeping with the intent of promoting positive dialogue between Hanson and the general public. One such meeting included a site visit by CGF, which is discussed on the organization's web page.

   In addition to these meetings, on April 20, 2005, the Planning Commission visited the Hanson Quarry as part of a field trip which also included visits to the Stevens Creek Quarry and the Lexington Quarry. The visit was part of a scheduled workshop in which the Planning Commission viewed the sites and learned about past, present, and future operations and plans.

2. Negotiations regarding an exchange of lands with Midpeninsula Open Space District (Midpen) were still in progress and were anticipated to be completed during the 2004 calendar year.

   Status as of 7/1/05: According to representatives for both Hanson Permanente and Midpeninsula Open Space District, negotiations for a land swap between the respective parties are still taking place. At this point in time neither party has a time frame for completing the negotiations; however, each stated they will keep the County informed about the progress.

3. Hanson was in the process of preparing a modified reclamation plan for consideration by the County. They had retained Thomas Reid & Associates to conduct environmental analysis to identify and evaluate potential environmental issues, which they will address in the plan to be submitted.

   Status as of 7/1/05: Hanson contacted the County Planning Office on June 28, 2005, and requested a meeting. This meeting is tentatively scheduled for mid-July and will provide the Planning Office with a progress report regarding Hanson's preparation of an application to modify the existing reclamation plan, and will give Hanson an opportunity to ask questions regarding the approval process. The formal application is expected to be made in the Fall of 2005.

4. Hanson was revaluating the pending emergency grading permit application and is in the process of considering other alternatives.

   Status as of 7/1/05: Hanson will no longer seek an emergency grading permit. The mine operator will instead seek other appropriate means to provide slope stability in the portion of the mine where recent slides occurred.

Staff will continue to monitor activity at the quarry, and will continue these reports on a quarterly basis.

cc:
Peter Kutras
Gary Rudholm
Clerk of the Board
Jim Baker
Jody Hall Esser
Lizanne Reynolds
John Giovanola
File 2250
Pattie DeMelloPine
Jane Decker

County of Santa Clara

Department of Planning and Development
Planning Office
County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Interim Planning Director

DATE: October 18, 2005

SUBJECT: Hanson Quarry Update for July, August, and September 2005- off agenda Quarterly Report

This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Permanente Quarry (Hanson). The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

In the October 2003 status report, staff noted that County Counsel had finalized a confidential memo regarding this matter and had sent the memo to the Board and County Executive. At this point in time staff is awaiting direction from the Board of Supervisors regarding this matter. **No new information regarding the aforementioned confidential memorandum was received during the months of July, August, or September 2005.**

County staff met with Hanson representatives on July 19, 2005, and received an update regarding Hanson's plans and efforts regarding the quarry's future. These efforts are focused on (1) maintaining a dialogue with the public regarding the quarry's mining and reclamation processes as allowed under the current reclamation plan, (2) pursuing a lot line adjustment with Midpeninsula Open Space District to obtain land necessary for slope stabilization on a corner of the quarry, and (3) preparation of a proposal to modify the current reclamation plan. The status of these three items is summarized below.

1. As of July 1, 2005 Hanson facilitated multiple meetings with the Committee for Green Foothills (CGF), and other interested parties. In addition to these meetings, on April 20, 2005, the Planning Commission visited the Hanson Quarry as part of a field trip, which also included visits to two other quarries. Hanson staff remains available for similar meetings or contact by the public; however, no other meetings were reported to County staff since July of this year.

2. During the Ju. 19, 2005, meeting Hanson indicated expected to complete negotiations with Midpeninsula Open Space District (Midpen) for a "land swap" that would be recorded through a Lot Line Adjustment. These negotiations were to be completed in the Autumn of 2005. Hanson informed County staff that final documents for the lot line adjustment were submitted to Midpen on September 28, 2005, and that action from the Midpen Board of Directors is expected in late October 2005.

3. Hanson advised County staff that it was considering making two submittals to modify the quarry's reclamation plan. County staff had previously recommended that Hanson include measures to address slope stability and scenic ridge protection in any proposal to modify the existing reclamation plan, and Hanson indicated it would include these elements. Additionally, Hanson had previously indicated it intended to modify the reclamation plan to incorporate an expansion of the mined area, as well as address slope stability.

   Hanson noted that, because of safety concerns, they previously submitted an application for an emergency grading permit; however, due to a combination of factors the application was withdrawn. Nevertheless, Hanson still considered slope stability in a portion of the quarry a high priority. Hanson therefore indicated it will apply for modification of the existing reclamation plan that is focused on slope stability in the area of the quarry closest to the property currently owned by Midpeninsula. The resulting changes to the reclamation plan would focus on revised slopes, would lead to more stable hillside slopes, and would not provide for any further mineral extraction in the subject area. This proposal is expected to be submitted to the Planning Office for processing by the end of the 2005 calendar year.

Staff will continue to monitor activity at the quarry, and will continue these reports on a quarterly basis.

cc: Peter Kutras
Gary Rudholm
Clerk of the Board
Jim Baker
Jody Hall Esser
Lizanne Reynolds
John Giovanola
File 2250
Pattie DeMelloPine
Jane Decker

County of Santa Clara

Department of Planning and Development
Planning Office
County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. Lopez, Interim Planning Director

DATE: January 17, 2006

SUBJECT: Off Agenda Quarterly Report Regarding Hanson Quarry, Update for October, November, and December 2005

Background:
This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Permanente Quarry (Hanson). The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions
- If no transgression exists, recommend methods to prevent future transgression

Status:
In the October 2003 status report, staff noted that County Counsel had finalized a confidential memo regarding this matter and had sent the memo to the Board and County Executive. At this point in time staff is awaiting direction from the Board of Supervisors regarding this matter. **No new information regarding the aforementioned confidential memorandum was received during the months of October, November, or December 2005.**

As reported last quarter, staff was advised by Hanson Permanente Cement ("Hanson") that progress was being made on two items. The first was negotiations with the Midpeninsula Regional Open Space District ("Midpeninsula") regarding a land swap and subsequent lot line adjustment. The second was preparations for a proposal to modify the existing reclamation plan on file that governs reclamation of the mine.

As of September 30, 2005, according to Hanson and Midpeninsula the land swap negotiations were to be completed and submitted to the Midpeninsula Board of Directors in October 2005. Although both parties have an agreement in principle regarding the land swap, as of January 17, 2006, the details associated with the transaction are still being negotiated. Staff from Midpeninsula estimated that the agreement would be submitted to Board of Directors no sooner than March 2006.

Hanson Permanente advised staff that plans and other materials are ready to be submitted for a proposed modification to the quarry reclamation plan. This modification would focus improvements for slope stability within a portion of the mine. No new or additional mining would take place under the modification. This change would affect land that is subject to the land swap described above, and for this reason Hanson is waiting to submit the proposal until the land swap is complete, which means the reclamation plan modification submittal from Hanson would be received by the County Planning Office no sooner than March or April 2006.

Staff will continue to monitor activity at the quarry, and will continue these reports on a quarterly basis.

cc: Peter Kutras
Jane Decker
Val Alexeeff
Clerk of the Board
Pattie DeMelloPine
Gary Rudholm
Lizanne Reynolds
Jim Baker
John Giovanola
File 2250

County of Santa Clara

Department of Planning and Development
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

TO: Supervisor Kniss and Members of the Board

FROM: Michael M. López, Interim Planning Director

DATE: April 11, 2006

SUBJECT: Off Agenda Quarterly Report Regarding Hanson Quarry, Update for January, February, and March 2006

Background:
This memorandum is written in keeping with direction from an August 7, 2001 memorandum from Supervisor Liz Kniss requesting an off agenda monthly staff report regarding the scenic easement at Hanson Permanente Quarry (Hanson). The referral addressed the hiring of an independent geological consultant to:

- Determine whether a scenic easement transgression exists or is anticipated under current work conditions;
- If transgressions exist, determine their causes, as well as recommend methods to remedy the situation and prevent future transgressions;
- If no transgression exists, recommend methods to prevent future transgression.

Status:
In the October 2003 status report, staff noted that County Counsel had finalized a confidential memo regarding this matter and had sent the memo to the Board and County Executive. At this point in time staff is awaiting direction from the Board of Supervisors regarding this matter. **No new information regarding the confidential memorandum was received during the months of January, February, or March 2006.**

As reported last quarter, staff was advised by Hanson Permanente Cement ("Hanson") that progress was being made on two items. The first were negotiations with the Midpeninsula Regional Open Space District ("Midpeninsula") regarding a land swap and subsequent lot line adjustment. The second were preparations for a proposal to modify the existing reclamation plan on file that governs reclamation of the mine.

Hanson advised staff on March 16, 2006, that the land swap negotiations were still being completed, and that legal counsel for both parties were still reviewing the details associated with the deal. According to staff from Midpeninsula the details are indeed close to being completed, and the Midpeninsula Board of Directors is expected to take up the matter in May 2006. Planning Office staff expects to receive an application for a lot line adjustment, following action by the Midpeninsula Board, with Midpeninsula and Hanson as co-applicants.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

Hanson Permanente advised staff that plans and other materials are ready to be submitted for a proposed modification to the quarry reclamation plan. This modification would provide improvements for slope stability within a portion of the mine that abuts land currently owned by Midpeninsula, but will soon become land owned by Hanson through the land swap and lot line adjustment described above. No new or additional mining would take place under the modification.

Because Hanson is waiting to submit the application for reclamation plan modification for slope stability after the land swap is complete, the application will therefore be submitted to the County no sooner than May 2006. Staff will continue to monitor activity at the quarry, and will continue these reports on a quarterly basis.

cc:
Peter Kutras
Jane Decker
Val Alexeeff
Clerk of the Board
Pattie DeMelloPine
Gary Rudholm
Lizanne Reynolds
Jim Baker
John Giovanola
File 2250

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KRISTA J. DUNZWEILER
DAVID R. RICE
JENNIFER D. BECHTOLD
SARAH R. HARTMANN

Via Overnight Mail

August 10, 2006

Val Alexeeff
Director, Department of Planning and Development
County of Santa Clara
70 West Hedding Street
East Wing, 7th Floor
San Jose, CA 95110

Re: Hanson Permanente Quarry - Response to Alleged Violations
Mine Identification No. 91-43-0004
Our File No.: 3577-001

Dear Mr. Alexeeff:

This firm represents Hanson Permanente Cement Corporation ("Hanson"). During your meeting with the operators on July 26, 2006, and again in our meeting on August 8, 2006, you requested that we provide the County with Hanson's position on the SMARA violations claimed by the Department of Conservation (DOC) and the Executive Director of the State Mining and Geology Board (SMGB).

As you explained, the information provided will assist the County to address and/or respond to the DOC's claimed violations. We understand the County is receiving pressure from the DOC to begin issuing notices of violation. We look forward to the opportunity to preview the County's written response to the DOC before it is finalized within the next couple of weeks.

As requested, and in anticipation of discussing the DOC's claims in greater detail, we summarize below the claims asserted by the DOC with respect to Hanson's Permanente Quarry, and our position on each.

400 CAPITOL MALL
SUITE 1800
SACRAMENTO, CA 95814
WWW.DIEPENBROCK.COM 916 492.5000
FAX: 916 446.4535

BACKGROUND

The Permanente Quarry

As you know, Hanson's Permanente Quarry is a limestone and aggregate materials quarry within the Los Altos hills. Approximately 411 acres are disturbed by mining operations, representing both pre- and post-1976 disturbances. The quarry lies entirely within Hanson's 3500 acre property.

While early limestone extraction at the site is recorded as early as 1899, the quarry's present location stems from the 1939 purchase of approximately 1300 acres along Permanente Creek by Hanson's predecessor, The Permanente Corporation. The Permanente Corporation, later renamed Kaiser Cement Corporation, over time acquired several surrounding parcels to expand its ownership to over 3500 acres. Hanson purchased the entire property from Kaiser Cement in 1987.

The quarry has been repeatedly acknowledged by the County as a legal, non-conforming use, and lies within an area designated by the State Geologist as regionally significant.[1]

Cement Plant / Industrial Facilities

On May 8, 1939, the Permanente Corporation obtained a use permit from the County for the "erection, construction and operation of a cement mill and the storage of cement..." (Exh. A.) The permit is for an unlimited term, and has no termination date. The permit is consistent the 1937 zoning of the property, which allowed commercial and manufacturing uses. The cement plant was built to the east of the quarry and has operated continuously since. It now accounts for an estimated one-third of Northern California's cement production.

The cement plant permit has since been revisited by the County on three occasions. On July 17, 1950, the County amended the permit to allow an additional kiln and auxiliary facilities to be installed. On July 6, 1955, the County amended the permit to allow construction of a rotary kiln. Finally, on December 19, 1977, the County Board of Supervisors approved a proposal to modernize the cement plant by transitioning from a "wet" to a "dry" production process (involving an over $50 million investment).

The cement plant is a stand-alone facility that is operationally distinct from the quarry. The cement plant processes limestone not only from the quarry, but also from

[1] See Code of Regulations, tit. 14, § 3550.10 [Sector BB].

other sites. Indeed, when the Permanente limestone is exhausted, the cement plant will continue to operate by processing material from other sources.

Next to the cement plant is the former aluminum plant site, which covers approximately 153 acres. The site was under completely separate ownership from the quarry until 1995, when the owners sold the defunct plant to Kaiser Cement. The aluminum plant is not used, nor has it ever been used, to process mined material from the Permanente Quarry.

Reclamation Plan

The County approved the current reclamation plan on March 7, 1985. (Exh. B.) The 330 acres covered by the reclamation plan represent "the existing and planned excavation and storage areas." (Exh. B, at 18.) The reclamation plan excludes certain pre-1976 disturbed areas, and other non-operational disturbances.

The reclamation plan described the excavation of the quarry pit at an overall gradient of 1:1, and called for the establishment of 3:1 slopes in both the west and east material storage areas. (Exh. B, at 28-29.) The approved plan also identified regions of historical slope instability on the northwestern pit face. (Exh. B, attachment.)

By design, the reclamation plan covers only post-1975 excavation, not the cement plant. The March 1, 1985 environmental assessment states, "This reclamation is limited to that portion of the quarry site which has occurred since January 1, 1976..." (Exh. C, at 2.) Further, the March 7, 1985 staff report provided that "This approval is for reclamation aspects of the quarry area and not the operational activity; nor does it include the area of the cement plant." (Exh. D, at 1.)

The reclamation plan was designed to address operations until 2010, with planned revisions at that time to address the final reclamation of the site. As you know, the scheduled amendment is nearing completion, and we are working with the County as to how to best present the amendment to the state.

Compliance History

The quarry has received no violations since the annual mine reporting requirements became effective in 1991.

ALLEGED VIOLATIONS

Disturbance Outside Approved Reclamation Plan Boundaries

The DOC claims that the area of mining disturbance has exceeded the reclamation plan boundaries by at least 94 acres. The DOC appears to have reached this conclusion merely by comparing the area covered by the reclamation plan against the total disturbed area as reflected by current aerials.

The DOC's analysis ignores the long history of mining that occurred at the site before SMARA's effective date on January 1, 1976. It is well established under Public Resources Code section 2776 that disturbances pre-dating SMARA are exempt from reclamation requirements.

Historical aerials reveal that the current limits of disturbance were largely reached before SMARA was enacted. Exhibits E, F and G are aerials dated 1975, 1982 and 2005. The aerials trace the progression of the mining disturbance from pre-SMARA times to today, and demonstrate that the current limits of disturbance were, in most respects, reached by 1975.[2]

The aerials also show that most of the expansion between 1975 and today occurred within the reclamation plan boundaries. In exhibit H, we have endeavored to identify those small areas of expansion that lie outside the reclamation boundaries. We estimate that these areas account for less than six acres.[3] This additional acreage will be included in Hanson's upcoming reclamation plan amendment.

The DOC asserts that land disturbed before 1976 that has been since re-disturbed is subject to SMARA. However, the reclamation plan and supporting staff reports establish that the County meant to exclude certain ongoing disturbances from the plan. For instance, the shaded blue within Exhibit I includes continually-disturbed areas (such as haul roads and processing areas) omitted from the plan. Nothing in SMARA requires the County to modify its 1985 approval based on the DOC's current

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[2] The yellow 1975 overlay on the 1982 and 2005 aerials is not perfectly drawn. The aerials from 1975, 1982 and 2005 appear to have been taken at different camera angles, or patched together from multiple aerials, in a way that prevents the 1975 disturbance limits overlay from point-to-point placement over the later aerials. As such, the aerial figures should be considered illustrative only.

[3] This minor acreage is unlikely to represent a substantial deviation from the reclamation plan. (See Pub. Resources Code, § 2777 [non-substantial deviations from an approved plan do not require amendment of the plan].)

interpretation of SMARA, and the 1985 approval is immune from challenge under the doctrine of administrative res judicata.[4]

There is no need for a showdown on this issue, however. As discussed, Hanson's reclamation plan amendment will be submitted shortly, and will encompass all areas disturbed by mining, without regard to whether the disturbance occurred before or after SMARA's enactment.

Slope Instability: Already addressed in the Reclamation Plan

The slope instabilities along the northern and western pit faces are not, as the DOC contends, violations of the reclamation plan. The historical instabilities were noted in the 1985 reclamation plan and slated to be addressed in the 20-year amendment. As you know, that is precisely what Hanson is now doing. Hanson recently removed the main obstacle to the stabilization work by acquiring the "Mid-Pen corner" in a land swap with the Mid-Peninsula Regional Open Space District. As previously discussed with the County's Planning Department, the stabilization plan will be submitted as part of a request for a minor modification to the reclamation plan. This submission is ready for the County's review; Hanson is merely awaiting confirmation from the County that it is ready to proceed in this manner.

The Cement Plant should not be part of the Reclamation Plan

Hanson remains firm that the cement plant is not subject to SMARA and was appropriately excluded from the reclamation plan. It is a separately-permitted operation established in 1939 – predating SMARA's enactment by some 37 years – and has been operating continuously since in the same footprint as originally constructed. The vested rights that have accrued during that time would be severely damaged or devalued if the County or state were to force new SMARA obligations on the facility.

