

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



August 5, 2020

****Sent via email only****

Mr. Mark D. Harrison
Attorney at Law
Harrison, Temblador, Hungerford, & Johnson, LLP
2801 T Street
Sacramento, CA 95816
Email: mharrison@hthjlaw.com

**Re: Response to June 25, 2020 letter regarding Reclamation Plan Processing
(File No. PLN 19-0106)**

Dear Mr. Harrison:

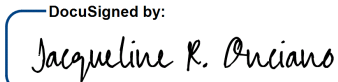
The Department of Planning and Development ("Department") is in receipt of your letters dated March 24, 2020 and June 25, 2020 regarding the Department's processing of the Major Reclamation Plan Amendment application ("2019 Reclamation Plan") submitted by Lehigh Southwest Cement Company ("Lehigh") on May 22, 2019, resubmitted/revised on October 10, 2019, and deemed complete by the County on November 8, 2019.

The Department is processing the 2019 Reclamation Plan application. As stated in the Department's March 13, 2020 letter (Attachment 1), the County has selected Environmental Science Associates (ESA) to prepare the Environmental Impact Report (EIR) for the 2019 Reclamation Plan application. The EIR Scope of Work is attached (Attachment 2). The Scope of Work includes analysis relating to the consistency of certain activities proposed in the 2019 Reclamation Plan application with the 2011 vested rights determination made by the County of Santa Clara Board of Supervisors ("Board"). Attachment 3, which was transmitted to the Board by the Department on August 5, 2020, explains the Department's approach to the vested rights consistency determination.

If you have any additional questions regarding this application, please contact me at jacqueline.onciano@pln.sccgov.org / (408) 299-6741.

Sincerely,

DocuSigned by:


58D620AC52194DC
Jacqueline R. Onciano

Director, Department of Planning and Development

Attachment

- 1) Department of Planning and Development, March 13, 2020 Letter
- 2) Lehigh Permanente Quarry RPA EIR Scope of Work, June 2020
- 3) Memorandum to Board of Supervisors, August 5, 2020

cc: Erika Guerra, Environmental and Land Resources Director, Lehigh Southwest Cement Company
Kristina Loquist, Office of Supervisor S. Joseph Simitian, County of Santa Clara
Scott Strickland, Office of Supervisor Cindy Chavez, County of Santa Clara
Sylvia Gallegos, Deputy County Executive, County of Santa Clara
Elizabeth G. Pianca, Lead Deputy County Counsel, County of Santa Clara
Rob Eastwood, Planning Manager, AICP, County of Santa Clara
Manira Sandhir, Principal Planner, AICP, County of Santa Clara
Robert Salisbury, Senior Planner, County of Santa Clara
Jim Baker, County Geologist, County of Santa Clara
Claudia Garcia, Environmental Planner, Ascent Environmental, Inc.

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March 13, 2020

Mr. Mark D. Harrison, Esq.
Harrison, Temblador, Hungerford, & Johnson
2801 T Street
Sacramento, CA 95816

Re: February 24, 2020 letter regarding the processing of Lehigh's Major Reclamation Plan Amendment application (PLN19-0106)

Mr. Harrison:

The County of Santa Clara ("County") is in receipt of your letter dated February 24, 2020 regarding Lehigh Southwest Cement Company's ("Lehigh") May 22, 2019 Major Reclamation Plan Amendment application (File No. PLN19-0106) ("Application"). I would like to reassure you that the County has been processing the Application since it was submitted on May 22, 2019 and there has been no delay by the County in the processing of the Application.

In addition to the timeline of events outlined in the February 24, 2020 letter, I would like to bring to your attention that the following events occurred that were not reflected in your letter:

- On July 22, 2019, the County issued an Incomplete letter that requested Lehigh to revise the May 22, 2019 Application to include additional information, resubmit within 180 days, and attend a resubmittal appointment prior to resubmitting the application.
- On September 30, 2019, Lehigh submitted a Response Letter but failed to schedule a resubmittal appointment prior to resubmitting the application until October 9, 2019 to discuss revisions to the May 22, 2019 Application.
- On October 9, 2019, the Resubmittal Application was officially submitted to the County by Lehigh. In response to County comments provided to Lehigh at the October 9, 2019 meeting, on October 10, 2019 Lehigh submitted subsequent information pertaining to the October 9, 2019 Application Resubmittal to the County.
- On November 8, 2019, the County notified Lehigh that the October 10, 2019 Resubmittal Application was deemed complete. The November 8, 2019 Complete letter required Lehigh to enter into a Compliance Agreement and Stipulated Order to Comply as a necessary step towards abatement of the sediment discharge Notice of Violation, issued June 13, 2019. Subsequently, the County reissued the Stipulated Order to Comply on February 21, 2020 and, other than a brief email sent February 24, 2020, has yet to receive a response from Lehigh.

Additionally, the November 8, 2019 Complete letter requested Lehigh submit required reports/documents necessary for the County to commence environmental review of the Application under the California Environmental Quality Act ("CEQA") and submit one single consolidated Reclamation Plan Amendment (Attachement A). As of today, Lehigh has not submitted the required reports/documents.

Please be aware that the County has selected Environmental Science Associates (ESA) to prepare an Environmental Impact Report (EIR) for the proposed RPA. ESA has prepared a draft scope of services currently under review by the County. To finalize the EIR scope of services and execute a contract with ESA to complete the EIR, the County must receive the single consolidated Reclamation Plan Amendment from Lehigh, as requested in the November 8, 2019 Complete letter.

If you have any additional questions regarding this application, please contact me at jacqueline.onciano@pln.sccgov.org / (408) 299-6741.

Sincerely,



Jacqueline R. Onciano
Director, Department of Planning and Development

Attachments

A) November 8, 2019 Complete letter

cc: Rob Eastwood, Planning Manager, AICP, County of Santa Clara
Manira Sandhir, Principal Planner, AICP, County of Santa Clara
Robert Salisbury, Senior Planner
Jim Baker, County Geologist, County of Santa Clara
Elizabeth G. Pianca, Lead Deputy County Counsel, County of Santa Clara
Kristina Loquist, Office of Supervisor Simitian, County of Santa Clara
Paul Fry, Engineering and Geology Unit Manager, Division of Mine Reclamation
Roger Lee, Acting Public Works Director, City of Cupertino

Santa Clara County Department of Planning and Development

Lehigh Permanente Quarry Reclamation Plan Amendment EIR (PLN19-0106)

Work That Matters

June 10, 2020

Scope of Services

A. Introduction

Lehigh Southwest Cement Company (Lehigh, or “Applicant”)¹ submitted an application to the Santa Clara County Department of Planning and Development (the “County”) to amend the existing reclamation plan for the Permanente Quarry (the “Quarry”) to reflect proposed changes in the mining plan (the “Project”). The County has primary discretionary authority over the Project and so will serve as the Lead Agency responsible pursuant to the California Environmental Quality Act (CEQA), Surface Mining and Reclamation Act (SMARA), and Santa Clara County Surface Mining Ordinance (§4.10.370).

In this scope of work to support the County’s CEQA process, the ESA team proposes to prepare an Environmental Impact Report (EIR) that informs County decision-making pursuant to CEQA, SMARA, and the County code. We are pleased to continue our work with the County regarding the Permanente Quarry based on our deep knowledge of the controversy and complexity surrounding the site, the Quarry’s entitlements, and elements of the Project. Our understandings of the site, Quarry entitlements, and the Project are summarized in this Section A. Key considerations for the CEQA process are identified in Section B. The work plan provided in Section C would set the County up for success regarding its consideration of this Project and the one proposed by Stevens Creek Quarry Inc. on the adjacent property, whether the projects proceed in parallel or in tandem. Costs are summarized by task in Section D, and schedule is discussed in Section E.

1. The Property

Lehigh’s ownership can be described and divided in a number of different ways, e.g., as an overall ownership, the subset of that which is the Quarry. Within the Quarry, there is the current reclamation plan boundary and the proposed reclamation plan boundary. The proposed CEQA documentation will clearly show and consistently refer to the different relevant geographies to minimize confusion.

Lehigh owns and operates two adjacent facilities located on approximately 3,510 acres in the Santa Clara County foothills west of the City of Cupertino: The Lehigh Cement Plant and the Permanente Quarry (collectively, the “Property”). The Cement Plant is not part of the current application. Permanente Creek runs west to east through the Property and eventually empties into San Francisco Bay. An unnamed tributary to Permanente Creek makes up the Property’s northern perimeter, which is shared with the Midpeninsula Regional Open Space District (Midpen). The Property shares its southern perimeter with the Stevens Creek Quarry, which is owned and operated by Stevens Creek Quarry, Inc. The closest residential communities are in the cities of Cupertino, Los Altos, Palo Alto and Saratoga, the Town of Los Altos Hills, and Loyola (an unincorporated area).

¹ The Permanente Quarry (Mine ID No. 91-43-0004) is owned by Hanson Permanente Cement, Inc. and operated by Lehigh Southwest Cement Company. Lehigh and Hanson both are part of the HeidelbergCement Group, a worldwide producer of construction materials (Lehigh Cement Company, 2011; Hanson, 2011).

2. Land Use Entitlements

The Permanente Quarry is a limestone and aggregate mining operation that currently operates subject to vested rights and the provisions of a Reclamation Plan that originally was approved in 1985² and thereafter was amended for a 20-year period in 2012 (the “2012 Reclamation Plan”).³ A portion of the Property also is subject to the provisions of a Ridgeline Protection Easement Deed granted in 1972 by the then-owner of the Property, Kaiser Cement & Gypsum Corporation, to the County (the “Scenic Easement”). Lehigh’s application for the Project requests County approvals of an amendment to the 2012 Reclamation Plan and a modification to the Scenic Easement to reflect current and planned final conditions.

Vested Rights

The Santa Clara County Board of Supervisors determined on February 8, 2011, that the Permanente Quarry has a “vested right” to mine at established intensities in designated areas mapped within the Property (Resolution No. 2011-85).⁴ The vested rights area consists of the parcels that include the North Quarry Pit, two overburden disposal areas (the West Materials Storage Area [WMSA] and East Materials Storage Area [EMSA]), and the access roads within the mine operation. Even where a quarry is vested for local zoning purposes, SMARA and County regulations still require an approved reclamation plan.

Members of the community have requested that the County reconsider the earlier vested rights determination. While the Board of Supervisors consider the extent/intensity of the vested mining activities, the County has asked that this proposed scope of work evaluate certain among the Project activities as potentially proposed at greater-than-the-established intensity, and so not subject to the earlier vested rights determination, specifically: 1) the proposed offsite sale of unprocessed greenstone and physical export of the commodity, and 2) the proposed increase in production volumes in new quarry, with a focus on intensity of use rather than location. This scope proposes to consider potential impacts of these activities primarily in five sections of the EIR (Air Quality, Greenhouse Gas Emissions, Transportation, Energy, and Noise) based on data to be developed and documented in following technical reports to be provided as part of Task 2: Air Quality and Greenhouse Gas Emissions (Task 2.2), Noise Impact Assessment Technical Report (Task 2.5), and the Transportation Study (Task 2.6). Potential impacts to water quality also will be considered.

² The supporting environmental analysis for the original reclamation plan, an Environmental Assessment/Negative Declaration, is available to be relied upon as supporting documentation of environmental trends that may be considered in the proposed EIR’s analysis of cumulative effects. Santa Clara County, 1985b. Environmental Assessment [for] Reclamation Plan for Kaiser Cement Permanente Quarry. Available online: https://www.sccgov.org/sites/dpd/DocsForms/Documents/Lehigh_NCU_20110208_Attach_37.pdf. March 1, 1985. The original reclamation plan itself may also be relied on to document environmental trends in the relevant area. Ruth and Going, Inc., 1984. Reclamation Plan Kaiser Cement Permanente Quarry. October 1984.

³ County of Santa Clara, 2012. County Upholds Planning Commission Approval of Lehigh Permanente Quarry Reclamation Plan Amendment. Dated June 26, 2012. Available online: <https://www.sccgov.org/sites/opa/nr/Pages/County-Upholds-Planning-Commission-Approval-of-Lehigh-Permanente-Quarry-Reclamation-Plan-Amendment.aspx>.

⁴ County of Santa Clara, 2011a. Lehigh Vested Rights Map. February 8, 2011. Available online: https://www.sccgov.org/sites/dpd/DocsForms/Documents/Permanente_Vested.pdf. See also, County of Santa Clara, 2011b. Frequently Asked Questions: Permanente Quarry and Lehigh Southwest Cement Plant. Dated December 23, 2011. Available online: https://www.sccgov.org/sites/dpd/DocsForms/Documents/2250_FAQ_20111223_Update.pdf.