The DOC's proposal to identify the reclamation end use as "a cement plant" is not acceptable. Accepting would be tantamount to conceding SMARA jurisdiction over the cement plant, and conferring upon the state or County the authority to require future modifications to the reclamation plan affecting the cement plant. Hanson is not willing to subject this huge – over $100 million – and long-standing investment to discretionary review. The DOC also gains nothing by setting the cost estimate to zero; a reclamation plan covering the cement plant serves no useful purpose if it does not require reclamation.

---

[4] See *Hensler v. City of Glendale* (1994) 8 Cal.4th 1, 28 ["challenges to the actions of an administrative agency [must] be brought promptly"; failure to do so renders the agency decision final and immune from attack under the doctrine of administrative res judicata].

Nor may the state revisit the County's decision in 1985 to exclude the cement plant from the reclamation plan. The County then made a conscious determination that the cement plant was legally distinct from the quarrying operation. As stated above, the decision has long been final under the doctrine of administrative res judicata.[5]

In addition, various SMARA provisions confirm that the cement plant is not subject to SMARA.

First, only a "surface mining operation" requires reclamation[6], and the cement facility is not a surface mining operation. "Surface mining operations" are defined within Public Resources Code section 2735 as the "mining of minerals" and related extraction processes.[7] The cement plant facility does not engage in such activities.

Second, 1993 revisions to Public Resources Code section 2714 clarify that mineral processing facilities are exempt from SMARA. Although the exemptions were passed eight years after the reclamation plan was approved, section 2714, subdivision (c), nonetheless offers additional support for Hanson's position that the cement plant site is not subject to reclamation under SMARA. Section 2714 provides:

> SMARA does not apply to the following activities:
>
> * * *
>
> (c) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:
>
> (1) The plant site is located on lands designated for industrial or commercial uses in the applicable county or city general plan.

---

[5] See *Hensler v. City of Glendale*, supra, 8 Cal.4th 1, 28.

[6] Pub. Resources Code, §§ 2770, subd. (a), 2772, subd. (a)(5).

[7] Under Public Resources Code section 2735, "surface mining operations" mean "all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations shall include, but are not limited to: (a) Inplace distillation or retorting or leaching[;] (b) The production and disposal of mining waste[; and] (c) Prospecting and exploratory activities."

> (2) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the applicable city or county.
>
> (3) None of the minerals being processed are being extracted onsite.
>
> (4) All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.

The exemption[8] requires that the plant site be located on land designated for commercial or industrial uses. The cement plant was established in the County's A-1 zone, which expressly allowed commercial and industrial uses.[9] Under established law, Hanson gained a vested right to the use of the cement plant according to the zoning that was effective when the use became established.

Further, on three subsequent occasions, the County reaffirmed the appropriateness of the cement plant at its present location. The County granted permit amendments on July 17, 1950 and July 6, 1955, and later approved plant upgrades on December 19, 1977.

Adequate Financial Assurances have been Maintained

The July 13 Executive Officer's Report states the County wrongly reduced the financial assurances for the Permanente Quarry. Also, during our July 26 meeting, you relayed the DOC's position that all mining disturbances should be covered by a financial assurance cost estimate.

Hanson's financial assurance calculations are dictated, however, by the approved reclamation plan. Under Public Resources Code section 2773.1, subdivision (a), "Lead agencies shall require financial assurances of each surface mining operation

---

[8] The third and fourth elements require no discussion because no mineral extraction has been recorded where the cement plant is located.

[9] The County's general plan was not adopted until long after the cement plant was established, and does not currently apply a land-use designation to the cement plant site because it is within the City of Cupertino's sphere of influence.

to ensure reclamation is performed *in accordance with the surface mining operation's approved reclamation plan...*" (Italics added.)

Hanson submitted an updated financial assurance cost estimate in July 2006 based on the approved reclamation plan. To require an expanded cost estimate from Hanson that addresses all disturbed land – whether covered by the reclamation plan or not – would mean deviating from the financial assurance guidelines and from SMARA's express provisions.

Rather, Hanson intends to submit an updated cost estimate based on the amended reclamation plan, once the upcoming amendment is approved. We believe that this is the approach contemplated by SMARA and the financial assurance guidelines.

CONCLUSION

We look forward to continuing our discussion of how the County can incorporate these concepts into its response to the DOC.

Very truly yours,

DIEPENBROCK HARRISON
A Professional Corporation

By: 
Mark D. Harrison

SKH:gjc
Enclosures

cc: John Giovanola, Hanson
Lizanne Reynolds, County of Santa Clara
Gary Rudholm, County of Santa Clara

County of Santa Clara

Department of Planning and Development
Administration

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5740 FAX (408) 288-6198

October 10, 2006

John Giovanola
Hanson Permanente Cement, Inc.
24001 Stevens Creek Road
Cupertino, CA 95014

ORDER TO COMPLY/NOTICE OF VIOLATION
(Pub. Res. Code § 2774.1)

Dear Mr. Giovanola:

On September 22, 2006, the Department of Conservation's Office of Mine Reclamation (OMR) issued a "15-Day Notice" to the County of Santa Clara pursuant to Public Resources Code § 2774.1 (f)(1). The 15-Day Notice alleged several SMARA violations at Hanson Permanente Cement, Inc.'s (Hanson's) Permanente Quarry. Pursuant to § 2774.1(f), if the County does not take appropriate enforcement action in response to this notice, OMR may initiate enforcement.

Accordingly, the County hereby issues a Notice of Violation (NOV) and Order to Comply to Hanson's Permanente Quarry for mining-related disturbance outside the approved reclamation plan with the exception of the cement plant. At this time, the County is not requiring Hanson to include the adjacent cement plant site within the amended reclamation plan boundaries. As you know, the cement plant is a separately permitted and vested industrial facility which pre-dates SMARA by nearly 40 years and the County expressly excluded the cement plant from the approved reclamation plan in 1985. To date, the County has also been unable to find any clear guidance in the law or regulation regarding whether, under these circumstances, SMARA requires the cement plant to be included in the reclamation plan. Please note, however, that OMR may decide to take enforcement action on this issue. If this issue ultimately reaches the State Mining and Geology Board (SMGB), the County will adhere to the SMGB's decision on this issue.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

The issues addressed in this NOV have already been the subject of numerous discussions between the County and Hanson. As a result of these meetings, Hanson at this time has agreed to file an amended reclamation plan encompassing all disturbed areas (except the cement plant and former aluminum plant sites) and to comply with the County's compliance schedule (attached). The amended reclamation plan will address, among other things, the slope instability along the north wall of the pit, and encompass all mining-related access roads, structures, stockpiles and storage areas, including the rock processing facility to the south of the cement plant. The amendment will also calculate, for posting on an interim basis pending final reclamation plan approval, new financial assurances. Hanson at this time has also agreed to waive the hearing requirement in Public Resources Code § 2774.1(b). Please confirm that this accurately represents Hanson's position.

We appreciate Hanson's cooperative attitude in this matter and express the County's commitment to work diligently with Hanson to expeditiously resolve all outstanding issues.

Sincerely,

Val Alexeeff
Director of Planning

cc: Douglas W. Craig, Assistant Director, OMR
Allen M. Jones, Chair, SMGB
Stephen M. Testa, Executive Officer, SMGB
Pete Kutras, County Executive, Santa Clara County
Jane Decker, Deputy County Executive, Santa Clara County
Ann Ravel, County Counsel, Santa Clara County
Lizanne Reynolds, County Counsel, Santa Clara County

COMPLIANCE SCHEDULE – HANSON PERMANENTE

Deadline	Action
11/15/06-11/30/06	Pre-application meeting between County Planning Department and Hanson concerning reclamation plan amendment.
12/15/06-12/31/06	Hanson to submit an application for an amended reclamation plan, and interim financial assurance calculations.
1/15/07-1/31/07	The County to complete its 30-day review of the application, and inform Hanson in writing whether the application is complete for processing or additional information is required.
No later than 3/16/07	Hanson to resubmit a revised application containing additional information required by the 30-day review letter.
4/16/07	The County to inform Hanson that the application is complete for processing. The County to provide approval for interim financial assurances, for immediate posting. The County to forward the amended reclamation plan and financial assurances to OMR for comments pursuant to Public Resources Code section 2774, subdivision (c).
4/20/07	The County to begin processing and CEQA review of the amended reclamation plan.
5/15/07	OMR to provide any comments regarding the amended reclamation plan, pursuant to the 30-day review period of Public Resources Code section 2774, subdivision (d)(1).
6/1/07	OMR to provide any comments regarding the updated financial assurances, pursuant to the 45-day review period of Public Resources Code section 2774, subdivision (d)(1).
7/20/07-8/17/07	The County to complete the CEQA review. Based on assumption that the document will be a Mitigated Negative Declaration and that public participation will not be unusually strong.
8/20/07	Public release of the proposed CEQA environmental document and beginning of the public comment period.

10/8/07	Close of CEQA public comment period.
10/15/07	Prepare early response to OMR of public hearing on amended reclamation plan and revised financial assurances, pursuant to SB 668.
11/15/07	County to prepare staff report concerning application for amended reclamation plan and financial assurances.
11/30/07-12/30/07	Public hearing on application for amended reclamation plan and financial assurances.

County of Santa Clara

Department of Planning and Development
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

November 27, 2006

Douglas Craig
State Dept. of Conservation
801 K Street MS 09-06
Sacramento CA 95814

Subject: Zoning Designation for various Assessor Parcel Numbers

Dear Doug:

This letter is in response to your correspondence dated October 31, 2006, addressed to Val Alexeeff. You requested Zoning Ordinance and General Plan designation information for eleven parcels of land as described by assessor parcel number. The current designations for the parcels requested are as follows:

APN	Zoning	General Plan
351-09-011	HS-d1	Hillsides
351-09-012	HS-d1	Hillsides
351-09-013	HS-d1	Hillsides
351-10-003	A-d1	Cupertino
351-10-004	A-d1	Cupertino
351-10-005	A-d1	Cupertino
351-10-006	A-d1	Cupertino
351-10-033	A-d1 & HS-d1	Hillsides
351-10-037	A1-20s-d1 & A1-d1	Cupertino
351-10-038	A-d1	Cupertino
351-11-001	HS-d1-sr	Hillsides

Sources: Official Zoning Map, Santa Clara County, December 7th, 2004, and County of Santa Clara General Plan, Land Use Designations, 1994.

Current General Plan Designations

The "Hillsides" ("HS") General Plan designation allows for several land use types. A copy of the definition of Hillsides, including all the associated policy, is enclosed for your reference. (Exhibit A, County General Plan, Book B, pp. Q-3 through Q-7.)

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, Ken Yeager, Liz Kniss
County Executive: Peter Kutras, Jr.

The "Cupertino General Plan" designation indicates that the parcels so listed are within the Urban Service Area of the City of Cupertino. For unincorporated land within an urban service area of a city, the County General Plan defers to the particular city's general plan land use designation for the particular property. (County General Plan, p. R-2.)

Current Zoning Designations

The "A" zoning designation stands for the "Exclusive Agriculture" district. A description of this designation and allowable uses are in Zoning Ordinance §§ 2.20.010 and 2.20.020. (Exhibit B.)

The "A1" designation stands for the "General Use" district. A description of this designation and allowable uses are in Zoning Ordinance §§ 2.50.010 and 2.50.020. (Exhibit C.)

Your letter also indicates you are interested in the zoning information regarding the Hanson Permanente Quarry and Cement Plant. Our records indicate that **the quarry operation** is located on assessor parcel numbers 351-09-011 and 351-09-013. Both of these sites are currently designated "Hillsides" by the County General Plan and Zoned "HS" under the Zoning Ordinance.

It should be noted that quarry operations are allowed in Hillside areas under Section 2.20.020 of the zoning ordinance, subject to obtaining a Use Permit. (Exhibit B.) In the case of the Hanson Permanente Quarry, the operation was established before the zoning ordinance regulations were adopted and therefore has been recognized by the County for many years as a legal non-conforming use. Additional requirements are contained in Chapter 4.10.370 of the Zoning Ordinance regarding reclamation plans. (Exhibit D.)

Historical Zoning and Permit Information

The Cement Plant is within APN 351-10-005, which is currently zoned "A-d1" (Exclusive Agriculture with a design review combining district). When the cement plant was lawfully established, it was done so under a Use Permit issued by the County Board of Supervisors in 1939. The Permit explicitly states that the zoning designation of the subject land when the permit was issued was "A-1." When this zoning district was established, the County zoning regulations were in their infancy. Region by region, the County adopted "Sectional District" maps, which demarcated various zoning districts. During this period, the zoning ordinance stated the following:

> All the unincorporated territory of the County which is not included, under the terms of this ordinance, in any other district is hereby designated and classified as constituting "A-1" districts. (Source: Zoning Ordinance, Santa Clara County Planning Commission, July 1945).

Allowable uses under the A-1 district included "[a]ll uses not otherwise prohibited by law . . . upon the securing of a use permit in each case . . . ." (Ibid). A zoning district map that included the Hanson Permanente quarry and cement plant areas was adopted in March 1954, at which time a zoning district of "A-2" was applied. Like the A-1 District, all uses not explicitly listed in the zoning ordinance for that district were allowed, subject to securing a Use Permit. (Source: Zoning Regulations, County of Santa Clara, California, December 1954.)

Santa Clara County's zoning regulations evolved and became more clearly explicit regarding allowable uses as time passed, and as the County (along with other local governments) became more experienced in their application. During this early period of time it was general practice that residential uses were allowed in industrial zones with a Use Permit. Land use regulations were not as exclusive as they are today.

Over the years other zoning maps were adopted by the Board of Supervisors, which changed the "A-2" designation applied to the property. Based on my review of zoning maps kept within the County Planning Office, these changes include a 1966 map showing both uses zoned "A;" a 1972 map showing the parcels designated "A1-40;" a 1980 map showing the quarry designated "A-20s" and the cement plant parcel designated "A;" and a 1986 map showing the quarry designated "HS" and the cement plant as "A." These changes were initiated by Santa Clara County when Countywide changes to the zoning maps took place. Most notably is the 1986 change in which the HS zoning district was introduced, following adoption of the County General Plan Land Use Designation of Hillsides. This General Plan policy designation remained when the General Plan was updated and adopted in 1994, and continues to be in effect; hence, the continuation of the HS zoning district.

I hope you find this information useful. If you have any questions regarding this matter you may call me at (408) 299-5747.

Sincerely,

Gary Rudholm

Gary Rudholm
Senior Planner

ENCL

cc: Val Alexeeff, Director, Department of Planning & Development
Lizanne Reynolds, Deputy County Counsel
John Giovanola, Hanson Permanente Cement

dh
diepenbrock• harrison
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JOHN V. "JACK" DIEPENBROCK
KAREN L. DIEPENBROCK
KEITH W. McBRIDE
BRADLEY J. ELKIN
EILEEN M. DIEPENBROCK
MARK D. HARRISON
GENE K. CHEEVER
MICHAEL Y. BRADY
LAWRENCE B. GARCIA
SUSAN E. KIRKGAARD
ANDREA A. MATARAZZO
JOEL PATRICK ERB
JON D. RUBIN
MICHAEL E. VINDING
JENNIFER L. DAUER
JEFFREY K. DORSO

JEFFREY L. ANDERSON
MATTHEW R. BERRIEN
SEAN K. HUNGERFORD
LEONOR Y. DICDICAN
CHRIS A. McCANDLESS
DAN M. SILVERBOARD
ANDREW P. TAURIAINEN
VALERIE C. KINCAID
BLAIR W. WILL
KRISTA J. DUNZWEILER
DAVID R. RICE
JENNIFER D. BECHTOLD
SARAH R. HARTMANN
MARK E. PETERSON

R. JAMES DIEPENBROCK
(1929 - 2002)

April 10, 2007

Gary Rudholm
Senior Planner
County of Santa Clara
70 West Hedding Street, 7th Floor
San Jose, CA 95110

Re: Hanson Permanente Reclamation Plan Amendment
Our File No.: 3577.001

Dear Mr. Rudholm:

It was a pleasure meeting with you and the other members of Santa Clara County's project team on Thursday, January 29, 2007. This letter is intended to confirm our discussion with respect to the County's March 22, 2007 comment letter regarding Hanson's January 5, 2007 application for a reclamation plan amendment, and to address the comments raised in the letter.

As you indicated at the meeting, many of the issues raised by the County's comment letter have already been addressed in Hanson's March 16, 2007 reclamation plan amendment submitted as per the County's existing compliance schedule. Other comments are not germane to this reclamation plan amendment project. We clarify these points below.

CEQA Review

Comment Nos. 1 and 2:

Hanson understands that the County will process an Environmental Impact Report in connection with the application for a reclamation plan amendment, and that the County is contracting with EIP for the environmental review. Hanson is prepared to immediately fund EIP's contract upon receipt of a budget and estimate from the County. Also, this will confirm that no further application is required to conduct the environmental review beyond the Application for Environmental Clearance and Environmental Information Form previously submitted by Hanson.

400 CAPITOL MALL
SUITE 1800
SACRAMENTO, CA 95814
WWW.DIEPENBROCK.COM 916 492.5000
FAX. 916 446.4535

Comment Nos. 3 and 4:

EIP stated during the January 29, 2007 meeting that it had sufficient information to begin its environmental review. Hanson is pleased to offer any additional information necessary, and to offer its expert consultants to confer with EIP or the County on specific project details.

Land Development Engineering

Comment No. 5a through 5f:

The County requests additional information on geotechnical recommendations for the main pit slopes, the in-pit waste rock storage, the west materials storage area, the east materials storage area and Pit 2. Hanson's plan for addressing these geotechnical issues is summarized in Section 3.9 of the amended reclamation plan and supported by Golder Associates' March 15, 2007 geotechnical recommendations.

Comment No. 6:

Chang Consultants is currently conducting a drainage analysis and preparing stormwater and erosion control recommendations. The recommendations are expected to be complete by April 16, 2007.

Comment No. 7:

Stockpiles will be keyed into slopes, according to Golder Associates' geotechnical recommendations, as stated in Section 3.3 of the amended reclamation plan (see discussion of Phase 1 and Phase 3 mining).

Comment No. 8:

Hanson revised the engineering drawings appended to the reclamation plan amendment to specify inboard sloping. Please refer to the engineering drawings and notes.

Geology

Hanson and its geologic consultant will work with the County staff and EIP throughout the approval process to resolve any questions that may arise concerning site geology.

Roads and Airports Department

Comment No. 9:

As confirmed during our meeting, the County's comments concerning traffic impacts were based on a misunderstanding of the nature of Hanson's application. The Permanente Quarry is a vested operation, and produces material that is in part used by Hanson's separately permitted cement plant, and in part is processed at the rock plant and sold directly from the site. The current project does not propose to change either of these uses, or to affect regular haul truck traffic from the site (which fluctuates according to market demand). All the amended reclamation plan does is overlay new reclamation requirements over the site. No traffic impact analysis should be required under these circumstances.

Conclusion

As discussed in the meeting, the County will provide the March 16, 2007 reclamation plan amendment to the Office of Mine Reclamation by the April 16, 2007 deadline established by the County's compliance schedule. As discussed, Hanson will not revise or resubmit its application to the County in the meantime. Finally, Hanson is completing its revised financial assurance estimate and will forward that to the County in short order. We look forward to assisting the County in any way possible to meet the compliance schedule.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

DIEPENBROCK HARRISON
A Professional Corporation

By
Mark D. Harrison

SKH:gjc

cc: Rob Eastwood, Santa Clara County
Mark Connolly, Santa Clara County
Marvin Howell, Hanson
John Giovanola, Hanson
Matt Prasek, Enviromine

dlh
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KRISTA J. DUNZWEILER
DAVID R. RICE
JENNIFER D. BECHTOLD
SARAH R. HARTMANN
MARK E. PETERSON

May 11, 2007

Val Alexeeff
Director, Department of Planning and Development
County of Santa Clara
70 West Hedding Street
East Wing, 7th Floor
San Jose, CA 95110

Re: Hanson Permanente Quarry - Response to Inspection Report
Mine Identification No. 91-43-0004
Our File No.: 3577-001

Dear Mr. Alexeeff:

This firm represents Hanson Permanente Cement Corporation (Hanson), the owner and operator of the Permanente Quarry. The County of Santa Clara (County) recently prepared a Surface Mine Inspection Report for Hanson's Permanente Quarry, which we understand remains in draft form. The inspection report represents one of the first opportunities to implement the County's redesigned mine inspection program with respect to the Permanente Quarry.

In the interest of starting things on the "right foot," we would like to share our concerns over the factual information contained in the report, and the way in which the inspection report characterizes matters that relate, directly and indirectly, to Hanson's proposed reclamation plan amendment. We hope that our comments are viewed constructively and not as criticism. Hanson continues to appreciate the County's efforts and wants only to ensure that no misunderstandings result from the inspection report that might have unintended consequences later on.

Our comments, in brief, address three primary concerns regarding the inspection report.

400 CAPITOL MALL
SUITE 1800
SACRAMENTO, CA 95814
WWW.DIEPENBROCK.COM 916 492.5000
FAX 916 446.4535

First, the inspection report contains a detailed and technical recitation of background facts concerning the Permanente Quarry. While the facts mentioned in the inspection report are mostly accurate (subject to exceptions noted below), we doubt the County intended to set forth a full and complete statement of all facts bearing upon the entire range of compliance questions leveled at Hanson. We believe the inspection report should recognize this. To further assist the County, we offer additional background facts below that are relevant to the presence or absence of violations at the Permanente Quarry.

Second, the inspection report appears to revisit matters that were previously decided by the County's October 10, 2006 Order to Comply. Among them, the County states that it is waiting for direction from OMR with respect to the cement plant, contrary to the County's earlier statements to Hanson and the Department of Conservation that the County was declining to take enforcement action on that issue. We understand that the County is amenable to making changes to its inspection report; we ask that the County modify the report to be consistent with the Order to Comply.

Third and finally, the inspection report appears to overlook important features of Hanson's approved reclamation plan, which controls until an amended reclamation plan is approved. We believe that clarifications are warranted to make sure the approved reclamation plan is given full effect.

Hanson's concerns could be addressed in one of two ways. First, the County may amend and clarify its inspection report to address Hanson's specific concerns as identified herein. Alternatively, the County could simply incorporate this letter by reference into the inspection report to supplement the County's statement of facts and treatment of the issues. We look forward to discussing this with you at your earliest opportunity.

BACKGROUND

Given the importance of the factual setting to these matters, we commence with a brief summary of pertinent background facts relating before proceeding to the specific issues raised by the inspection report.

Site History and Entitlements

The Permanente Quarry is a limestone and aggregate mining operation in the Santa Clara County foothills, west of the City of Cupertino's jurisdictional limits. Mining began in 1903 or earlier, according to state records. Modern-day quarrying began with the acquisition of 1300 acres along the Permanente Creek by Hanson's predecessors in

1939. Mining has taken place continuously since, and has been acknowledged by the County as a legal, non-conforming use.

In 1976, the Surface Mining and Reclamation Act (SMARA) became effective within California, and required mining operations statewide to develop reclamation plans to ensure the reclamation of mined lands. On March 7, 1985, the County approved the current reclamation plan. The reclamation plan covers approximately 330 acres comprised of active excavation and material storage areas.

By design, the current reclamation plan does not encompass all past mining disturbance at the site or, with the exception of actual excavation areas, confine mining-related operations to specific areas. For instance, the reclamation plan does not include a rock plant to the southeast of the mining pit or access roads throughout the site. The omissions are consistent with the way that SMARA's requirements were interpreted at the time the reclamation plan was approved.

The reclamation plan also does not extend to the nearby cement plant operations. The cement plant was, and continues to be, operated under a May 8, 1939 use permit from the County that authorizes the "erection, construction and operation of a cement mill and the storage of cement..." The permit was issued consistent with 1937 zoning, under which commercial and manufacturing uses were allowed. The permit has no termination date. The cement plant has operated continuously since its inception and is estimated to account for one-third of Northern California's cement production.

The reclamation plan is designed to address mining activity over a 25-year period, and contemplates that it will be amended no later than April 1, 2010 to address later mining and reclamation activity. This is expressed both in the reclamation plan and in the 1985 conditions of approval.

NOV and Compliance Schedule

As noted, the County's inspection report also relates to matters previously addressed by the County's October 10, 2006 Notice of Violation (NOV) and compliance schedule.

By way of background, in April 2006, the State Mining and Geology Board (SMGB) issued a 45-Day Notice to the County. The Notice charged that the County failed to adequately administer SMARA with respect to surface mines in the County's jurisdiction and, among other things, to enforce SMARA violations at the Permanente Quarry and other mines in the County's jurisdiction.

On September 14, 2006, the SMGB held a hearing to determine whether the County should retain its lead agency role under SMARA. The SMGB decided to allow the County to conditionally retain SMARA authority, but also invited the Department of Conservation (DOC) to take advantage of a procedure allowing the DOC to initiate its own enforcement action against mines in the County if the County refused to take such action itself.

The DOC accepted the SMGB's invitation shortly after the hearing. On September 26, 2006, the DOC presented the County with a 15-Day Notice pursuant to Public Resources Code section 2774.1, which alleged two categories of possible violations against the Permanente Quarry. First, the DOC claimed the Permanente Quarry appeared to be operating in violation of SMARA because there was mining-related disturbance outside the limits of excavation established by the reclamation plan. Second, the DOC claimed the cement plant should be covered by the reclamation plan. The DOC provided the County with 15 days to take enforcement action; if the County declined, the DOC would have the authority to take such action on its own.

Hanson disputed the DOC's position. Hanson emphasized in response that it operated, and continues to operate, in substantial compliance with the requirements of its approved reclamation plan, which was provided to the DOC at various times in the 22 years since it was approved without comment. Hanson also emphasized that the cement plant was a separately-permitted, stand-alone industrial facility established in 1939, and that SMARA did not provide the DOC with authority to require reclamation of an industrial facility that pre-dates SMARA by 37 years. Hanson also noted that the cement facility would also qualify under 1993 SMARA amendments which clarified that mineral processing facilities are exempt from SMARA.

Nonetheless, to work collaboratively with the County to resolve the DOC's claims, Hanson agreed to move up its planned 2010 reclamation plan amendment and to file the amendment pursuant to an agreed-upon compliance schedule to be issued in the form of an order by the County. The resulting October 10, 2006 Order to Comply / Notice of Violation required that Hanson file, by December 31, 2006, a reclamation plan amendment extending to all areas disturbed by mining operations and to post updated financial assurances.

Importantly, the Order to Comply / Notice of Violation did not require Hanson to include the cement plant in the reclamation plan amendment, as the DOC claimed that SMARA required. The County's formal October 10, 2006 response to the DOC's 15-Day Notice indicated that the County shared Hanson's views concerning the cement plant. The County's response to the DOC made it clear that the County would not take any enforcement action against Hanson regarding the cement plant:

> The compliance schedule does not require that Hanson include the adjacent cement plant site within the amended reclamation plan boundaries. The cement plant is a separately permitted and vested industrial facility, which pre-dates SMARA by nearly 40 years. For the [sic] reason, the County excluded the cement plant from the approved reclamation plan in 1985. The County could also find no clear guidance in the law or regulation regarding whether, under these circumstances the cement plant must be included in the reclamation plan. If the Office of Mining and Reclamation believes that SMARA obligations may be imposed on the cement plant and that there is a solid legal basis upon which to issue an NOV for this issue then the issue can ultimately by resolved [sic] by the State Mining and Geology Board.

Consistent with the Order to Comply, Hanson filed a reclamation plan amendment extending to all disturbed areas, and posted updated financial assurances commensurate with the obligations contained in the proposed amendment (we take this opportunity to reiterate that Hanson did not and does not, by filing the amendment, concede or acknowledge that SMARA violations exist, and reserves the right to assert, in all possible respects, the legality of its present operations under SMARA).

COMMENTS ON INSPECTION REPORT

We turn now to the inspection report.

By way of background, the County conducted the inspection giving rise to the current inspection report on December 14, 2006. The County thereafter provided Hanson with a draft inspection report in March 2006. We note that the inspection report incorporated portions of a February 26, 2007 report prepared by Cotton, Shires & Associates.

During an April 5, 2007 meeting between the County and representatives of Hanson, the County advised that the inspection report was a draft, and that the County would consider changes to the report based on Hanson's comments. Later, on April 26, 2007, the County provided Hanson with a revised version of the inspection report, and again invited "any comments that will assist us in clarifying the discussion in the report, and verifying the factual information contained in it."

The following discussion contains our review of the April 26, 2007 version of the inspection report and our comments on the statements contained therein.

OMR Inspection Form

The current version of the inspection report is printed on the standard form provided by the Office of Mine Reclamation. Sections I through III of the form include basic contact information regarding Hanson and the County. Section IV notes that the Permanente Quarry is a vested mine and is covered by an approved reclamation plan. Section V of the form identifies the financial assurances and section VI contains a narrative regarding the financial assurances. As you know, Hanson submitted a revised financial assurances cost estimate in April 2007 (as required by the October 10, 2006 Order to Comply) proposing to significantly increase the financial assurances. This update should be noted in the report.

Section VII of the inspection form describes whether the operation is in compliance with the provisions of the approved reclamation plan. Two categories of violations are noted: first, as to "Topsoil Salvage, Maintenance, and Redistribution," and second, for "Backfilling, Regrading, Slope Stability, and Recontouring." Section VII also notes the approximate disturbed acreage. We note with respect to disturbed acreage that Hanson's own review has produced a somewhat different estimate. We believe it would be appropriate for the County to review this with Hanson to develop an agreed-on estimate of disturbed acreage to ensure that an accurate baseline exists for future inspections.

Section VIII of the inspection form refers to Attachment A, which contains additional factual background, a "description of the violations noted," identifies "areas of concern and issues to monitor," and includes "directions to the mine operator." Our comments on Attachment A follow below.

Background

Attachment A to the inspection report begins with a relatively technical description of some of the Permanente Quarry's physical features and also of various events that have occurred with respect to the site.

As a preliminary matter, we doubt that the County intended the Background section of the inspection report to serve as a complete summary of all facts relevant to the presence or absence of violations at the site. The site has a complex history that even our extended background discussion does not entirely capture. It would be appropriate for the County to state in the report that the Background is not meant to be

a complete recitation of all relevant facts. Also, the inspection report provides several technical facts regarding the depth, width, orientation and other physical features of the site. Rather than submit the report for geotechnical review and comment by Hanson's experts, we believe it would also be appropriate for the inspection report to state that the technical information in the report is illustrative only and is presented for the purposes of discussion rather than to establish a concrete technical record. Alternatively, Hanson is amenable to developing an agreed-upon statement of facts with the County.

We also take this opportunity to address, as follows, some of the factual inaccuracies in the Background section of the inspection report:

- The inspection report states that limestone is quarried for cement; the statement omits the fact that other materials, such as aggregates, are mined as well.

- The inspection report misstates the legal entities and relationships pertaining to the ownership of the Permanente Quarry.

- The inspection report states, inaccurately, that the ridgeline itself was deeded to the County in 1972. In fact, only an easement was deeded.

- The inspection report's description of the 1987 and 2001 slope movements omits pertinent information. The slope movements have been exhaustively studied by a number of geotechnical experts and through geotechnical reports provided to the County. The County's description should defer to the information in these reports. Also, we understand the slope movements have never presented a significant safety issue for mine employees. We suggest that he County revise the inspection report to acknowledge that the description of slope instability is only a summary and is not a complete statement of all facts relating to these issues.

- The inspection report also mischaracterizes the DOC's actions with respect to the possibility of violations at the site. The DOC did not formally identify any violations of the reclamation plan or issue Hanson a notice of violation. The DOC only identified conditions that, based on the DOC's information, appeared to merit enforcement by the County. We suggest that the County refer to and incorporate the DOC's 15-Day Notice for an accurate description of the DOC's position.

Description of Violations Noted

A fundamental problem with the inspection report is that it identifies two categorical violations in section VII of the standard form, but fails to sufficiently identify

the specific factual basis for those violations. A report of a violation should explain exactly how the operation does not comply with the provisions of an approved reclamation plan. The County's inspection report does not state how the Permanente Quarry is out of compliance with the current reclamation plan. While the inspection report refers to four violations claimed by the Office of Mine Reclamation (OMR) in June 2006, the inspection report does not adopt or incorporate OMR's claims, which in any event have been resolved, as between Hanson and the County, by the County's October 10, 2006 Order to Comply.

Indeed, the inspection report threatens to undermine the October 10, 2006 Order to Comply in two ways.

First, the statement that the County is "waiting for direction" from OMR on the cement plant issue could be viewed as inconsistent with the County's Order to Comply, which authorized Hanson to omit the cement plant from the amendment. As between Hanson and the County, Hanson believes the cement plant issue has been put to rest. The County's October 10, 2006 letter to the DOC made it clear that the County did not plan any further action concerning the cement plant, and Hanson has since devoted its resources to a reclamation plan amendment that does not include the cement plant in furtherance of this understanding. We presume the statement above means only that the County is waiting to see whether the DOC concurs with the County's position. This letter will confirm that the mutual understanding between Hanson and the County regarding the cement plant has not changed (unless of course we hear otherwise from you).

Second, we want to ensure that the Order to Comply is given appropriate deference in future inspections. The inspection report states that the current violations will be noted in future inspection reports until an amended reclamation plan is approved. We ask that care be taken in future reports so that today's compliance issues are not characterized later as "new" violations, and thus trigger new rights of appeal (that Hanson might feel compelled to pursue) on issues already addressed by the Order to Comply.

Areas of Concern and Issues to Monitor

The inspection report also identifies certain "Areas of Concern and Issues to Monitor." These are not identified as violations of Hanson's reclamation plan, but as items that may require consideration or mitigation.

1. Slope Stability

The inspection report describes slope stability as poor. Hanson will be addressing this issue through the reclamation plan amendment. In the meantime, we note that the main pit slopes conform to the 1H:1V slope design required by the current reclamation plan, which contemplated that the final, reclaimed site conditions would be detailed in the amendment currently on file. Further, we note that SMARA does not impose specific interim performance standards for cut slopes. (Code of Regulations, tit. 14, § 3704.) Thus, slope instability, as an interim condition, is not inconsistent with the reclamation plan or with SMARA's performance standards.

In addition, SMARA prevents Hanson from taking corrective action to address slope stability in the absence of a reclamation plan amendment because there is no possible fix for this issue that does not require a "substantial" deviation from the reclamation plan. Such deviations, as you know, require a formal reclamation plan amendment approved by the County. (Pub. Resources Code, § 2777.)

Under these circumstances, we believe it would be appropriate to clarify in the inspection report that while the slope instability issues are not inconsistent with the reclamation plan or SMARA, Hanson nonetheless acknowledges the County's concern and is addressing the issue in the amended reclamation plan currently on file.

As a separate but related matter, the inspection report faults Hanson's West Material Storage Area based on the presence of non-engineered fill. However, neither the reclamation nor SMARA prohibit uncompacted fill, and the reclamation plan requires only that fill be contoured to no greater than a 3H:1V gradient. The on-site conditions currently conform to this design, as reported by Golder Associates (specific areas that await recontouring may temporarily exceed 3H:1V slopes). We suggest revising the inspection report to clarify that current conditions are consistent with the reclamation plan (the draft amended reclamation plan requires that Hanson conduct field testing to confirm that the current slope design is stable).

2. Disturbance Outside Reclamation Plan Boundaries

The inspection report states that "a considerable area" of disturbance extends beyond the reclamation plan boundaries and has resulted in an encroachment situation. We observe in response that the reclamation plan was not designed to include all disturbed areas; it encompassed only the main pit and the West and East Material Storage Areas. Aerial photographs show that when the reclamation plan was approved, there were considerable areas of mining-related disturbance that were not included in

the reclamation boundaries. The inspection report should thus recognize that the reclamation plan omitted pre-disturbed areas.