1972 Scenic Easement

Permanente Ridge extends nearly 4 miles (21,000 feet) from the eastern to the western boundaries of the Property. Kaiser granted the Scenic Easement to the County in 1972 to protect the ridge. As described in the County Staff Report for the Quarry's original reclamation plan,⁵ the purpose of the Scenic Easement was to protect Permanente Ridge "to screen quarrying activities from view toward the north and northwest," i.e., from the Los Altos area. The Scenic Easement states that the ridge would not be lowered below the elevation of 1500 feet for the majority of its length, and not below 1650 feet for a specified area. The elevation and characteristics of the Scenic Easement since have changed. In Lehigh's May 2019 application materials, the ridgeline changes that have occurred are summarized and shown in Figure 10 of the Ridgeline Protection Easement Analysis. The EIR will consider the Scenic Easement's current elevation and characteristics as part of the baseline environmental condition and as elements of the No Project Alternative.

2012 Reclamation Plan

The 2012 Reclamation Plan Amendment EIR analyzed the environmental impacts of the slope stability, revegetation, drainage and erosion control, structure dismantling and removal, monitoring, and other reclamation activities within an approximately 1,238.7-acre area within Lehigh's overall ownership (the "2012 Reclamation Plan Boundary"). The 2012 Reclamation Plan Boundary contains the North Quarry Pit, WMSA, EMSA, crusher/Quarry office support area, surge pile, rock plant, approximately 284-acres located south of Permanente Creek that had been disturbed by prior exploratory activities, 25.9-acres in and adjacent to Permanente Creek (the "Permanente Creek Restoration Area" or PCRA), and open space areas that serve to physically separate operations at the site from other uses in the surrounding environs. The project description included in Lehigh's May 2019 application materials states, "The proposed reclamation plan amendment would not change the reclamation approach or requirements for the PCRA." Therefore, although the PCRA would be included in the Amended Reclamation Plan Boundary if the Project were approved, it would not be included in the Project Site for purposes of CEQA. See Section A.3. for additional discussion of the Project Site.

3. The Project

The Project would expand the 1,238.7-acre 2012 Reclamation Plan Boundary to include an additional mining area within Lehigh's vested rights area and new lay-back area proposed to stabilize the north highwall. The resulting "Amended Reclamation Plan Boundary" would consist of approximately 1,283 acres. In Lehigh's May 2019 application materials, see Figure 4, Amended Reclamation Plan Components. Within the Amended Reclamation Plan Boundary, Project activities would occur in a 581-acre area (the "Project Site"). A legal description and parcel information is provided in Appendix D of Lehigh's May 2019 application materials; an overlay of the Amended Reclamation Plan Boundary and the vested rights area is provided in Appendix D-4.

The 2012 Reclamation Plan recognized four areas of the North Quarry Pit as having been subject to landslides or other instability: the "Main Slide" on the northwest wall (sometimes called the "Greenstone Slide" in Lehigh's May 2019 application materials), the "Scenic Easement Slide" in the upper portion of the northeast wall; the "Mid-Peninsula Slide" in the upper benches of the eastern wall; and an area of potential instability recognized within the North Quarry Pit's west wall. The 2012 Reclamation Plan proposed to address these areas by backfilling the North Quarry Pit with overburden rock generated by reclamation of the WMSA and ongoing mining activities, including the creation of a large buttress against the west and north walls to increase the

⁵ Santa Clara County, 1985a. Staff Report. Available online: https://www.sccgov.org/sites/dpd/DocsForms/Documents/Lehigh_NCU_20110208_Attach_38.pdf. March 7, 1985.

factor of safety (FOS) for the west and north walls, including the area of the Main Slide. The 2012 Reclamation Plan proposed to stabilize address the Scenic Easement Slide and the Mid-Peninsula Slide by re-grading the upper slopes of the North Quarry Pit to create a less steep, more stable configuration, and via additional support from the buttress.

Based on more recent geologic investigation and mine engineering, Lehigh now proposes a different approach to earlier-identified issues. Additional elements also are proposed. Project activities are summarized below.

- **North Quarry Pit:** Instead of reclaiming the North Quarry Pit by backfilling it with 48 million tons of overburden material currently stockpiled in the WMSA, the Project proposes to backfill it to approximately 990 feet mean sea level (msl) with a combination of material from the WMSA and a total of 20.4 million cubic yards (up to 1 million cubic yards per year) of imported surplus construction soil. The proposed 990 feet msl is above the projected post-reclamation groundwater elevation in the North Quarry Pit and is the same minimum elevation specified in the 2012 Reclamation Plan. Lehigh anticipates that the imported backfill material will arrive from sites in Alameda, San Francisco, San Mateo and Santa Clara counties, and that it also could come from Marin, Contra Costa, Napa, Solano, San Joaquin, and San Benito counties.
- **The WMSA:** Although some WSMA material may be used to backfill the North Quarry Pit, the Project proposes to reclaim the majority of the WMSA in place.
- **Within the Scenic Easement:** The Project proposes to regrade and mine the upper slopes of the north highwall (the “North Wall Reserve”) to recover limestone and lower the elevation of the north crest by approximately 50 feet along approximately 3,000 linear feet of the ridge within the Scenic Easement to a minimum elevation of 1,400 feet msl. Mined material from this area that is not suitable for aggregate production would be placed permanently on the North Quarry Pit floor and/or in the WMSA.
- **New Mining Area:** The Project proposes to develop and reclaim a new 30.5-acre extraction area within the 65-acre Rock Plant Reserve in the southern portion of the Amended Reclamation Plan Boundary. A 250-foot-wide buffer (the remaining approximately 35 acres) would surround the excavation and is proposed to address potential indirect impacts. The Rock Plant Reserve is within the vested rights area as well as the 2012 Reclamation Plan Boundary.⁶
- **New Haul Routes:** The Project proposes to deliver construction aggregate to the neighboring Stevens Creek Quarry via one of two proposed new haul routes: the “Utility Road” and the “Rock Plant Haul Road.” Both routes would connect the Permanente Quarry with the Stevens Creek Quarry for the purpose of delivering up to 1 million tons and up to 400 truck trips per year of aggregate for processing and sale by Stevens Creek Quarry, Inc.
- **Updated Revegetation Planning:** The Project includes updated resoiling recommendations and “special revegetation treatments” to improve and hasten the revegetation plan efforts required by mitigation measures in the 2012 Reclamation Plan Amendment EIR. Proposed special treatments may include irrigation, increased ratios of organic material in the growth media, and planting larger plants.