Further, to the extent that recent mining disturbance extends beyond the reclamation boundaries – the main pit slope failures, for instance – Hanson has already taken every step possible to bring itself in compliance, including acquiring land from the Mid-Peninsula Open Space District and filing an amended reclamation plan with the County pursuant to the County's compliance schedule.

3. Control of Runoff

The inspection report states that portions of Hanson's site are not served by stormwater control measures; specifically, the inspection report questions the adequacy of the existing drainage system, particularly for the West Material Storage Area.

The drainage system appears to conform to the approved reclamation plan, however. The West Material Storage Area, in particular, is served by a sedimentation basin shown in sheet C2 of the reclamation plan, and drainage for the entire site is mapped in the current SWPPP. The County's inspection report should recognize that the current drainage plan is a feature of the approved reclamation plan and consequently does not violate SMARA.

Going forward, Hanson is reviewing its drainage system as part of the upcoming reclamation plan amendment to ensure that it meets current SMARA standards.

4. Topsoil Stockpiling

The inspection report states that material has been stockpiled as topsoil that does not appear to be an adequate growth medium and appears inadequate for overall site revegetation. We suspect the reclamation plan has been misconstrued. There is a prevailing lack of topsoil remaining within the disturbed portions of the site, due to years of pre-SMARA operation by the former operators. Consequently, the material storage areas are designed to accept and store overburden, not topsoil.

In particular, the West Material Storage Area is, pursuant to the current reclamation plan, designed for "stockpiled rock materials and currently nonmarketable limestone." (Reclamation plan, at p. 23.) The materials placed there are intended for possible future resource recovery when the scarcity of higher quality limestone renders such material marketable. (Reclamation plan, at p. 18.) As such, the lack of topsoil stockpiling is not a SMARA violation but is in fact consistent with the approved reclamation plan.

In the future, the lack of topsoil will be addressed in one of two ways. First, Hanson will generate additional topsoil and revegetation media by stripping in the East Material Storage Area and the proposed Pit 2 excavation. Second, past revegetation efforts indicate that, where necessary, overburden materials will serve as a topsoil substitute. These strategies are included in the reclamation plan amendment currently on file.

5. Other Issues

Comment number five in the County's inspection report raises a number of issues, mainly concerning Hanson's compliance with the conditions of approval for the March 1985 reclamation plan. These questions were largely addressed in a February 16, 2007 letter from Hanson's consultant, EnviroMINE, to the County (attached). To summarize:

5A: Hanson provided an evaluation of Hanson's compliance with the conditions of approval to the County on January 25, 2007, pursuant to condition number three. In addition, Hanson will provide a report this year at the time it files its annual report.

5B: As the County is aware, Hanson ordered a survey of the reclamation boundaries that will include the setback of the West Material Storage Area from the City of Palo Alto's jurisdictional line. The survey is currently in progress.

5C: Hanson is currently in the process of erecting additional signs and safety barriers around the site. Barbed wire fencing and signs will be installed in critical areas by May 1, 2007. Hanson will provide a supplemental report after installation is complete.

5D: Pursuant to condition number 13, Hanson is currently preparing the "elevation 1900" report (as this elevation was recently reached). The report should be complete and provided to the County on or about June 1, 2007.

5E: Hanson appreciates the County's direction.

Directions to the Mine Operator

1. The County notes that Hanson is required to submit an application to modify its reclamation plan amendment to encompass all disturbed areas. Hanson's

application is on file with the County and Hanson is complying with the terms of the October 10, 2006 compliance schedule.

2. The County states that Hanson's geotechnical consultant should characterize the geologic conditions of the pit slopes and provide recommendations to mitigate the slope instability on the pit face. Section 3.9 of the proposed reclamation plan amendment summarizes Golder Associates' slope stability recommendations for the site, according to Golder Associates' March 15, 2007 geotechnical recommendations letter. In the meantime, the current slopes conform to the approved reclamation plan.

3. The County also states that Hanson's geotechnical consultant should evaluate the stability of the West Material Storage Area. Golder Associates' March 15, 2007 recommendations are summarized in section 3.9 of the amendment. As noted above, the current slope design is considered stable according to recent geotechnical evaluations, and conforms to the approved reclamation plan. Hanson nonetheless is directing additional field study to ensure the adequacy of past analyses.

4. The County suggests that Hanson should have its civil engineer evaluate drainage controls throughout the site. As noted above, Hanson's civil engineer currently is conducting a drainage analysis to determine whether additional stormwater and erosion control recommendations are necessary. The report and recommendations are complete and have been provided to the County in connection with the draft reclamation plan amendment. In the meantime, as noted, site drainage is in conformance with the approved reclamation plan.

5. The County advises that Hanson should address the "existing encroachment" onto adjacent property owned by the Mid-Peninsula Regional Open Space District, and prevent further encroachment. This issue is resolved. Hanson acquired the affected portion of the District's land as well as additional buffer areas to prevent future encroachment.

6. The County suggests that Hanson identify a source of usable topsoil material for revegetation purposes. Hanson's operations currently are consistent with the approved reclamation plan on this issue. In the future, Hanson will use overburden and stripped topsoil from the East Material Storage Area and Pit 2 for growth media, as described in sections 3.11 and 3.13.4 of the reclamation plan amendment.

7. The County requests that Hanson provide revised financial assurance calculations by May 15, 2007. Under the October 10, 2006 compliance order, however, the County must provide updated financial assurances to the DOC by April 16, 2007.

Hanson, accordingly, provided its revised financial assurances to the County on April 9, 2007.

CONCLUSION

We look forward to conferring with the County on these issues in greater detail.

Very truly yours,

DIEPENBROCK HARRISON
A Professional Corporation

By: Mark D. Harrison

SKH:gjc

cc: Marvin Howell, Hanson
John Giovanola, Hanson
Lizanne Reynolds, County of Santa Clara
Gary Rudholm, County of Santa Clara

NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE HANSON QUARRY RECLAMATION PLAN AMENDMENT

Project Owner/Applicant: Hanson Permanente Cement Inc
File Number: 2250-13-66-07P-07EA
Assessors Parcel Number(s): 351-09-011, -012, -013; 351-10-005,033,037,038; 351-11-001.

As the Lead Agency, the County of Santa Clara will prepare an Environmental Impact Report (EIR) for the proposed amendment to an existing reclamation plan, and expansion, and would like your views regarding the scope and content of the environmental information to be included in the EIR. The EIR may be used by your agency when considering approvals for the project.

A brief description of the proposed project, its site boundary, and a summary of the potential environmental effects are attached.

According to the California Environmental Quality Act (CEQA) the deadline for your response is 30 days after receipt of this notice. However, an earlier response, if possible, would be appreciated. Please identify a contact person and send your response to:

County of Santa Clara Planning Office
Attention: Mark J. Connolly
County Government Center
70 West Hedding St., 7th Floor, East Wing
San Jose CA 95110
(408) 299-5786

Prepared by:
Mark Connolly, Planner III

Mark J. Connolly — 6/25/07
Signature **Date**

Approved by:
Rob Eastwood, Senior Planner, AICP

_____ _____
Signature **Date**

Introduction

The purpose of an Environmental Impact Report (EIR) is to inform decision-makers and the general public of the environmental effects of a proposed project that an agency may implement or approve. The EIR process is intended to provide information sufficient to (a) evaluate a proposed project and it's potential for significant impacts on the environment; (b) to examine methods of reducing adverse (significant) impacts; and (c) to consider alternatives to the project.

The EIR for the proposed project will be prepared and processed in accordance with the California Environmental Quality Act (CEQA) of 1970, as amended. In accordance with the requirements of CEQA, the EIR for the Hanson Quarry Reclamation Plan Amendment will include the following:

- A summary of the project description, impacts and mitigation measures, and alternatives;
- A project description;
- A description of the existing environmental setting, environmental impacts, and proposed mitigation measures;
- Cumulative Impacts;
- Alternatives to the proposed project; and
- CEQA required environmental consequences, including (a) any significant environmental effects which cannot be avoided if the project is implemented; (b) any significant irreversible and irretrievable commitments of resources; (c) the growth-inducing impacts of the proposed project; and (d) effects found not to be significant.

Project Location

The overall project site is located in an upland area, approximately two miles west of the City of Cupertino in western Santa Clara County, at 24001 Steven Creek Blvd in the Santa Cruz Mountains, near the intersection of Interstate 280 and Highway 85. The Hanson Permanente Quarry site includes four main areas: The main mining pit, the west material storage area, the east material storage area, and the proposed pit 2.

Mining on the site dates back to the 1880's, the quarry's present location stems from the 1939 purchase of approximately 1300 acres along Permanente Creek by Hanson's predecessor. The site is currently operating under a Reclamation Plan established in 1985, which was approved by the County of Santa Clara for 25 years and will expire in March 2010. The 1985 Reclamation Plan included an area of approximately 330 acres, representing the main mining area and some material storage areas. Excluded from the 1985 Plan were areas that had been disturbed prior to the adoption of the Surface Mining and Reclamation Act (SMARA) in 1975, and the Kaiser Cement Corporation's cement plant facilities. The site also contains a rock plant, and aluminum plant, which along with the cement plant are separately permitted and will not be covered in the proposed reclamation plan amendment.

Project Description

The "project site" encompasses 917 acres of a 3,200-acre property. The proposed project entails a Reclamation Plan Amendment that will modify the previous 330-acre area covered by the 1985 Reclamation Plan, to include an additional 917 acres of mining and reclamation activity and extend the termination date to 2033 (2007+25 years = 2033). In addition, approximately 200 acres of un-

mined land would be includ in the Reclamation Plan Amendment, s : of which would be mined, but the majority would form buffer areas.

The Reclamation Plan Amendment addresses disturbed areas outside of the 1985 Reclamation Plan limits, in about 30 acres of new mining area in the southeast portion of the site (Pit 2), and the buffer areas. The existing and on-going activities involved are drilling, blasting, extraction of blasted rock, processing to size and sort the raw materials, stockpiling of construction aggregate and excess materials, and the transportation of processed materials from the site to customers.

The EIR will provide a project-level evaluation of the potential environmental impacts caused by the implementation of the proposed Reclamation Plan Amendment. Practical mitigation measures will be developed and presented for all direct, indirect and cumulative impacts that are found to be potentially significant. The following describes the environmental aspects of the project, and how they are potentially affected:

Potential Environmental Effects of the Project

The EIR will identify the significant environmental effects anticipated to result from implementation of the proposed project. The environmental baseline for the proposed Reclamation Plan Amendment is the post-mining site condition and includes ongoing mining and processing operations. The primary environmental topics addressed will include:

A. *Visual Resources*
The project site is located in a Zoning District with a Design Review overlay (d1). The landscape and final design of the reclamation area identified in the proposed Reclamation Plan Amendment will present the existing visual environment, describe the anticipated changes to the environment as the proposed mining operation proceeds, and assess any potentially negative aesthetic impacts. Visual simulations of the project site will be prepared.

B. *Biological Resources*
Portions of the project site contain dense, mature tree cover of Chaparral / Oak Woodlands. Also, water features such as springs; ponds, drainage swales, and Permanente Creek present on the site. Permanente Creek runs along the lower portion of the proposed Pit 2, and includes a Riparian Corridor along that area. The creek continues along the southern boundary of the project area, generally running west to east. While much of the site is currently disturbed, the EIR will describe impacts to biological resources that are anticipated to occur as a result of the proposed project. Mitigation measures will be identified for significant impacts, as warranted.

C. *Cultural Resources*
The EIR will present findings of a cultural resources evaluation that will identify and describe how the proposed project would impact cultural resources (both historical and prehistorical). Mitigation measures will be identified for significant impacts, as warranted.

D. *Geology & Soils*
A geologic and slope stability analysis will be performed. The EIR will describe geology and soil conditions of the site with respect to the proposed reclamation activities causing increased slope instability or erosion potential by the mining and reclamation activities. Mitigation measures will be identified for significant impacts, as warranted.

E. *Groundwater*
The EIR will examine the potential effects of the proposed mining and reclamation activities on groundwater and any significant long-term water supply impacts.

F. *Surface Hydrology, Drainage & Water Quality*
Permanente Creek runs along the site's southerly boundary. The project site is outside the 100-year floodplain. The potential for stream capture from the excavation and reclamation of the pits is not probable. The EIR will describe hydrology and storm water quality impacts from the mining and reclamation process. Mitigation measures will be identified for significant impacts, as warranted.

G. *Hazardous Materials*
The EIR will describe the availability of services to serve the project site and identify, at a programmatic level, potential utilities and services impacts from future development. Mitigation measures will be identified for significant impacts, as warranted.

H. *Traffic and Noise*
The EIR will characterize existing traffic conditions and evaluate traffic conditions with the proposed Reclamation Plan Amendment. The environmental baseline for the proposed project is the post-mining site condition and includes ongoing mining and processing operations as part of the baseline for the reclamation activities. Therefore, the impact of the evaluation of traffic and noise will be limited to the movement of equipment and personnel onto the project site to carry out reclamation activities relative to the post mining baseline condition. The City of Cupertino is within a half a mile of the East Material Storage Area. Because of the nature of the site, and the heavy equipment used, the EIR will analyze the amount of traffic and noise generated by the proposed reclamation project.

I. *Land Use*
Final use, appearance and stability of the expanded mining and reclamation area will be examined to assess whether the reclamation area would conflict with any County General Plan Policy or Zoning Ordinances.

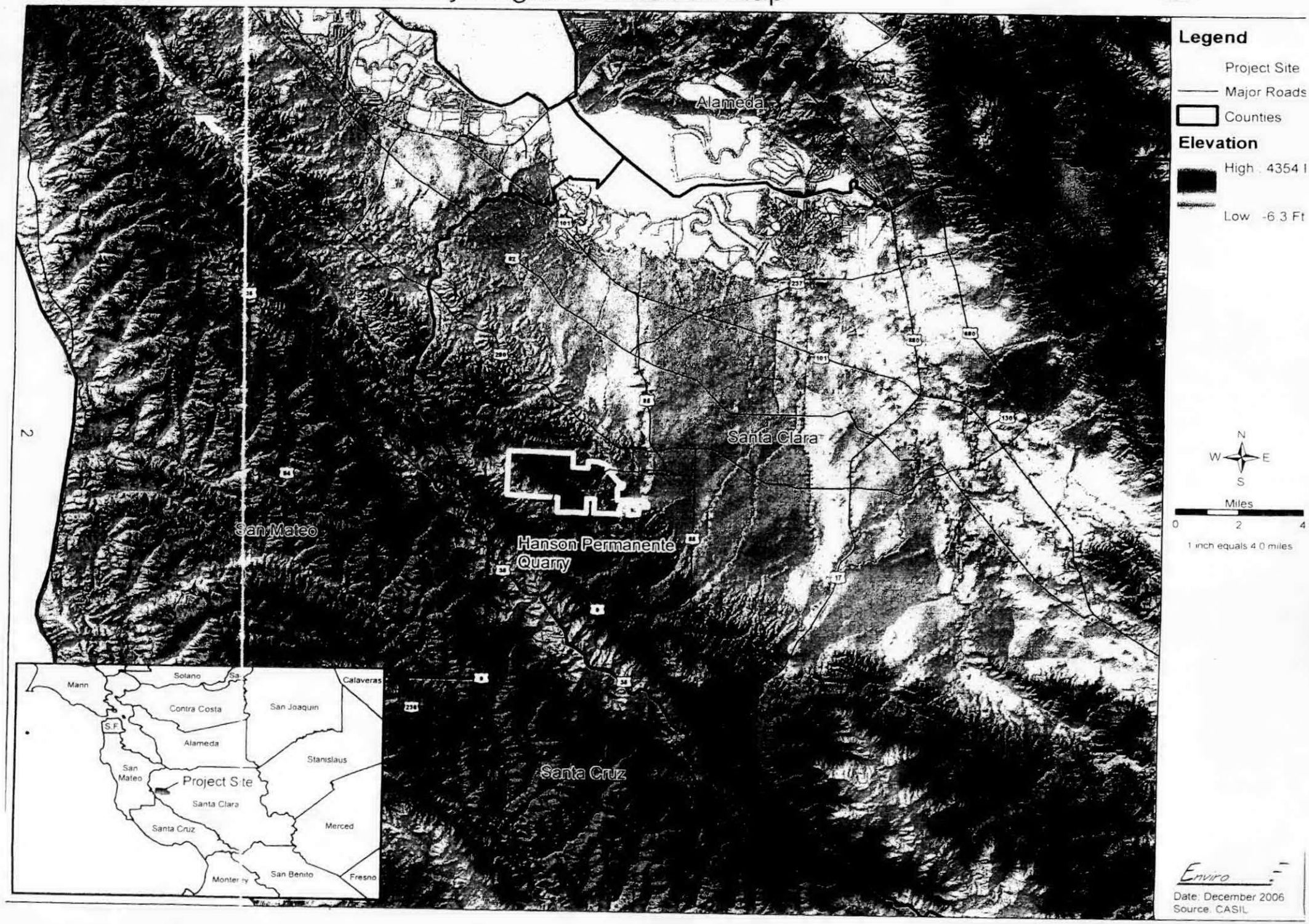
J. *Air Quality*
Impacts of the proposed project on local air quality will be related specifically to dust generation from mining activities and emissions from heavy equipment. Modeling will do a predominant amount of the analysis. If the modeling results in the prediction of significant impacts, mitigation measures will be included.

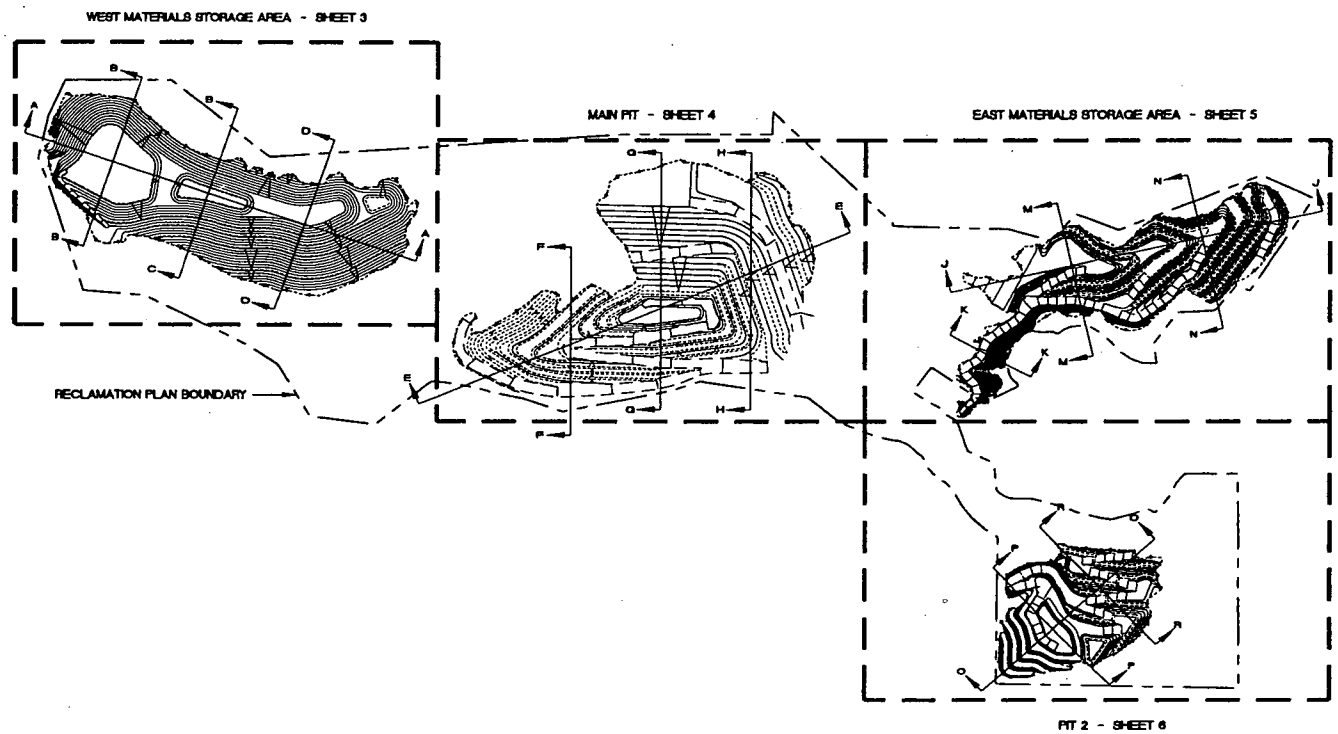
K. *Alternatives*
The EIR will describe a range of reasonable alternatives to the proposed project. However, the mine is a vested mine, which means there is a right to mine on the project site. Therefore, the "No Project Alternative", and "Alternate Location" alternative will not be analyzed.

L. *Growth Inducing Impacts*
The EIR will discuss methods by which the proposed project will directly or indirectly induce economic, population, or housing growth.

M. *Cumulative Impacts*
The EIR will include a Cumulative Impacts section which will address the potential significant or irreversible cumulative impacts of the proposed Reclamation Plan Amendment when considered with past, present, and probable future projects producing related or cumulative impacts, or projections contained in applicable land use documents of regional or area-wide conditions contributing to the cumulative impact.

Figure 1 Permanente Quarry Regional Location Map





OWNER	DECLARATION OF RESPONSIBLE CHARGE	DEPARTMENT OF PLANNING AND DEVELOPMENT	COUNTY APPROVED CHANGES	RECORD PLAN	PRIVATE CONTRACT
					PERMANENTE QUARRY OVERALL KEY MAP

OFFICE OF MINE RECLAMATION

DEPARTMENT OF CONSERVATION

OFFICE OF MINE RECLAMATION

801 K STREET • MS 09-06 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 323-9198 • **FAX** 916 / 445-6066 • **TDD** 916 / 324-2555 • **WEB SITE** conservation.ca.gov

RECEIVED AUG 27 2007

August 23, 2007

Mr. Val Alexeef, Director
Department of Planning and Development
County of Santa Clara
70 West Hedding Street
East Wing, 7th Floor
San Jose, CA 05110

Dear Mr. Alexeef:

HANSON PERMANENTE QUARRY AND CEMENT PLANT, CALIFORNIA MINE ID #91-43-0004

In a letter dated September 22, 2006, the Office of Mine Reclamation (OMR) notified Santa Clara County (County) of certain violations of the Surface Mining and Reclamation Act of 1975 (SMARA) at the Hanson Permanente Quarry and Cement Plant. Among other things, the letter advised the County that the cement manufacturing plant located adjacent to this surface mining operation met the definition of "mined lands" as that term is defined in Public Resources Code (PRC) Section 2729. Accordingly, OMR directed the County to include the area occupied by the cement plant in a required amendment to the reclamation plan for this surface mining operation.

Based on a review of information provided by the operator of this site, Hanson Permanente Cement, Inc. (Hanson), it appears that the cement manufacturing operation is a distinct operation in several important respects. First, the site is and has been used exclusively for the manufacture of cement on a site where no excavation for mining production purposes has ever occurred. Second, the cement manufacturing plant was established 36 years after mining operations commenced at the adjacent limestone quarry. Third, the cement manufacturing plant has operated under a separate use permit that was consistent with local zoning requirements at the time of its issuance in May 1939.

In a recent conversation with the Department, County staff indicated concurrence with the history and intent of County actions as described in a July 2, 2007, letter from Hanson to the Department (copy enclosed). Based on this information, and recognizing the County's authority with regard to local land use decision-making, the Department now believes that the cement manufacturing operation does not meet the definition of

"mined lands" as that term is defined in PRC Section 2729. As a result, the County is not required to include the cement manufacturing operation in the reclamation plan amendment for this site. All other requirements contained in the Department's September 22, 2006 SMARA enforcement 15-day notice, as well as all other comments provided in the Department's May 18, 2007, and June 7, 2007, letters to the County, remain as stated.

If you have any questions, please contact me at (916) 323-9198.

Sincerely,

Douglas W. Craig
Assistant Director

Enclosure

cc: Stephen M. Testa, Executive Officer, State Mining and Geology Board
Mike Gantenbein, Designated Agent, Hanson Permanente Cement, Inc.

County of Santa Clara

Department of Planning and Development
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

May 21, 2008

Marvin E. Howell
Hanson Aggregates West, Inc.
P.O. Box 639069
San Diego CA 92163-9069

Subject: Compliance Schedule Modification of the Notice of Violation Issued October 10, 2006, by the County of Santa Clara to Hanson Permanente Quarry, State Mine ID 93-41-0004 (Public Resources Code §2774.1)

Dear Mr. Howell,

This letter serves as notification that the Compliance Schedule of the Notice of Violation issued by the County of Santa Clara on October 10, 2006, and modified in a report to the State Mining & Geology Board dated August 14, 2007, is hereby modified. The new schedule is contained in the attached table. The schedule incorporates time needed to complete the environmental review associated with the proposed amendment to the Hanson Permanente Quarry's reclamation plan. As you know, this proposed reclamation plan amendment is intended, among other things, to abate SMARA violations reported in the 2006 and 2007 SMARA inspections conducted by the County.

The revised schedule is based in part on a timeframe you provided in a letter (copy enclosed) dated December 11, 2007, addressed to Val Alexeeff, Director of the Department of Planning & Development. This timeframe outlines the time and tasks necessary to complete preparation of an in-depth geology report of the Hanson Permanente quarry site. It also suggests time needed to complete CEQA review.

The attached compliance schedule estimates that the environmental impact report, written in compliance with the California Environmental Quality Act (CEQA), will be completed in phases, with the first phase, the geologic evaluation, being completed by December 2009, the Draft Environmental Impact Report being completed by March 2011, and the public hearing regarding the Final Environmental Impact Report and project proposal being conducted in August or September 2011. This schedule may be subject to change depending on the complexity of the environmental review under CEQA and the subsequent public hearing process to consider both the CEQA document and the project proposal.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, Ken Yeager, Liz Kniss
County Executive: Peter Kutras, Jr.

Please note that, as stated in our last SMARA inspection report, the reclamation plan amendment process is the means by which certain SMARA violations are to be abated. Until the process is complete the violations will continue to be reported each year to the State Office of Mine Reclamation. If you have any questions regarding this matter you may call me at (408) 299-5747.

Sincerely,

Gary Rudholm

Gary Rudholm
Senior Planner

ATT / ENCL

cc: Cy Oggins, State Office of Mine Reclamation
Stephen M. Testa, Executive Officer, State Mining & Geology Board
Sylvia Gallegos, Deputy County Executive, Santa Clara County
Jody Hall Esser, Interim Director, Planning & Development, Santa Clara County
Michael M. Lopez, Planning Manager, Santa Clara County
Lizanne Reynolds, Deputy County Counsel, Santa Clara County
John Giovanola, Hanson Permanente Quarry

Compliance Schedule – Hanson Permanente Quarry

County File 2250-13-66-06PAM
State Mine ID 91-43-0004

Revised May 21, 2008

Deadline	Action
11/15/06 – 11/30/06	Pre-application meeting between County Planning Department and Hanson concerning reclamation plan amendment
12/15/06 – 12/31/06	Hanson to submit an application for an amended reclamation plan and interim financial assurance calculations
1/15/07 – 1/31/07	The County to complete its 30-day review of the application, and inform Hanson in writing whether the application is complete for processing or additional information is required
No later than 3/16/07	Hanson to resubmit a revised application containing additional information required by the 30-day review letter
4/16/07	The County to inform Hanson that the application is complete for processing. The County to provide approval for interim financial assurances for immediate posting The County to forward the amended reclamation plan and financial assurances to OMR for comments pursuant to Public Resources Code section 2774, subdivision (c)
4/20/07	The County to begin CEQA review of the amended reclamation plan proposal
5/21/07	OMR to provide any comments regarding the amended reclamation plan, pursuant to the 30-day review period of Public Resources Code section §2774, (d)(1)
6/4/07	OMR to provide any comments regarding the updated financial assurances, pursuant to the 45-day review period of Public Resources Code §2774(d)(1)

Compliance Schedule – Hanson Permanente Quarry
County File 2250-13-66-06PAM
State Mine ID 91-43-0004

Deadline	Action
May 25, 2007	Notice of Preparation of a Draft Environmental Impact consistent with CEQA requirements issued by the County.
August 2, 2007	Close of public comment, which included two public scoping meetings, under the Notice of Preparation. At the close of the comment period for the Notice of Preparation, the County received more than 200 letters listing issues that should be addressed in the project EIR.
Geologic Investigation Phase	
12/31/07	Hanson to provide schedule for geologic investigation for use in CEQA document associated with the reclamation plan amendment proposal.
6/30/08	Status meeting with County staff on progress of geologic investigation.
9/30/08	Status meeting with County staff on progress of geologic investigation.
12/31/08	Status meeting with County staff on progress of geologic investigation.
3/31/09	Status meeting with County staff on progress of geologic investigation.
6/30/09	Status meeting with County staff on progress of geologic investigation.
9/30/09	Status meeting with County staff on progress of geologic investigation.
12/01/09	Completion of geologic field investigation, monitoring, analysis, and reporting.
12/31/09	Status meeting with County staff on completion of geologic investigation.

Compliance Schedule – Hanson Permanente Quarry
County File 2250-13-66-06PAM
State Mine ID 91-43-0004

Continued CEQA Review Phase	
2/01/10	Hanson to submit revised reclamation plan amendment plans, maps, and supporting documents, as required.
3/01/10	The County to county its review of the revised amendment for completeness and compliance with SMARA.
4/15/10	Hanson to resubmit any further revisions to the amendment, if necessary.
5/15/10	The County to inform Hanson whether the amendment application is complete for processing.
6/01/10	The County to forward the reclamation plan amendment proposal and financial assurance cost estimates to OMR for comments pursuant to Public Resources Code §2774(c). **The County to continue CEQA review of the proposed reclamation plan amendment. (The County will issue a new Notice of Preparation if the project changes.)** The County to contract and hire new consultant, complete a draft environmental impact report (DEIR).
7/01/10	OMR to provide any comments regarding the amended reclamation plan, pursuant to the 30-day review period of Public Resources Code sources §2774(d)(1).
7/15/10	OMR to provide comments regarding the updated financial assurances, pursuant to the 45-day review period of Public Resources Code §2774(d)(1).
03/15/11	Public release of the draft environmental impact report (DEIR) and beginning of the public comment period.

Compliance Schedule – Hanson Permanente Quarry
County File 2250-13-66-06PAM
State Mine ID 91-43-0004

Public Hearing Phase and Final EIR	
05/05/11	Public hearing before the County Planning Commission to receive comments on DEIR.
5/15/11	Close of CEQA public comment period. County to commence preparation of Responses to Comments on the DEIR.
7/01/11	The County to prepare early notification to OMR of public hearing on reclamation plan amendment proposal, revised financial assurances, and Final EIR (FEIR).
August / September 2011	County to hold public hearing concerning application for the proposed reclamation plan amendment and FEIR.
•••••	

Hanson

Hanson Aggregates
West Region
P.O. Box 639069
San Diego, CA 92163-9069
9229 Harris Plant Road
San Diego, CA 92145
Tel 858-277-5491
Fax 858-277-4517
www.hansonplc.com

December 11, 2007

Val Alexeeff
Director, Department of Planning and Development
County of Santa Clara
70 West Hedding Street
East Wing, 7th Floor
San Jose, CA 95110

Re: Hanson Permanente Quarry
Mine Identification No. 91-43-0004

Dear Mr. Alexeeff:

This letter follows our November 8, 2007 meeting concerning Hanson Permanente Cement, Inc.'s (Hanson) reclamation plan amendment. The purpose of the meeting was to finalize a schedule for processing the reclamation plan amendment for the Permanente Quarry. The current schedule (Exhibit 1) does not identify a completion date for the CEQA process and does not identify when the County will approve the amendment. The County left these portions of the schedule open to accommodate scoping comments and issues raised by the Department of Conservation (DOC) that needed to be addressed in the schedule.

The DOC has requested that the company gather additional geotechnical data to support the reclamation plan amendment. The reclamation plan amendment proposed post-approval field analysis to validate certain geotechnical recommendations, including final slope angles. In May 18, 2007 comments, however, the DOC stated that the amendment should include complete geologic evaluations. The DOC also requested additional slope stability analysis for existing slopes. The DOC asked that Hanson resubmit the amendment at a later date after all supporting evaluations were complete.

Hanson is in the process of addressing these requests through a detailed geologic investigation in the existing pit. The geologic investigation is designed to ensure the stability of slopes in proposed extraction areas, and represents a conservative approach that considers the complexity of the underlying geology and past

slope stability issues. The investigation consists of specialized geotechnical drilling and geologic evaluation. Drilling is expected to be complete by winter 2008-2009, based on the complexity of the geology and the difficulty of drilling. Experience indicates that up to six weeks may be required to complete a borehole to a 400-500 foot depth. The attached proprietary letter from Hanson's engineering geologists, Golder Associates, explains the geologic circumstances in more detail. Based on current estimates, drilling, monitoring, analysis and reporting will collectively require approximately 24 months, and conclude by December 2009.

Enclosed for your review is a draft revised schedule (Exhibit 2) reflecting the time requirements for this investigation. The attached schedule completes those portions of the schedule previously left for future determination. The schedule reflects the following tasks and time allowances:

Task	Time Allotted
Geologic investigation, including planning, drilling, , lab testing, geologic evaluation and report preparation	24 months
Incorporated geologic data into revised reclamation plan amendment	2 months
County review for completeness and compliance With SMARA, and forward revised amendment to DOC	4 months
Complete CEQA draft environmental impact report	6 months
Publication and public review of draft environmental impact report	2 months
Respond to comments, prepare staff report and conduct public hearing	3-4 months

Concurrently with the investigation described above, Hanson will be conducting geologic investigation in the proposed Pit 2, and in potential extraction areas to the west of Pit 2 in line with requests made during the public scoping process. After incorporating the foregoing time requirements into the schedule, we anticipate final approval of a revised reclamation plan amendment in May 2011.

Please let us know that the revised processing schedule comports with the County's understanding of our agreement, and if you would like to discuss the schedule in greater detail.

Very truly yours,

By: /Marvin E. Howell

Enclosures

cc: Michael Meinen
Jeffrey Brummert

County of Santa Clara

Department of Planning and Development
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

June 20, 2008

Marvin E. Howell
Hanson Aggregates West, Inc.
P.O. Box 639069
San Diego CA 92163-9069

John Giovanola
Hanson Permanente Cement
24001 Stevens Creek Blvd
Cupertino CA 95014-5659

Subject: NOTICE OF VIOLATION (PRC §2774.1)

Dear Mr. Howell and Mr. Giovanola:

On April 3, 2008, the County of Santa Clara received a complaint alleging Hanson Permanente Quarry was storing stockpiles of petroleum coke on land owned and operated by the quarry. Subsequently, staff from the County Planning Office met with Hanson personnel in the field on April 8, 2008, to locate the stockpiled material in the field. Following this field inspection staff also met with the County Geologist and a consultant from the geology firm retained by the Planning Office to assist with the 2007 SMARA inspection of Hanson Permanente. Based on this field review and subsequent discussion with the County Geologist and consultant, both of who participated in the most recent SMARA inspection, the County has determined the following:

1. The material shown in the photographs included with the complaint is not petroleum coke.
2. The material is stockpiled overburden from the mine.
3. The location where the stockpiled materials were found is within an area included in the boundary of a proposed reclamation plan amendment, but is not located within the boundary of the current, approved reclamation plan boundary.

The County of Santa Clara previously issued a combined Order to Comply/Notice of Violation (NOV) to Hanson on October 10, 2006, for having areas of disturbance outside the approved reclamation plan boundary. Hanson subsequently applied for a reclamation plan amendment to address this issue. The NOV effectively placed Hanson on notice that work outside the reclamation plan boundary is not authorized. For this reason, the County views this additional stockpiling as an intensification of an existing violation.