⁶ This is not the first time an owner of the Permanente Quarry has contemplated excavation of a second area: new pits previously were proposed (and later withdrawn) in connection with applications in 2007 and 2010. While we do not anticipate discussing prior proposals in the EIR, the ESA team has the background and first-hand experience to address them if needed to respond to public input.

B. Key Considerations for the CEQA Process

1. Purpose and Focus

The purpose of the proposed EIR is to disclose to decision-makers and the public the environmental effects of implementing the Project. Oversight agencies and members of the community have keenly scrutinized activities at the Permanente Quarry, including by unsuccessfully challenging the County's EIR on the 2012 Reclamation Plan Amendment in court.⁷ This deeply engaged level of involvement is likely to be magnified in the context of the current proposal, which requests amendment of the Scenic Easement to lower Permanente Ridge and involve excavation of new quarry pit. ESA's team is well-grounded in the historical context, understands the current proposal, and is eager to proceed.

2. ESA's Commitments to the County regarding Quality, Costs, and Schedule

ESA is dedicated to providing complete, accurate, and objective information in all work products prepared on the County's behalf: we are committed to quality in terms of facts, technical experience and expertise, and are well-aware that all work goes out under the County's good name as well as our own. Our command of CEQA in the SMARA context means that we will be prepared to promptly identify opportunities and constraints, and to present the County with choices and recommended solutions rather than issues or problems. Our work will focus on delivering an analysis that is scientifically-supported, well-documented, and easy to understand. Internal quality assurance/ quality control (QA/QC) of all deliverables will be provided by Julie Nichols, ESA's professional technical editor.

ESA's cost estimate is based on decades of experience with EIR preparation for SMARA projects, including the 2012 Reclamation Plan Amendment EIR, and reflects a true level of effort to successfully complete the CEQA process for this Project. Our team is committed to managing costs to identify efficiencies throughout the process. ESA's cost estimate is attached as [Exhibit A](#).

Following completion of necessary technical reports (Task 2) and based on Lehigh's May 2019 application materials, ESA proposes a schedule that would provide a Final EIR for the County's consideration within 18 months of issuance of Notice of Preparation (NOP). A detailed schedule will be confirmed in coordination with the County during Task 1 (Project Initiation). Once the process begins, experience shows that maintaining a stable project description, timely submittal of Applicant input and adherence to review windows will have the greatest effect on maintaining the schedule.

3. Areas of Concern to be Addressed in the EIR

The EIR will address in appropriate detail all of the topics and questions identified in CEQA Guidelines Appendix G. Among those topics, key considerations for this Project are highlighted below. Additional details about the proposed scope of work are provided in Section C, Work Plan.

Aesthetics

The proposal to lower the ridge within the Scenic Easement has galvanized public opinion. Recognizing heightened interest in the Project's potential changes to public views of the Project Site, the ESA team, with site photography and visual simulation support from our frequent partner, Environmental Vision, will evaluate the

⁷ *Bay Area Clean Environment, Inc. v. Santa Clara County*, Case No. 112cv229236 2016 WL 2853957 (Cal.App. 6 Dist.) (May 11, 2016).

Project's potential to change public views of scenic vistas, scenic resources, and the existing visual character and quality of the area.

Slope and Soils Stability

The stability of quarry pit and storage area slopes are an issue of long-standing concern at the Permanente Quarry. The complex, varied geology of the region coupled with the presence of the Berrocal thrust fault zone can create areas of weakness in bedrock quarry slopes that, when steepened during overburden removal and resource extraction, can fail causing catastrophic landslides. Slope instability and landslides are an inherent potential hazard in any open pit mining operation, but they become an impact to the environment when the safety of workers and the public are at risk or a protected resource, such as Permanente Creek, is threatened with excessive sedimentation or hydromodification. The Project proposes to remove the material generated from the Main Slide in the North Highwall Reserve, which eventually would lead to greater stabilization in that area of the North Quarry Pit. The EIR will thoroughly review the geologic conditions and analyze slope stability to ensure that the ridgeline stabilization component would not result in significant impacts to the proposed short-term mining operations, the long-term stability of the reclaimed quarry, or Permanente Creek.

The 2012 Reclamation Plan Amendment proposed to use the material currently stockpiled at the WMSA to backfill the North Quarry Pit. By contrast, the Project proposes to leave the WMSA, for the most part, in place and to reclaim it as open space. This presents new slope stability issues as the material on the WMSA is essentially stockpiled, unconsolidated overburden material containing limestone. These materials, if left in place, could present slope stability issues if not properly sculpted and contoured to reduce the potential for slope failure. The EIR will evaluate the geological engineering analysis prepared on Lehigh's behalf, review exploratory borings and evaluate the slope stability analysis to ensure that reclaiming the WMSA does not lead to localized slope failure that could cause water quality issues in the short term (while the vegetative cover becomes established) or hinder its use as open space following the completion of reclamation.

The Project proposes to use fill material generated from offsite sources throughout the Bay Area to backfill the North Quarry Pit. While this plan could reduce the potential for disturbing the selenium-bearing limestone in the WMSA and thereby reduce threats to water quality in Permanente Creek, it will also present new challenges as it will require large amounts of competent fill material to be transported and engineered. The EIR will carefully review the geotechnical assumptions for backfill sequencing, compaction, and fill quality to ensure that long term settlement and potential impact associated with settlement would not occur. Settlement of the reclaimed quarry floor could alter drainage patterns, degrade water quality, disrupt operations of sediment basins and could lead to localized slope and soil failures, especially ground shaking during an earthquake in the region. The EIR also will consider seismic criteria and evaluate potential impacts to the fill under earthquake conditions.