In keeping with the requirements of SMARA §2774.1, the County hereby issues a Notice of Violation for mining related disturbance outside the approved reclamation plan, and specifically for stockpiling in an area east of the approved reclamation plan.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, Ken Yeager, Liz Kniss
County Executive: Peter Kutras, Jr.

Because the approved reclamation plan provides for an area to receive overburden in the portion of the mined land identified as "Area A," which has space available to receive such material, you are hereby required to accomplish the following:

(1) cease depositing the material in the location described above, and

(2) submit a proposal for either

(a) removing the material, or

(b) providing for interim erosion control and re-vegetation of the stockpile in order to retain the material while the reclamation plan amendment continues to be processed.

The County Planning Office must receive the abatement proposal, identified in item #2 above, on or before July 21, 2008.

If you have any questions regarding this matter please contact me via email at Gary.Rudholm@pln.sccgov.org, or by telephone at (408) 299-5747.

Sincerely,

Gary Rudholm

Gary Rudholm
Senior Planner

cc: Cy Oggins, State Office of Mine Reclamation
Stephen Testa, Executive Officer, State Mining & Geology Board
Jody Hall Esser, Interim Director of Planning & Development
Michael M. Lopez, Planning Manager
Lizanne Reynolds, Deputy County Counsel

diepenbrock harrison
A PROFESSIONAL CORPORATION

F. "JACK" DIEPENBROCK
KAREN L. DIEPENBROCK
KEITH W. McBRIDE
BRADLEY J. ELKIN
EILEEN M. DIEPENBROCK
MARK D. HARRISON
GENE K. CHEEVER
LAWRENCE B. GARCIA
ANDREA A. MATARAZZO
JOEL PATRICK ERB
JON D. RUBIN
JENNIFER L. DAUER
JEFFREY K. DORSO

R. JAMES DIEPENBROCK
(1929 - 2002)

JEFFREY L. ANDERSON
SEAN K. HUNGERFORD
LEONOR Y. DICDICAN
JULIE Y. REISER
CHRIS A. McCANDLESS
DAN M. SILVERBOARD
ANDREW P. TAURIAINEN
LAMONT T. KING, JR.
DANIEL J. WHITNEY
DAVID A. DIEPENBROCK
JONATHAN A. MARZ
VALERIE C. KINCAID
MARK E. PETERSON
JASON S. ROSENBERG

July 21, 2008

Via Overnight Mail

Jody Hall Esser
Director of Planning
County of Santa Clara
70 West Hedding Street
East Wing, 7th Floor
San Jose, CA 95110

Re: Hanson Permanente Quarry - Response to Notice of Violation
Mine Identification No. 91-43-0004

Dear Ms. Esser:

We write on behalf of Hanson Permanente Cement, Inc. ("Hanson"). The purpose of this letter is to address the County of Santa Clara's ("County") June 20, 2008 Notice of Violation ("NOV") (Exhibit 1), and provide the County with Hanson's proposal for resolving the issues raised therein. This letter details the relevant background, Hanson's concerns regarding the NOV's form and substance, and how Hanson proposes to address this issue going forward.

I. SITE BACKGROUND

The Permanente Quarry is a limestone and aggregate mining operation in the Santa Clara County foothills, west of the City of Cupertino's jurisdictional limits. Mining is documented in this location as early as 1903. In July 1939, the mining site included approximately 1300 acres, representing the existing quarry and the surrounding areas. Mining has occurred continuously since, and the County has repeatedly acknowledged the Quarry as a legal, non-conforming use.

In 1976, the Surface Mining and Reclamation Act ("SMARA") became effective within California, and required mining operations statewide to develop reclamation plans to ensure that mined lands are reclaimed to facilitate post-mining uses. Following these

400 CAPITOL MALL
SUITE 1800
SACRAMENTO, CA 95814

WWW.DIEPENBROCK.COM 916 492.5000
FAX: 916 446.4535

requirements, the County approved the current reclamation plan for the Quarry in March 1985 (Exhibit 2). The reclamation plan was designed to cover an approximately 25-year period, to be amended before the end of that period to address future mining operations.

It is well established that the County did not require that all areas disturbed by mining operations be included in the approved reclamation plan. The reclamation plan included only certain extraction areas and material storage areas. The reclamation plan did not include other areas of mining-related activity, a fact that has been recorded in many documents; most recently, in the County's May 14, 2008 inspection report addendum (Exhibit 3):

> On March 7, 1985, the County approved the current reclamation plan. The reclamation plan covers approximately 330 acres comprised of active excavation and material storage areas. The current reclamation plan does not encompass all past mining disturbance at the site or, with the exception of actual excavation areas, confine mining-related operations to specific areas. For instance, the reclamation plan does not include a rock plant to the southeast of the mining pit or access roads throughout the site. The omissions are consistent with the way that SMARA's requirements were interpreted at the time the reclamation plan was approved.

From 1991, when annual reporting first became effective, through 2005, the Quarry did not receive any violations. This changed in 2006. The notice of violation came on the heels of "45-Day Notice" proceedings (Pub. Resources Code, § 2774.4) initiated by the State Mining and Geology Board ("Board") against the County. In April 2006, the Board charged that the County failed to administer SMARA and to enforce violations at various mines. As to the Quarry, the Board documented mine disturbance outside of the reclamation plan boundaries (Hanson asserts these disturbances are the same areas that by design were not included in the reclamation plan).

The Board voted in September 2006 to conditionally allow the County to retain SMARA authority, but invited the Department of Conservation ("DOC") to initiate its own enforcement action against mines within the County. On September 22, 2006, the DOC gave the County a "15-Day Notice" pursuant to Public Resources Code section 2774.1, subd. (f)(1) (Exhibit 4). The 15-Day Notice stated identified areas of disturbance outside

of the Quarry's reclamation plan boundary which appeared to be violations, and gave the County 15 days to take "appropriate action."

The County responded on October 10, 2006 by issuing the Quarry a notice of violation and order to comply (Exhibit 5). The order required Hanson to prepare and file a reclamation plan amendment covering all areas disturbed by mine operations. Hanson complied by filing a reclamation plan amendment in March 2007, and by following a compliance schedule established by the County with the DOC's concurrence (Exhibit 6, updated compliance schedule). The October 2006 compliance order permitted Hanson to continue operating in all respects while the amendment was being processed; the DOC accepted this enforcement action as adequate.

On July 10, 2008, the Board ended its 45-Day Notice proceeding against the County. The Board based its decision generally on the fact that the County's enforcement actions have been appropriate and consistent with SMARA, and allowed the County to retain its lead agency jurisdiction.

II. INFORMATION REGARDING EMSA

Hanson's use of the EMSA for material storage is not a new condition. The majority of the EMSA is situated on an approximately 153-acre parcel which historically has been used to store material and overburden from the Quarry, as well as to support currently inoperative industrial activities (principally, an aluminum plant). The industrial facilities historically occupied the southeast portion of the parcel, while material storage took place to the north and west. Aerial photographs from the 1940s onward reflect the existence of continually progressive material storage activity in this location.

Like other portions of Hanson's property, the EMSA was not included in the current reclamation plan. Aerial photographs show the EMSA was, however, disturbed then (Exhibit 7, 1980 aerial). The EMSA also was unquestionably disturbed in October 2006 when the County issued its original order (Exhibit 8, 2006 aerial). Hanson, in compliance with that order, included the EMSA in its March 2007 reclamation plan amendment and has continued operations in this area since.

The County issued the NOV on June 20, 2008. Based on a site inspection, and without first investigating the issue with Hanson, the County concluded that mine storage in the EMSA was an intensification of conditions identified in the original notice of violation. The NOV stated that existing storage capacity remained in Area A, and required Hanson to cease depositing material in the EMSA.

Hanson has, as an interim step, temporarily ceased storage within the EMSA. This was done as a courtesy to the County and from respect to the working relationship that Hanson and the County continue to enjoy.

III. CURRENT STATUS OF AREA A

We first comment on the current storage capacity in Area A. The NOV states that Area A has the capacity to receive additional material. This is not entirely accurate. Area A has nearly reached its design capacity under the current reclamation plan, which sets forth a maximum height of 1975 feet at 3H:1V slopes. Additionally, the County and its geotechnical consultants have recently expressed concern over slope stability in and adjacent to Area A (Exhibits 3 and 9). These factors may limit the placement of significant amounts of additional material in this location.

IV. CONCERNS REGARDING NOV

Hanson has a number of concerns over the legality and validity of the NOV, arising from the disparity between how SMARA has been designed to address potential violations, and how the County has sought to address the Quarry in the NOV. SMARA recognizes that mining is fundamentally different from other land uses. Quarries such as Hanson's provide raw material that is used on an immediate basis for public and private projects. SMARA anticipates, and protects against, the disruption to these projects that would result if critical raw material sources were closed without warning.

Accordingly, Public Resources Code section 2774.1 provides that if a lead agency believes there has been a violation of an approved reclamation plan, the agency must adhere to procedures established by that section – including notice, an opportunity to correct, and a hearing. Any order thereafter made effective must specify a reasonable time for compliance and take into account the seriousness of the violation and any good faith efforts to comply. SMARA does not authorize local, administrative cease and desist orders among the potential remedies.

As a result, the appropriate and usual remedy under SMARA for addressing deviations from a reclamation plan is to process an amendment to the reclamation plan to ensure that adequate reclamation requirements are in place. The County followed this process correctly with respect to the October 2006 notice of violation by requiring Hanson to submit to a schedule for processing a reclamation plan amendment to cover all disturbed areas, and allowing Hanson to continue operating in the interim. Hanson has diligently complied with these requirements.

The correctness of the County's approach under SMARA is reflected in the DOC's and Board's actions. The DOC did not challenge or override the October 2006 order as an inadequate enforcement response to the 15-Day Notice. The Board, for its part, ended its 45-Day Notice proceedings against the County based on its finding that the County was correctly applying SMARA's requirements.

The NOV, in contrast, deviates from SMARA's requirements. It directed that Hanson cease its use of the EMSA for storage in excess of the County's authority under section 2774.1. The NOV also conflicts with the original order, which properly allowed Hanson to continue operating in the interim while the reclamation plan amendment is processed. The NOV targets the same EMSA activity that was subject to the October 2006 order, but in a wholly different manner that contravenes the County's earlier order and violates SMARA.

We also are not aware of any factual basis for the conclusion that Hanson "intensified" its EMSA operations. The County has not made any inquiries to Hanson in this regard, nor, to our knowledge, conducted other factual investigation. We are left to assume that the County made this determination only because the EMSA storage has increased in height. This, however, is characteristic of all material storage. Additionally, Hanson's overall quarrying operations have not significantly increased, but continue to respond to market demand. (See *Hansen Brothers Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal.4th 533, 574 [error "to treat the components [of a mine] separately when considering the intensification of use question"].)

V. RESOLUTION

Hanson would not object to a resolution which combines the NOV and the original order. This could be accomplished by requiring that Hanson include the EMSA in the reclamation plan amendment pursuant to the existing compliance schedule, and by further requiring interim measures for erosion control and revegetation with respect to the EMSA. Hanson would, consistent with the original order and SMARA, continue to operate while the reclamation plan amendment is being processed.

Please note further that while Hanson will not object to such the resolution described above, nothing in this letter should be viewed as a waiver on Hanson's part of any right to contest, in all possible respects, the legality of the NOV.

We thank the County for its cooperation, and look forward to continuing to discuss these issues in greater detail with the County.

Very truly yours,

DIEPENBROCK HARRISON
A Professional Corporation

By: 
Mark D. Harrison

SKH:gjc
Enclosures

cc: Marvin Howell, Hanson
Sandy James, Hanson
Lizanne Reynolds, County of Santa Clara
Gary Rudholm, County of Santa Clara

AGREEMENT

COPY

THIS AGREEMENT is made this 14th day of April, 2009, by and between the County of Santa Clara, a political subdivision of the State of California (hereinafter referred to as the "County") and the undersigned duly authorized representatives of Lehigh Southwest Cement Company and Hanson Permanente Cement, Inc. (hereinafter referred to as "Company") regarding the Permanente Quarry.

RECITALS

A. The Company owns and operates the Permanente Quarry ("Quarry"), which is located within the jurisdiction of the County.

B. In March 1985, the County approved a Reclamation Plan for the Quarry ("Reclamation Plan").

C. In October 2006, the County issued an Order to Comply/Notice of Violation ("2006 Order") pursuant to the Surface Mining and Reclamation Act of 1975 ("SMARA"), Pub. Res. Code § 2710 *et seq.*,to the Quarry owner/operator requiring the processing of an amendment to the Reclamation Plan to encompass mining-related disturbance outside of the approved reclamation plan (except for the cement plant), and set forth a compliance schedule for the amendment. A copy of the 2006 Order is attached as Exhibit A to this Agreement.

D. In May 2008, the County issued a modification to the compliance schedule included in the 2006 Order ("2008 Schedule Modification"). A copy of the 2008 Schedule Modification is attached as Exhibit B to this Agreement. The 2008 Schedule Modification called for the Company to file a reclamation plan amendment by February 2010, with final County action on the amendment to take place in 2011.

E. In June 2008, the County issued a Notice of Violation ("2008 NOV") related to the placement of overburden material in an area known as the East Materials Storage Area ("EMSA"). A copy of the 2008 NOV is attached as Exhibit C to this Agreement. Among other things, the 2008 NOV instructed the Company to cease depositing material in the EMSA.

F. Due to operational needs at the Quarry, the Company desires to continue using the EMSA. The County is amenable to allowing the Company to use the EMSA pending final action on a reclamation plan amendment, provided the Company files and diligently pursues a reclamation plan amendment for the EMSA. Accordingly, the County and the Company agree as follows:

AGREEMENT

1. With respect to the Reclamation Plan amendment for the EMSA ("EMSA Amendment"), the parties agree as follows:

A. Not later than April 20, 2009, the Company shall submit to the County an application for the EMSA Amendment. Upon a timely request by Company to meet with County staff prior to April 20, 2009 to discuss the requirements for the application, County representatives will make themselves available for such a meeting.

B. Within thirty (30) days of the Company's submittal, the County shall make a completeness/incompleteness determination specifying in writing the information, if any, needed to make the application complete. The Parties intend to meet during the first week of May to facilitate the County's completeness review.

C. If the County deems the application incomplete, the Company shall respond to the County's incompleteness determination by providing a resubmittal within thirty (30) days after the incompleteness determination.

D. Within thirty (30) days of the Company's resubmittal, the County shall review the Company's resubmittal and determine the completeness/incompleteness of the application.

E. In the event the County still deems the application incomplete, the Company shall be required to continue working in good faith with the County to provide the additional material within thirty (30) day resubmittal/review cycles as outlined above. However, if the County determines that the Company has not produced a complete application by July 20, 2009, the County shall assess, starting as of June 20, 2009, a penalty of $250/day, which daily penalty shall be doubled every thirty days thereafter, until such time as a complete application is submitted to the County and deemed complete by the County. The penalty shall cease when the County deems the application complete.

2. Upon execution of this Agreement, the Company may recommence use of the EMSA as depicted on Exhibits D and E, subject to the stipulations and understandings set forth in this Agreement, pending final action by the County on the EMSA Amendment, and the language in the 2008 NOV instructing the Company to cease depositing material in the EMSA is modified to conform to this Agreement.

3. Nothing in this Agreement shall be interpreted in a manner that indicates that the County will approve the EMSA Amendment or will allow the Company to continue using the EMSA if the EMSA Amendment application is denied or if the Company withdraws the EMSA Amendment application prior to the County taking final action on the application. Nor shall anything in this Agreement be interpreted as a waiver

of the County's legal authority, including but not limited to its enforcement authority under SMARA.

4. Due to timing requirements for geotechnical studies, the County agrees to amend and reissue the compliance schedule issued with the 2006 Order and revised pursuant to the 2008 Schedule Modification to extend the date for submission of the Quarry's overall Reclamation Plan amendment application from February 2010 to May 2010.

5. This Agreement is binding on the Company's successors in interest with respect to the Quarry property and operations.

IN WITNESS WHEREOF, the parties have executed this Agreement, in counterpart, on the day and year first hereinabove written.

LEHIGH SOUTHWEST CEMENT COMPANY,

By: _____

(SEAL)

ATTEST: _____

APPROVED AS TO FORM:

_____

Mark D. Harrison
Counsel for Company

COUNTY OF SANTA CLARA,
A political subdivision of the State of California

By: _____
Jody Hall Esser
Director, Department of Planning & Development

APPROVED AS TO FORM AND LEGALITY:

_____

County Counsel

EXHIBIT A

County of Santa Clara

Department of Planning and Development
Administration

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-6740 FAX (408) 288-9198

October 10, 2006

John Giovanola
Hanson Permanente Cement, Inc.
24001 Stevens Creek Road
Cupertino, CA 95014

ORDER TO COMPLY/NOTICE OF VIOLATION
(Pub. Res. Code § 2774.1)

Dear Mr. Giovanola:

On September 22, 2006, the Department of Conservation's Office of Mine Reclamation (OMR) issued a "15-Day Notice" to the County of Santa Clara pursuant to Public Resources Code § 2774.1 (f)(1). The 15-Day Notice alleged several SMARA violations at Hanson Permanente Cement, Inc.'s (Hanson's) Permanente Quarry. Pursuant to § 2774.1(f), if the County does not take appropriate enforcement action in response to this notice, OMR may initiate enforcement.

Accordingly, the County hereby issues a Notice of Violation (NOV) and Order to Comply to Hanson's Permanente Quarry for mining-related disturbance outside the approved reclamation plan with the exception of the cement plant. At this time, the County is not requiring Hanson to include the adjacent cement plant site within the amended reclamation plan boundaries. As you know, the cement plant is a separately permitted and vested industrial facility which pre-dates SMARA by nearly 40 years and the County expressly excluded the cement plant from the approved reclamation plan in 1985. To date, the County has also been unable to find any clear guidance in the law or regulation regarding whether, under these circumstances, SMARA requires the cement plant to be included in the reclamation plan. Please note, however, that OMR may decide to take enforcement action on this issue. If this issue ultimately reaches the State Mining and Geology Board (SMGB), the County will adhere to the SMGB's decision on this issue.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

The issues addressed in this NOV have already been the subject of numerous discussions between the County and Hanson. As a result of these meetings, Hanson at this time has agreed to file an amended reclamation plan encompassing all disturbed areas (except the cement plant and former aluminum plant sites) and to comply with the County's compliance schedule (attached). The amended reclamation plan will address, among other things, the slope instability along the north wall of the pit, and encompass all mining-related access roads, structures, stockpiles and storage areas, including the rock processing facility to the south of the cement plant. The amendment will also calculate, for posting on an interim basis pending final reclamation plan approval, new financial assurances. Hanson at this time has also agreed to waive the hearing requirement in Public Resources Code § 2774.1(b). Please confirm that this accurately represents Hanson's position.

We appreciate Hanson's cooperative attitude in this matter and express the County's commitment to work diligently with Hanson to expeditiously resolve all outstanding issues.

Sincerely,

Val Alexeeff
Director of Planning

cc: Douglas W. Craig, Assistant Director, OMR
Allen M. Jones, Chair, SMGB
Stephen M. Testa, Executive Officer, SMGB
Pete Kutras, County Executive, Santa Clara County
Jane Decker, Deputy County Executive, Santa Clara County
Ann Ravel, County Counsel, Santa Clara County
Lizanne Reynolds, County Counsel, Santa Clara County

COMPLIANCE SCHEDULE – HANSON PERMANENTE

Deadline	Action
11/15/06-11/30/06	Pre-application meeting between County Planning Department and Hanson concerning reclamation plan amendment.
12/15/06-12/31/06	Hanson to submit an application for an amended reclamation plan, and interim financial assurance calculations.
1/15/07-1/31/07	The County to complete its 30-day review of the application, and inform Hanson in writing whether the application is complete for processing or additional information is required.
No later than 3/16/07	Hanson to resubmit a revised application containing additional information required by the 30-day review letter.
4/16/07	The County to inform Hanson that the application is complete for processing. The County to provide approval for interim financial assurances, for immediate posting. The County to forward the amended reclamation plan and financial assurances to OMR for comments pursuant to Public Resources Code section 2774, subdivision (c).
4/20/07	The County to begin processing and CEQA review of the amended reclamation plan.
5/15/07	OMR to provide any comments regarding the amended reclamation plan, pursuant to the 30-day review period of Public Resources Code section 2774, subdivision (d)(1).
6/1/07	OMR to provide any comments regarding the updated financial assurances, pursuant to the 45-day review period of Public Resources Code section 2774, subdivision (d)(1).
7/20/07-8/17/07	The County to complete the CEQA review. Based on assumption that the document will be a Mitigated Negative Declaration and that public participation will not be unusually strong.
8/20/07	Public release of the proposed CEQA environmental document and beginning of the public comment period.

10/8/07	Close of CEQA public comment period.
10/15/07	Prepare early response to OMR of public hearing on amended reclamation plan and revised financial assurances, pursuant to SB 668.
11/15/07	County to prepare staff report concerning application for amended reclamation plan and financial assurances.
11/30/07- 12/30/07	Public hearing on application for amended reclamation plan and financial assurances.

EXHIBIT B

County of Santa Clara

Department of Planning and Development
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

May 21, 2008

Marvin E. Howell
Hanson Aggregates West, Inc.
P.O. Box 639069
San Diego CA 92163-9069

Subject: Compliance Schedule Modification of the Notice of Violation Issued October 10, 2006, by the County of Santa Clara to Hanson Permanente Quarry, State Mine ID 93-41-0004 (Public Resources Code §2774.1)

Dear Mr. Howell,

This letter serves as notification that the Compliance Schedule of the Notice of Violation issued by the County of Santa Clara on October 10, 2006, and modified in a report to the State Mining & Geology Board dated August 14, 2007, is hereby modified. The new schedule is contained in the attached table. The schedule incorporates time needed to complete the environmental review associated with the proposed amendment to the Hanson Permanente Quarry's reclamation plan. As you know, this proposed reclamation plan amendment is intended, among other things, to abate SMARA violations reported in the 2006 and 2007 SMARA inspections conducted by the County.

The revised schedule is based in part on a timeframe you provided in a letter (copy enclosed) dated December 11, 2007, addressed to Val Alexeeff, Director of the Department of Planning & Development. This timeframe outlines the time and tasks necessary to complete preparation of an in-depth geology report of the Hanson Permanente quarry site. It also suggests time needed to complete CEQA review.

The attached compliance schedule estimates that the environmental impact report, written in compliance with the California Environmental Quality Act (CEQA), will be completed in phases, with the first phase, the geologic evaluation, being completed by December 2009, the Draft Environmental Impact Report being completed by March 2011, and the public hearing regarding the Final Environmental Impact Report and project proposal being conducted in August or September 2011. This schedule may be subject to change depending on the complexity of the environmental review under CEQA and the subsequent public hearing process to consider both the CEQA document and the project proposal.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, Ken Yeager, Liz Kniss
County Executive: Peter Kutras, Jr.

Please note that, as stated in our last SMARA inspection report, the reclamation plan amendment process is the means by which certain SMARA violations are to be abated. Until the process is complete the violations will continue to be reported each year to the State Office of Mine Reclamation. If you have any questions regarding this matter you may call me at (408) 299-5747.

Sincerely,

Gary Rudholm

Gary Rudholm
Senior Planner

ATT / ENCL

cc: Cy Oggins, State Office of Mine Reclamation
Stephen M. Testa, Executive Officer, State Mining & Geology Board
Sylvia Gallegos, Deputy County Executive, Santa Clara County
Jody Hall Esser, Interim Director, Planning & Development, Santa Clara County
Michael M. Lopez, Planning Manager, Santa Clara County
Lizanne Reynolds, Deputy County Counsel, Santa Clara County
John Giovanola, Hanson Permanente Quarry

Compliance Schedule – Hanson Permanente Quarry

County File 2250-13-66-06PAM
State Mine ID 91-43-0004

Revised May 21, 2008

Deadline	Action
11/15/06 – 11/30/06	Pre-application meeting between County Planning Department and Hanson concerning reclamation plan amendment
12/15/06 – 12/31/06	Hanson to submit an application for an amended reclamation plan and interim financial assurance calculations
1/15/07 – 1/31/07	The County to complete its 30-day review of the application, and inform Hanson in writing whether the application is complete for processing or additional information is required
No later than 3/16/07	Hanson to resubmit a revised application containing additional information required by the 30-day review letter
4/16/07	The County to inform Hanson that the application is complete for processing. The County to provide approval for interim financial assurances for immediate posting The County to forward the amended reclamation plan and financial assurances to OMR for comments pursuant to Public Resources Code section 2774, subdivision (c)
4/20/07	The County to begin CEQA review of the amended reclamation plan proposal
5/21/07	OMR to provide any comments regarding the amended reclamation plan, pursuant to the 30-day review period of Public Resources Code section §2774, (d)(1)
6/4/07	OMR to provide any comments regarding the updated financial assurances, pursuant to the 45-day review period of Public Resources Code §2774(d)(1)

Compliance Schedule – Hanson Permanente Quarry
County File 2250-13-66-06PAM
State Mine ID 91-43-0004

Deadline	Action
May 25, 2007	Notice of Preparation of a Draft Environmental Impact consistent with CEQA requirements issued by the County.
August 2, 2007	Close of public comment, which included two public scoping meetings, under the Notice of Preparation. At the close of the comment period for the Notice of Preparation, the County received more than 200 letters listing issues that should be addressed in the project EIR.
Geologic Investigation Phase	
12/31/07	Hanson to provide schedule for geologic investigation for use in CEQA document associated with the reclamation plan amendment proposal.
6/30/08	Status meeting with County staff on progress of geologic investigation.
9/30/08	Status meeting with County staff on progress of geologic investigation.
12/31/08	Status meeting with County staff on progress of geologic investigation.
3/31/09	Status meeting with County staff on progress of geologic investigation.
6/30/09	Status meeting with County staff on progress of geologic investigation.
9/30/09	Status meeting with County staff on progress of geologic investigation.
12/01/09	Completion of geologic field investigation, monitoring, analysis, and reporting.
12/31/09	Status meeting with County staff on completion of geologic investigation.

Compliance Schedule – Hanson Permanente Quarry
County File 2250-13-66-06PAM
State Mine ID 91-43-0004

Continued CEQA Review Phase	
2/01/10	Hanson to submit revised reclamation plan amendment plans, maps, and supporting documents, as required.
3/01/10	The County to county its review of the revised amendment for completeness and compliance with SMARA.
4/15/10	Hanson to resubmit any further revisions to the amendment, if necessary.
5/15/10	The County to inform Hanson whether the amendment application is complete for processing.
6/01/10	The County to forward the reclamation plan amendment proposal and financial assurance cost estimates to OMR for comments pursuant to Public Resources Code §2774(c). **The County to continue CEQA review of the proposed reclamation plan amendment. (The County will issue a new Notice of Preparation if the project changes.)** The County to contract and hire new consultant, complete a draft environmental impact report (DEIR).
7/01/10	OMR to provide any comments regarding the amended reclamation plan, pursuant to the 30-day review period of Public Resources Code sources §2774(d)(1).
7/15/10	OMR to provide comments regarding the updated financial assurances, pursuant to the 45-day review period of Public Resources Code §2774(d)(1).
03/15/11	Public release of the draft environmental impact report (DEIR) and beginning of the public comment period.

Compliance Schedule – Hanson Permanente Quarry
County File 2250-13-66-06PAM
State Mine ID 91-43-0004

Public Hearing Phase and Final EIR	
05/05/11	Public hearing before the County Planning Commission to receive comments on DEIR.
5/15/11	Close of CEQA public comment period. County to commence preparation of Responses to Comments on the DEIR.
7/01/11	The County to prepare early notification to OMR of public hearing on reclamation plan amendment proposal, revised financial assurances, and Final EIR (FEIR).
August / September 2011	County to hold public hearing concerning application for the proposed reclamation plan amendment and FEIR.
.....	

Hanson

Hanson Aggregates
West Region
P.O. Box 639069
San Diego, CA 92163-9069
9229 Harris Plant Road
San Diego, CA 92145
Tel 858-277-5481
Fax 858-277-4517
www.hansonplc.com

December 11, 2007

Val Alexeeff
Director, Department of Planning and Development
County of Santa Clara
70 West Hedding Street
East Wing, 7th Floor
San Jose, CA 95110

Re: Hanson Permanente Quarry
Mine Identification No. 91-43-0004

Dear Mr. Alexeeff:

This letter follows our November 8, 2007 meeting concerning Hanson Permanente Cement, Inc.'s (Hanson) reclamation plan amendment. The purpose of the meeting was to finalize a schedule for processing the reclamation plan amendment for the Permanente Quarry. The current schedule (Exhibit 1) does not identify a completion date for the CEQA process and does not identify when the County will approve the amendment. The County left these portions of the schedule open to accommodate scoping comments and issues raised by the Department of Conservation (DOC) that needed to be addressed in the schedule.

The DOC has requested that the company gather additional geotechnical data to support the reclamation plan amendment. The reclamation plan amendment proposed post-approval field analysis to validate certain geotechnical recommendations, including final slope angles. In May 18, 2007 comments, however, the DOC stated that the amendment should include complete geologic evaluations. The DOC also requested additional slope stability analysis for existing slopes. The DOC asked that Hanson resubmit the amendment at a later date after all supporting evaluations were complete.

Hanson is in the process of addressing these requests through a detailed geologic investigation in the existing pit. The geologic investigation is designed to ensure the stability of slopes in proposed extraction areas, and represents a conservative approach that considers the complexity of the underlying geology and past

slope stability issues. The investigation consists of specialized geotechnical drilling and geologic evaluation. Drilling is expected to be complete by winter 2008-2009, based on the complexity of the geology and the difficulty of drilling. Experience indicates that up to six weeks may be required to complete a borehole to a 400-500 foot depth. The attached proprietary letter from Hanson's engineering geologists, Golder Associates, explains the geologic circumstances in more detail. Based on current estimates, drilling, monitoring, analysis and reporting will collectively require approximately 24 months, and conclude by December 2009.

Enclosed for your review is a draft revised schedule (Exhibit 2) reflecting the time requirements for this investigation. The attached schedule completes those portions of the schedule previously left for future determination. The schedule reflects the following tasks and time allowances:

Task	Time Allotted
Geologic investigation, including planning, drilling, , lab testing, geologic evaluation and report preparation	24 months
Incorporated geologic data into revised reclamation plan amendment	2 months
County review for completeness and compliance With SMARA, and forward revised amendment to DOC	4 months
Complete CEQA draft environmental impact report	6 months
Publication and public review of draft environmental impact report	2 months
Respond to comments, prepare staff report and conduct public hearing	3-4 months

Concurrently with the investigation described above, Hanson will be conducting geologic investigation in the proposed Pit 2, and in potential extraction areas to the west of Pit 2 in line with requests made during the public scoping process. After incorporating the foregoing time requirements into the schedule, we anticipate final approval of a revised reclamation plan amendment in May 2011.

Please let us know that the revised processing schedule comports with the County's understanding of our agreement, and if you would like to discuss the schedule in greater detail.

Very truly yours,

By: Marvin E. Howell

Enclosures

cc: Michael Meinen
Jeffrey Brummert

EXHIBIT C

County of Santa Clara

Department of Planning and Development
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

June 20, 2008

Marvin E. Howell
Hanson Aggregates West, Inc.
P.O. Box 639069
San Diego CA 92163-9069

John Giovanola
Hanson Permanente Cement
24001 Stevens Creek Blvd
Cupertino CA 95014-5659

Subject: NOTICE OF VIOLATION (PRC §2774.1)

Dear Mr. Howell and Mr. Giovanola:

On April 3, 2008, the County of Santa Clara received a complaint alleging Hanson Permanente Quarry was storing stockpiles of petroleum coke on land owned and operated by the quarry. Subsequently, staff from the County Planning Office met with Hanson personnel in the field on April 8, 2008, to locate the stockpiled material in the field. Following this field inspection staff also met with the County Geologist and a consultant from the geology firm retained by the Planning Office to assist with the 2007 SMARA inspection of Hanson Permanente. Based on this field review and subsequent discussion with the County Geologist and consultant, both of who participated in the most recent SMARA inspection, the County has determined the following:

1. The material shown in the photographs included with the complaint is not petroleum coke.
2. The material is stockpiled overburden from the mine.
3. The location where the stockpiled materials were found is within an area included in the boundary of a proposed reclamation plan amendment, but is not located within the boundary of the current, approved reclamation plan boundary.

The County of Santa Clara previously issued a combined Order to Comply/Notice of Violation (NOV) to Hanson on October 10, 2006, for having areas of disturbance outside the approved reclamation plan boundary. Hanson subsequently applied for a reclamation plan amendment to address this issue. The NOV effectively placed Hanson on notice that work outside the reclamation plan boundary is not authorized. For this reason, the County views this additional stockpiling as an intensification of an existing violation.

In keeping with the requirements of SMARA §2774.1, the County hereby issues a Notice of Violation for mining related disturbance outside the approved reclamation plan, and specifically for stockpiling in an area east of the approved reclamation plan.

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, Ken Yeager, Liz Kniss
County Executive: Peter Kutras, Jr.

Because the approved reclamation plan provides for an area to receive overburden in the portion of the mined land identified as "Area A," which has space available to receive such material, you are hereby required to accomplish the following:

(1) cease depositing the material in the location described above, and

(2) submit a proposal for either

(a) removing the material, or

(b) providing for interim erosion control and re-vegetation of the stockpile in order to retain the material while the reclamation plan amendment continues to be processed.

The County Planning Office must receive the abatement proposal, identified in item #2 above, on or before July 21, 2008.

If you have any questions regarding this matter please contact me via email at Gary.Rudholm@pln.sccgov.org, or by telephone at (408) 299-5747.