Water Quality

Permanente Creek, which receives stormwater and other discharges from the Permanente Quarry, is listed as "impaired" for selenium under the Clean Water Act. The Justice Department, U.S. Environmental Protection Agency (EPA), and the State of California entered into a settlement agreement with Lehigh in 2015 to remedy discharges from the Property that resulted in exceedances of Clean Water Act standards for selenium and other pollutants, including total suspended solids (TSS), total dissolved solids (TDS), turbidity, pH, mercury,

hexavalent chromium, nickel and thallium.⁸ The 2012 Reclamation Plan Amendment EIR required Lehigh to install an interim treatment system to reduce pollutant discharges to Permanente Creek; the settlement agreement went further to require construction of an advanced wastewater treatment system. The Project contains several components that would further ensure long term reduction of discharges of pollutants (including selenium and other toxic substances) to Permanente Creek. Reclaiming the WMSA in place would reduce the potential for exposure, disturbance and dissemination of limestone material, which would reduce the potential of pollutant-bearing stormwater runoff. Backfilling the North Quarry Pit with non-limestone, offsite material also would reduce the potential for pollutants to enter Permanente Creek or infiltrate through to the groundwater. The water quality analysis in the EIR will inventory the recent water quality treatment operations underway at the Permanente Quarry to assess the whether the surface water quality in Permanente Creek has improved or degraded since the 2012 Reclamation Plan Amendment and assess whether the actions under the Project would result in significant impacts to surface or groundwater quality.⁹

Biological Resources

Sensitive biological communities and aquatic features (including wetlands and oak woodland) and special status plants and wildlife species have been mapped or recorded within the Amended Reclamation Plan Boundary. Protected species expected to occur in the Project area include California red-legged Frog (*Rana aurora draytonii*), San Francisco dusky-footed woodrat (*Neotoma fuscipes annectens*), white-tailed Kite (*Elanus leucurus*), olive-sided flycatcher (*Contopus cooperi*), yellow warbler (*Dendroica petechia*), and grasshopper sparrow (*Ammodramus savannarum*). Migratory birds (e.g., Nuttall's woodpecker [*Picoides nuttallii*] and oak titmouse [*Baeolophus inornatus*]) also may warrant special attention in the EIR. The 2012 Reclamation Plan Amendment EIR determined that Lehigh's proposed reclamation activities could result in adverse effects on special-status bats; the potential for pollutant-laden runoff to reach aquatic habitats and, thereby, to result in deleterious effects to aquatic organisms and their prey base; the loss of native oak woodland as defined by Oak Woodlands Conservation Law; and adverse effects on wetlands and jurisdictional waters. The proposed EIR will evaluate the potential for this Project, including new excavation in the Rock Plant Reserve, to cause or contribute to these or other potential significant impacts to biological resources.

Air Quality

Potential human health effects associated with air quality have featured prominently in the County's consideration of quarry projects, in surrounding cities' and communities' responses to quarry-related proposals, and in the California Supreme Court's December 2018 decision in *Sierra Club v. County of Fresno (Friant Ranch, L.P.)* (2018) 6 Cal.5th 502. As suggested appropriate in the *Friant Ranch* decision, the EIR for this Project will include a qualitative discussion of the Project's potential air pollutant emissions and as they may relate to adverse human health effects.

⁸ Department of Justice, 2015. Justice Department, EPA and State of California Require Lehigh Cement to Cut Toxic Discharges to San Francisco Bay. Available online: <https://www.justice.gov/opa/pr/justice-department-epa-and-state-california-require-lehigh-cement-cut-toxic-discharges-san>. April 29, 2015.

⁹ The San Francisco Bay Regional Water Quality Control Board (RWQCB) issued Waste Discharge Requirements (WDRs) that require, among other things, that Lehigh "develop a Self-Monitoring Program (SMP) consistent with Title 27 to enable the detection of chemical releases from the Site and to evaluate whether groundwater and hydrogeologically-connected surface waters have been impacted by current or historical activities. In addition, it requires baseline monitoring to dictate reclamation plans, which includes expansion of the existing groundwater monitoring network and development of an updated conceptual site model." RWQCB, 2018 (Order No. R2-2018-0028). The ESA team proposes to rely on the WDRs as independently-enforceable requirements as well as input generated pursuant to Lehigh's SMP in describing baseline conditions at the Quarry.

The California Air Resources Board (CARB) has identified Santa Clara County as an area known to have occurrences of serpentinite or ultramafic rock that may contain asbestos. Lehigh proposes to provide native greenstone to the Stevens Creek Quarry for processing and resale. The EIR will evaluate whether the Project would disturb naturally-occurring materials regulated by the long-established Asbestos Air Toxic Control Measure (ATCM) and, if so, would provide details in the discussion of baseline conditions about the existing environmental and regulatory settings, would disclose any potential impacts of the Project in connection with such materials, and would explain whether/how compliance with the provisions of the Asbestos ATCM would reduce potential impacts. This is familiar territory for the ESA team: Project Manager, Janna Scott, testified before CARB during its deliberations on the Asbestos ATCM, and ESA's air quality experts are well-versed in its application.

Transportation

The ESA team, including Hexagon Transportation Consultants, Inc.- our teaming partner for this Project, will work with the County to confirm a suitable significance threshold for analyzing the Project's transportation impacts consistent with CEQA Guidelines §15064.3's vehicle miles traveled (VMT) approach. Once questions of approach have been decided, the EIR will analyze direct and indirect impacts of the truck trips needed to import the proposed millions of cubic yards of fill from Bay Area sites over the Quarry's reclamation period to backfill the Quarry pit. In light of Stevens Creek Quarry Inc.'s similar plan to import between 6 and 7 million cubic yards of backfill material, the analysis of cumulative effects will be key.

Interagency Consultation

The Permanente Quarry is subject to a web of occasionally intersecting permitting requirements. Interagency coordination for this Project will include outreach and communication with local, regional, state, and potentially-affected federal agencies including CARB and BAAQMD, California Department of Fish and Wildlife (CDFW), State Water Resources Control Board (SWRCB) and San Francisco Bay RWQCB, and the U.S. Army Corps of Engineers (the Corps). In Subtask 1.3 (Agency Engagement and Coordination), ESA proposes to support the County in its communications with these agencies as part of the CEQA process. Consideration of the environmental concerns expressed by the cities of Cupertino and Los Altos and the Town of Los Altos Hills also is proposed. Each of these entities, as well as Lehigh's neighbor, Midpen, has made clear its opposition to the Project. Identified areas of environmental concern are consistent with those summarized in this section: aesthetic impacts of the proposal to mine within the Scenic Easement, geotechnical stability, air and water quality, and transportation. The EIR will carefully consider these potential impacts.

4. Proposed Project Management and Technical Team

ESA will support the County's CEQA process for this Project led by Janna Scott as Project Manager, Brian Boxer as Project Director, Cory Barringhaus as Deputy Project Manager. Project Manager Janna Scott brings 25 years of experience with project management and SMARA projects in the CEQA context, including 10 years of experience as a practicing CEQA and SMARA attorney. In Janna's current role as a leader of ESA's monthly CEQA Practice Forum, she helps keep ESA's CEQA practitioners sharp with respect to statutory and regulatory requirements as well as recent case law. This combination of experience will assure that the County has every advantage for a successful CEQA process.

Project Director, Brian Boxer, will be available to support the ESA team and County staff as needed. Brian will provide strategic input, senior review of ESA's work, and the benefit of his 35 years of experience addressing

technically and politically complex issues for a wide variety of projects requiring environmental review. His experience includes work with the County on Stanford University projects including the Sustainable Development Study, 2018 General Use Permit, and 1989 General Use Permit.

Deputy Project Manager, Cory Barringhaus, will support Janna and Brian in managing the scope and budget, internal team coordination, and as an author or senior technical reviewer of EIR sections. Cory is an experienced project manager and environmental and land use planner responsible for the preparation of environmental and planning documents under CEQA. He has provided project management support and prepared technical analyses for numerous industrial and port-related projects as well as commercial, mixed-use, residential, institutional, and energy developments. Cory has technical expertise in the areas of land use, zoning and plan consistency, aesthetics, public services, and utilities.

This proposed leadership team is backed by the breadth and depth of ESA's nearly 500 employees. ESA's proposed roster for this Project is attached as **Exhibit B** (Organization Chart).

Sutro Science will augment ESA's project management and technical teams by providing senior-level technical input and expertise in the resource areas of engineering geology, mineral resources, hydrology/water quality, and hazards/hazardous materials. Peter Hudson, PG/CEG, of Sutro Science was geoscience and hydrology technical lead on the ESA team that prepared the 2012 Reclamation Plan Amendment EIR and, in the years subsequent to the certification of that EIR, has worked closely with the County on water quality and selenium treatment compliance issues. Sutro Science will assist ESA in reviewing supporting documents and developing an approach to impact analyses that is consistent across related sections within each EIR as well as between the Lehigh and Stevens Creek LLC EIRs. As an active, engaged team member, Sutro Science will support ESA's in-house technical staff with authorship, senior technical review, and preparing responses to public and agency comments on key topics. The success of this collaboration will show in terms of document completeness, the technical defensibility of impact analyses, and the effectiveness of mitigation strategies. ESA and Sutro Science have worked together on CEQA documents for 28 mining projects.

Michael Baker International brings key staff member, Kit Custis, PG/CEG/H, with his decades of experience in engineering geology and hydrology, including mine reclamation, groundwater and surface water impacts, evaluation of slope stability, landslide hazards, seismic hazards, soil erosion, and geophysical surveys. Mr. Custis's professional experience includes seven years as Senior Engineering Geologist (Specialist) with the Department of Conservation's Office of Mine Reclamation (OMR) and California Geological Survey (CGS). Mr. Custis will review available SMARA documents and prepare written comments and recommendations associated with reclamation of the mine site.

Environmental Vision is a certified Small Women Business Enterprise and Green Business and will augment ESA's technical team by providing specialized visual resources expertise. Environmental Vision will prepare photographic simulation images illustrating "before" and "after" views of the Project Site at future stages of the quarry expansion and Reclamation Plan Amendment as seen from selected public vantage points. See Subtask 2.1, Aesthetics. ESA and Environmental Vision worked together on the 2012 Reclamation Plan Amendment EIR.

Hexagon Transportation Consultants Inc. was founded in 1998 in San Jose, California, and will augment ESA's technical team with its transportation consulting experience. Hexagon will prepare a technical report to inform

the County's consideration of the potential impacts of the reclamation-related truck trips on roadway operations and on regional VMT. See Subtask 2.6, Transportation Study.

BlueScape Environmental and its expert team of engineers and scientists will augment ESA's technical team with their specific expertise with regulatory analysis, engineering calculations, computer modeling, emissions inventory and health risk assessment techniques. BlueScape will provide input to a Project-specific air quality and greenhouse gas (GHG) emissions technical report that will, as part of the EIR, inform the County's consideration of potential Project impacts. See Subtask 2.2, Air Quality and Greenhouse Gas Emissions Technical Report.

5. Integrated Coordination and Consultation

The ESA team's project management approach, as reflected in this scope of work, anticipates regular, scheduled coordination between the County and ESA, and occasional coordination among the County, ESA and Lehigh. Communication with and involvement of Trustee, Responsible, potentially affected federal agencies, and other stakeholders will occur at appropriate intervals and forums. Areas of coordination are described in Task 1, Project Initiation, in the work breakdown structure provided in Section C.

C. Work Plan

ESA proposes the following Work Plan as a means of implementing critical components of the CEQA process. It reflects concurrent implementation of major tasks to the extent reasonable and efficient to deliver a high-quality EIR on schedule and on budget. Major tasks include:

- Task 1: Project Initiation
- Task 2: Preparation of Technical Studies
- Task 3: Independent Review
- Task 4: Scoping
- Task 5: Draft EIR
- Task 6: Final EIR
- Task 7: Decision Support
- Task 8: Project Management

Implementation of this proposed Work Plan will result in technically accurate resource analyses, meaningful public and stakeholder participation, cooperative agency coordination, and an appropriately thorough CEQA analysis. As a partner with the County, ESA's team will work to serve the County's constituents with highest quality environmental analysis while achieving environmental and scheduling goals.

Task 1: Project Initiation

1.1 Formal Kick-off Meeting

ESA will conduct a formal CEQA process kickoff meeting with the County and Lehigh to: identify Project drivers and define expectations for success; confirm permitting needs and other key Project details; discuss the status of Project-related communications with other regulatory agencies; 4) discuss the schedule for receipt of any pending technical studies; 5) discuss the proposed format (organization) of the EIR; and 6) conduct initial resource-by-resource discussions of the analytical baseline, methodological approach, and cumulative scenario for the analysis of potential impacts of each phase of the project. The County, ESA and Lehigh also will identify

and confirm the communications protocol at the formal kick-off meeting to maintain the integrity of the environmental review process. ESA's Project Manager and one other team member will attend. ESA and the County will conduct a separate "all hands" kickoff meeting among the consultant and subconsultant team to: confirm a common understanding of the Project; discuss roles, preferred approaches to key issues, and timelines; and initial discussion of the characteristics or a projected-future baseline for the reclamation-only areas.