Sincerely,

Gary Rudholm

Gary Rudholm
Senior Planner

cc: Cy Oggins, State Office of Mine Reclamation
Stephen Testa, Executive Officer, State Mining & Geology Board
Jody Hall Esser, Interim Director of Planning & Development
Michael M. Lopez, Planning Manager
Lizanne Reynolds, Deputy County Counsel

EXHIBIT D

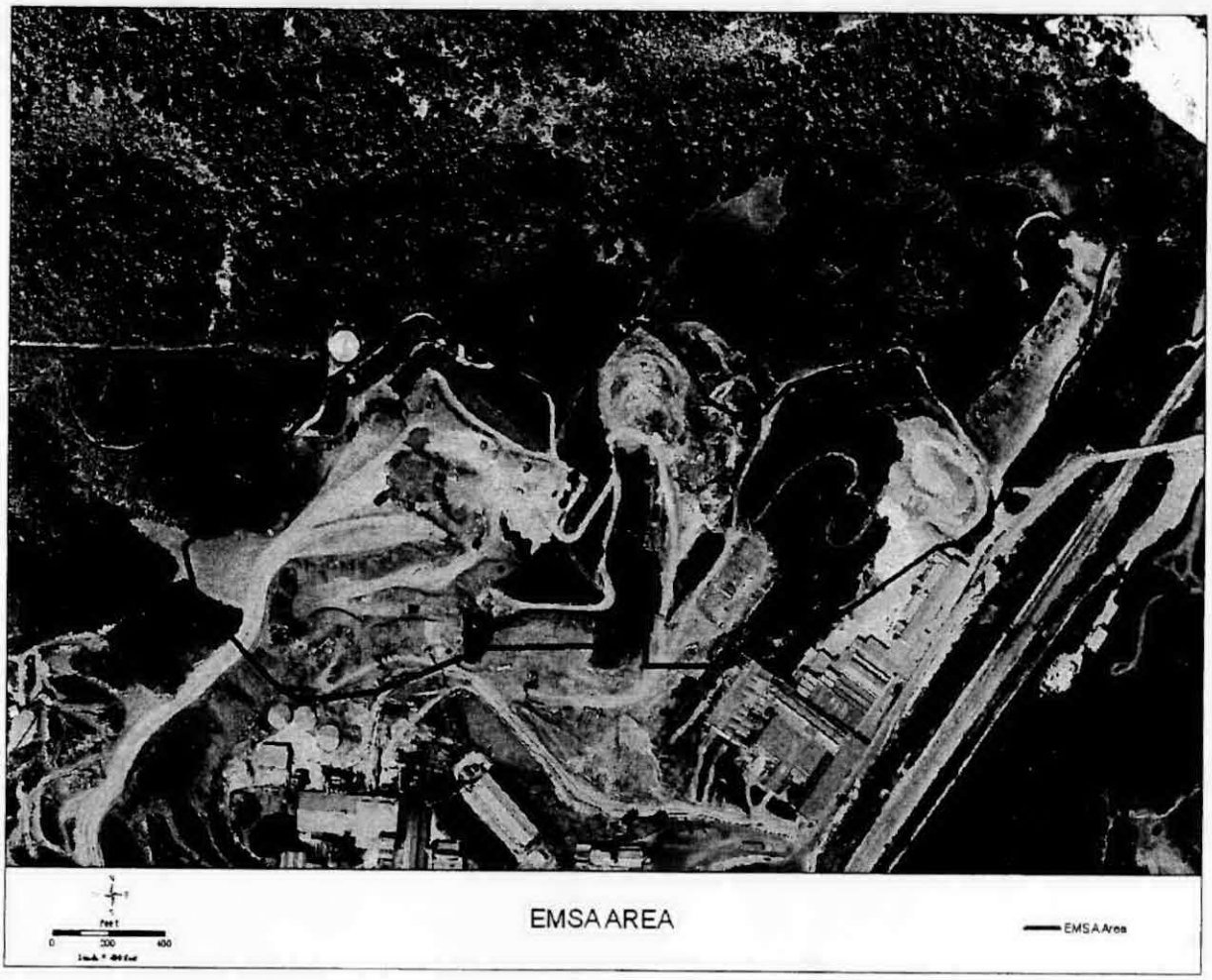

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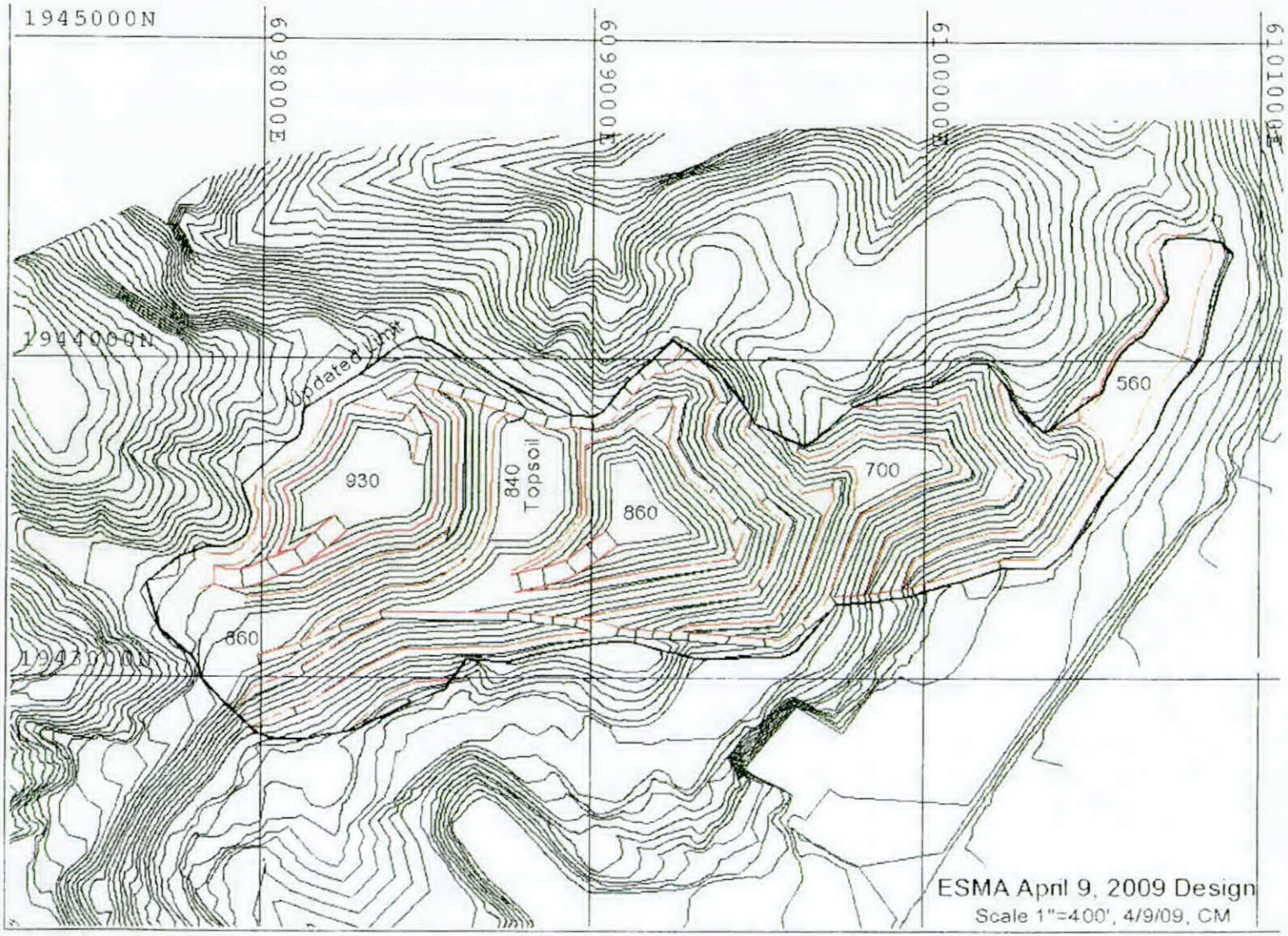
EXHIBIT E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ESMA April 9, 2009 Design
Scale 1"=400', 4/9/09, CM

County of Santa Clara

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

	Administration	Development Services	Fire Marshal	Planning
Phone:	(408) 299-6740	(408) 299-5700	(408) 299-5760	(408) 299-5770
Fax:	(408) 299-6757	(408) 279-8537	(408) 287-9308	(408) 288-9198

NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE RECLAMATION PLAN AMENDMENT FOR PERMANENTE QUARRY (STATE MINE ID# 91-43-004) EAST MATERIALS STORAGE AREA

Project Owner/Applicant: Lehigh Hanson, Incorporated
File Number: 2250-13-66-09EIR
Assessors Parcel Number: 351-09-022, 351-10-005, 351-10-037 and 351-10-038.

As the Lead Agency, the County of Santa Clara (County) will prepare an Environmental Impact Report (EIR) for a proposed amendment to an existing reclamation plan for the Permanente Quarry for the overburden storage area (East Materials Storage Area). The East Materials Storage Area (EMSA) is not encompassed in the existing 1985 Reclamation Plan. The County would like your views regarding the scope and content of the environmental information to be included in the EIR. Attached are a brief project description, site boundary, and summary of the potential environmental effects. For more information, please visit the County Planning Department Website at: www.sccplanning.org.

A Public Scoping Session to solicit comments for the Notice of Preparation will be held in the City of Cupertino on **Wednesday, April 28, 2010, 6:30 PM** at the City of Cupertino Community Hall, Council Chambers, 10350 Torre Avenue, Cupertino, California 95014. In accordance with the California Environmental Quality Act (CEQA), comments on the Notice of Preparation are due within 30 days of receipt of this notice. However, an earlier response, if possible, would be appreciated. Please address your comments to:

County of Santa Clara
Planning Office, Att: Marina Rush
70 West Hedding , 7th Floor, East Wing
San Jose CA 95110
(408) 299-5770 marina.rush@pln.sccgov.org

Prepared by:
Marina Rush
Approved by:
Rob Eastwood, Senior Planner

Signature

4/13/10
4/14/10
Date

Board of Supervisors: Donald F. Gage, George Shirakawa, Dave Cortese, Ken Yeager, Liz Kniss
County Executive: Jeffrey V. Smith

INTRODUCTION

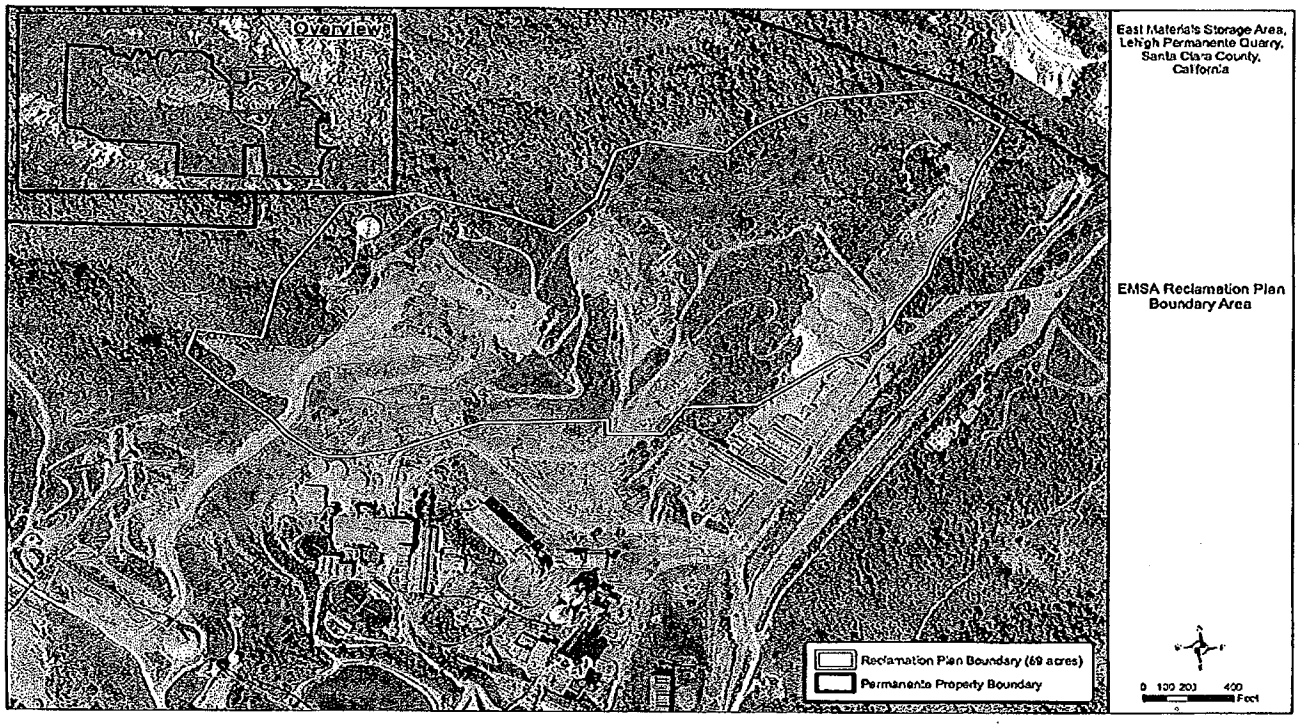
The purpose of an Environmental Impact Report (EIR) is to inform decision-makers and the general public of the environmental effects of a proposed project that an agency may implement or approve. The EIR process is intended to provide information sufficient to (a) evaluate a proposed project and its potential for significant impacts on the environment, (b) to examine methods of reducing adverse impacts; and (c) to consider alternatives to the project.

The EIR for the Permanente Quarry Reclamation Plan Amendment for the East Materials Storage Area (EMSA) will be prepared and processed in accordance with the California Environmental Quality Act (CEQA) of 1970, as amended. In accordance with CEQA, the EIR will include the following:

- A summary of the project
- A project description;
- A description of the existing environmental setting, potential environmental impacts, and mitigation measures;
- Cumulative Impacts;
- Alternatives to the proposed project; and
- CEQA required environmental consequences, including (a) any significant environmental effects which cannot be avoided if the project is implemented; (b) any significant irreversible and irretrievable commitments of resources; (c) the growth inducing impacts of the proposed project; and (d) effects found not to be significant.

PROJECT LOCATION

The project site is located in a hillside area in the unincorporated portion of western Santa Clara County, near the City of Cupertino, at 24001 Stevens Creek Boulevard. The Reclamation Plan Amendment area is approximately 89 acres, located on the northeast portion of the Quarry. Quarry access is via Stevens Creek Boulevard and Foothill Expressway, continuing to the terminus of Permanente Road. The Quarry operations are on a portion of approximately 3,600 contiguous acres owned by Lehigh.



PROJECT DESCRIPTION

The Permanente Quarry is a limestone and aggregate mining operation, and operates pursuant to a Reclamation Plan approved by the County in 1985. The proposed project is an amendment to the 1985 Reclamation Plan to include an approximately 89-acre area used for overburden storage, the East Materials Storage Area (EMSA). The EMSA is designed to hold approximately 4,786,000 cubic yards of overburden fill. The material arriving at the EMSA will be keyed into the existing slopes at an overall 2.6:1 (horizontal:vertical). The EMSA will receive material for approximately 6 years, depending on market conditions. This amendment does not involve the mining operations, reclamation in the main mining pit, west materials storage area, nor does it involve operation of the adjacent Lehigh Southwest Cement Plant.

In 1985, the County approved a Reclamation Plan for Permanente Quarry, which did not include the EMSA. In March 2007, Lehigh applied for an amendment to the 1985 Reclamation Plan to include all areas that had been disturbed by mining activities, including a newly proposed mining area (Pit 2). This Reclamation Plan Amendment is currently undergoing additional geological technical studies necessary to process the application. On June 20, 2008, the County issued a Notice of Violation to Lehigh for stockpiling materials in the EMSA, which is outside the 1985 Reclamation Plan limits. Subsequently, the County directed Lehigh to apply for a separate Reclamation Plan Amendment for the EMSA on a more accelerated schedule than could be applied to the 2007 Reclamation Plan Amendment proposal, which will take a larger amount of time to complete. This Reclamation Plan Amendment is being processed separately from the 2007 Reclamation Plan Amendment. However, cumulative effects of the two projects together will be examined in this EIR.

The EIR will provide a project-level evaluation of the potential environmental impacts caused by the implementation of the proposed EMSA Reclamation Plan Amendment. Practical mitigation measures will be developed and presented for all direct, indirect and cumulative impacts that are found to be potentially significant. The following describes the environmental aspects of the project, and how they are potentially affected.

POTENTIAL ENVIRONMENTAL EFFECTS OF THE PROJECT

The EIR will identify the significant environmental effects anticipated to result from implementation of the proposed project. Specific environmental topics addressed will include:

A. Visual Resources

The project site is located in a Zoning District with a Design Review overlay for the Santa Clara Valley Viewshed (d1). Much of the area that would be used for new materials storage is considered visible from the Santa Clara valley floor. The EIR will describe the anticipated changes to the environment as the proposed reclamation activities proceed along with landscape and final design of the reclamation area, assessing any potentially significant aesthetic impacts. Visual simulations of the project site will be prepared.

B. Biological Resources

Portions of the project site contain dense, mature tree cover of Chaparral/Oak Woodlands. Permanente Creek runs near the project site, and includes a riparian corridor along that area. While much of the site is currently disturbed, the EIR will describe impacts to biological resources that are anticipated to occur as a result of the proposed project. Mitigation measures will be identified for significant impacts, as warranted.

C. Cultural Resources

The EIR will present findings of a cultural resources evaluation that will identify and describe how

the proposed project would impact cultural resources (both historical and prehistorical). Mitigation measures will be identified for significant impacts, as warranted.

D. *Geology & Soils*

A geologic and slope stability analysis will be performed. The EIR will describe geology and soil conditions of the site and potential for the proposed reclamation activities to cause increased slope instability or erosion potential by the reclamation activities. Mitigation measures will be identified for significant impacts, as warranted.

E. *Surface Hydrology, Drainage & Water Quality*

Permanente Creek runs near the project site, approximately 500 feet to the south. The project site is outside the 100-year floodplain. The EIR will describe hydrology and storm water quality impacts from the reclamation process (increased sediments, erosion, etc). Mitigation measures will be identified for significant impacts, as warranted.

G. *Public Services*

The EIR will describe the availability of services to serve the project site and identify, at a programmatic level, potential utilities and services impacts from the project. Mitigation measures will be identified for significant impacts, as warranted.

H. *Noise*

The EIR will characterize ambient noise conditions in the vicinity of the project site and evaluate noise impacts from the proposed reclamation activities with the County General Plan and Noise Ordinance standards. Mitigation measures will be identified for significant impacts, as warranted.

I. *Land Use*

Final use, appearance and stability of the reclamation area will be examined to assess whether the reclamation area would conflict with any County General Plan Policies or Zoning Ordinances.

J. *Air Quality*

Impacts of the proposed project on local air quality and sensitive receptors will be evaluated, with emphasis on dust generation from reclamation activities and emissions from heavy equipment. Mitigation measures will be identified for significant impacts, as warranted.

K. *Alternatives*

The EIR will describe a range of reasonable alternatives to the proposed project, including a Reduced Scale Alternative, and No Project Alternative.

L. *Growth Inducing Impacts*

The EIR will discuss methods by which the proposed project will directly or indirectly induce economic, population, or housing growth.

M. *Cumulative Impacts*

The EIR will include a Cumulative Impacts section which will address the potential significant or irreversible cumulative impacts of the proposed Reclamation Plan Amendment when considered with past, present, and probable future projects producing related or cumulative impacts, or projections contained in applicable land use documents of regional or area-wide conditions contributing to the cumulative impact. The potential environmental impacts from the proposed mining and reclamation activities included with the Master Reclamation Plan, submitted in March 2007, will be considered and evaluated as part of the cumulative impact analysis.