1.2 Site Visit

ESA's Project Manager and up to five other team members will join County staff in attending a site visit, assumed to be scheduled on the same day as the kick-off meeting, that would be facilitated by Lehigh's team. Goals of the site visit would include an introduction to existing on-the-ground conditions and an in-context overview of proposed changes to the Quarry.

1.3 Agency Engagement and Coordination

Initial Outreach: ESA proposes to work with the County and Lehigh to confirm the list of permits or other authorizations that may be needed to implement the Project. This will inform the list of responsible, trustee, and potentially-affected federal agencies to receive the NOP as well as potential invitees to an agency-specific scoping meeting to be offered mid-way through the scoping period (see Task 4, Scoping). Goals of this agency-specific outreach include providing a Project overview, presenting the anticipated schedule for the CEQA process, and obtaining initial resource agency input on the scope of analyses required to support their regulatory responsibilities.

Technical Studies: Following the preparation of technical reports (see Task 2), ESA proposes to provide copies of relevant reports to BAAQMD, CDFW, RWQCB, or other agencies with jurisdiction over a resource that could be affected by the Project for a 30-day review period. ESA would send the reports only after receipt of County authorization to do so. The goal of engaging the agencies in this way is to familiarize agency staff with the Project and to inform their consideration of the Project and its impacts. Neither the scope of work nor the cost estimate assume that the technical reports will be revised in response to these agencies' input, but rather that the agencies' input will be considered in the analysis included in the EIR.

Draft EIR: To ensure a complete agency consultation process and avoid surprise input after publication of the Draft EIR, ESA will reach out to any agency that provides input during the scoping period with an update as to anticipated publication of the Draft EIR (e.g., once County approval is received for ESA to proceed to production), and can be available to discuss relevant mitigation measures with resource oversight agencies if/as recommended by the County following publication of the Draft EIR. (See Task 5).

Final EIR: ESA will provide an electronic copy of the Final EIR, including responses to comments, directly to commenting agencies at the County's direction following issuance of the Final EIR. (See Task 6).

1.4 Public Engagement and Participation

Consistent with CEQA's requirements, ESA's experience, and the County's practices, we anticipate public engagement in the EIR development process at the following intervals:

- Web-posted information about the Project and process, to remain accessible for at least the duration of the CEQA and land use permitting process;

Scope of Services

- Written notification of the advent of a 30-day scoping period to the County's existing distribution list regarding the Quarry (to be provided by the County via its listserv);
- One public scoping meeting to provide Project details and collect initial input;
- Written notification of the advent of a 45- to 60-day comment period following issuance of the Draft EIR to be provided via one or more of the formats required for such notifications;
- Two public comment meetings to provide details about the Draft EIR and collect input; and
- Up to three public meeting(s) to be held as part of the County's decision-making process.

The cost estimate assumes a 30-day scoping period, a 45-to-60-day comment period following issuance of the Draft EIR, and that a single public meeting would be held during the scoping period and two public meetings would be held following the issuance of the Draft EIR. Effort associated with the outreach described in this section is captured in Task 4 (Scoping), Task 6 (Final EIR), and Task 7 (Decision Support).

Task 1 Deliverables

- Proposed agenda and meeting materials for kick-off meeting
- Preliminary draft tables addressing the analytical baseline, methodological approach, and cumulative scenario for each resource area
- Initial list of anticipated responsible, trustee, and potentially-affected federal agencies to be discussed and confirmed with the County and Lehigh prior to issuance of the NOP
- Documentation of transmittal of review copies of relevant technical reports to responsible, trustee, and potentially-affected federal agencies

Task 1 Additional Assumptions

None – assumptions are as indicated above.

Task 2: Preparation of Technical Studies

2.1 Aesthetics

ESA's teaming partner, Environmental Vision, will collect and review relevant data and photograph the site and its setting, including: collection and review of current project maps and drawings and aerial photographs; consultation with ESA/County staff to determine location of potentially sensitive viewpoints; the conduct of one site photography visit to observe the Project Site and surroundings; photographing the Project Site from a variety of representative public viewpoints (up to 8 candidate review photographs are included) and employing basemap annotation, photo log sheet and GPS recording to document camera lens settings and viewpoint locations; and submittal of a set of candidate simulation photos with a viewpoint location map for review and approval.

Environmental Vision will prepare visual simulations using advanced computer modeling and rendering techniques to show the Project superimposed on selected photographic views of the Project Site. The simulation images will be presented as "before" and "after" views of the location, scale and appearance of the proposed project components as seen from representative public viewpoints. The simulations will portray proposed grading, roadways, phased stockpiling and reclamation/revegetation and landscaping. The simulation viewpoints will be selected in consultation with ESA/County staff. For each viewpoint one "before" and two (2) "after" images will be produced. The ESA team assumes that four viewpoints (a total of up to 4 "before" and 8 "after" images) will provide sufficient support for the EIR analysis of potential impacts to aesthetic and visual

resources; however, estimated costs include visual simulations from one additional viewpoint (assuming photography from the site photography visit proposed above) including one “before” and two “after” images if needed to respond to comments or otherwise determined necessary or desirable by the County. The simulations will portray the Project Site at two different stages of Reclamation Plan implementation (in consultation with ESA/County). The simulations will be based on project design data provided to Environmental Vision. The images will be produced at 8.5 by 11 or 11 by 17 inch, color format. Digital versions of the simulations will be provided. One review/revision cycle is included.

Environmental Vision also will prepare a viewpoint location map that delineates the location of the visual simulation vantage points on a map of the site and surrounding area. The viewpoint location map will be produced at 8.5 by 11-inch format.

Subtask 2.1 Deliverables

- A set of up to up to 8 candidate simulation photographs with a viewpoint location map for review and approval
- Draft and final (based on one review/revision cycle) of up to 5 “before” and 10 “after” views from representative public viewpoints produced at 8.5 by 11 or 11 by 17 inch, color format
- Draft and final (based on one review/revision cycle) of a viewpoint location map produced at 8.5 by 11-inch format

Subtask 2.1 Additional Assumptions

This scope and costs assume that the following requested data will be made available by Lehigh/the County in both digital (CAD) and hardcopy format (pdf files may substitute for hardcopy) before the issuance of the NOP:

- Electronic and hardcopy versions of the Applicant's visual simulations (for reference only);
- Existing site topography and proposed grading with property lines;
- Proposed site plan showing any building footprint, driveways etc.;
- Plan and elevations drawings for any proposed structures;
- Aerial photograph of site and surrounding area; and
- Revegetation/Landscape plans.

2.2 Air Quality and Greenhouse Gas Emissions Technical Report

Air Quality

ESA will prepare a Project-specific technical air quality study to inform the County’s consideration of the Project’s potential impacts in the proposed EIR (Tasks 5 and 6). The study will describe the existing environmental and regulatory setting, quantitatively evaluate the project’s air pollutant and toxic air contaminant (TAC) emissions in accordance with Bay Area Air Quality Management District (BAAQMD) and Office of Environmental Health Hazard Assessment (OEHHA) standards, and describe the potential health effects of the criteria pollutants emitted from project activities.

Relevant standards are expected to come from various sources including, but not limited to, BAAQMD’s 2017 *Clean Air Plan*. The goal of the 2017 Clean Air Plan is to protect the public health and protect the climate. It updates the most recent Bay Area ozone plan (from the 2010 Clean Air Plan) and incorporates feasible measures to reduce emissions of ozone precursors, fine particulate matter, and TACs, as well laying the groundwork for a long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. In the air quality study, ESA will evaluate whether implementation of the project would

conflict with applicable emissions control strategies and growth projections accounted for in the BAAQMD 2017 Clean Air Plan.

ESA will quantify Project construction and operational emissions of reactive organic gases (ROG), nitrogen oxides (NO_x), carbon monoxide (CO), sulfur dioxide (SO₂), respirable particulate matter (PM₁₀), and fine particulate matter (PM_{2.5}) using the BAAQMD-approved California Emissions Estimator Model (CalEEMod) version 2016.3.2 and the CARB on-road vehicle emissions model (EMFAC2017) for mobile sources.¹⁰ Construction emissions will be based on the construction schedule, equipment mix, grading plans and earthmoving operations, and number of construction worker and truck trips as determined through consultation with the Applicant and the County. Operational emissions will be estimated based on buildout of the Project and the estimated VMT analysis that will be prepared as part of the Project's traffic study pursuant to SB 743. ESA will confirm before assuming in the emissions calculations for this Project that Lehigh would incorporate as part of this Project the applicable mitigation measure requirements and other emissions control strategies and requirements identified in the 2012 Reclamation Plan Amendment EIR.

Project emissions within the San Francisco Bay Area Air Basin (SFBAAB) will be compared to the BAAQMD significance thresholds identified in its CEQA Guidelines. If emissions, e.g., from reclamation-related truck trips, would occur outside of the SFBAAB (e.g., in the San Joaquin Valley Air Basin [SJVAB] or the North Central Coast Air Basin [NCCAB]), then ESA will estimate those emissions for comparison to the respective significance thresholds established by the applicable local air quality management district or air pollution control district. This scope assumes that it will not be necessary to estimate Project-related emissions that occur outside of these air basins or outside of California.

The BAAQMD has established a screening method to evaluate potential CO hotspot impacts. Projects that exceed the screening criteria should use the California Line Source Dispersion Model (CALINE4) and the EMFAC model. Given that the region is in attainment of the CO ambient air quality standards and substantial CO emissions in excess of the BAAQMD emissions standards are not reasonably anticipated, ESA proposes to conduct the CO hotspots analysis using the BAAQMD screening method at the top three impacted intersections as determined by the project traffic study based on existing plus project traffic volumes.

ESA will conduct a qualitative analysis of odor impacts in accordance with the BAAQMD CEQA Guidelines site compatibility odor impact screening procedure.

Health Risk Assessment

For projects that involve substantial construction activity or if the project is controversial and potentially subject to heightened public scrutiny, ESA recommends a refined health risk assessment (HRA) to quantitatively evaluate construction-period and operational-period TAC cancer and non-cancer impacts to air quality-sensitive receptors within 1,000 feet of the Project Site and haul truck routes. It is ESA's understanding that the Project may be subject to heightened public scrutiny; therefore, ESA recommends conducting a quantitative construction and operational HRA in accordance with the BAAQMD *Recommended Methods for Screening and Modeling Local Risks and Hazards* and the OEHHA 2015 *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments*. Dispersion modeling will be conducted using the United States

¹⁰ ESA may rely on a different version of the model if the EMFAC2017 model is rescinded, which could occur depending on the outcome of litigation regarding the Federal Safer Affordable Fuel-Efficient Vehicles Rule.

Environmental Protection Agency (USEPA)-approved AMS/EPA Regulatory Model (AERMOD) dispersion model and the CARB Hot Spots Analysis Reporting Program (HARP) model or spreadsheet methodology to quantify potential impacts to off-site air quality-sensitive receptors within 1,000 feet of the Project Site from TACs emitted by the Project (i.e., diesel particulate matter emitted from project vehicles). AERMOD will be programmed with on-site sources of emissions and off-site line sources of emissions corresponding to the truck routes in the vicinity of the Project Site. The BAAQMD has also established a significance threshold for an annual incremental increase in PM_{2.5} concentrations. ESA will use the AERMOD dispersion model to evaluate annual PM_{2.5} concentrations relative to the BAAQMD's significance threshold for air quality-sensitive receptors within 1,000 feet of the Project Site.

Health Impacts Analysis

The California Supreme Court decided in *Sierra Club v. County of Fresno* (the “Friant Ranch” case) that a reasonable effort should be made in CEQA analyses to substantively connect a project's air quality impacts from criteria air pollutant emissions to specific health consequences, or else to explain why it is not feasible to do so. In light of *Friant Ranch*, ESA proposes to provide a quantitative Health Impacts Assessment (HIA) to evaluate potential health impacts by conducting ozone and PM_{2.5} photochemical modeling using the Comprehensive Air Quality Model with Extensions (CAMx) and the Benefits Mapping and Analysis Program Community Edition (BenMAP-CE), which are modeling tools commonly used for modeling health impacts in regional air quality plans. ESA will consult with the County to outline the overall strategy and approach for the HIA. ESA proposes to team with BlueScape Environmental (BlueScape), which has extensive experience in health impacts modeling throughout California. BlueScape will develop and run the pre-processor models that will eventually feed into CAMx. BlueScape will then run CAMx and prepare the output for import into BenMAP-CE. ESA will then run the ozone and PM_{2.5} modeling in BenMAP-CE. ESA will prepare the written analysis of the modeling results with assistance from BlueScape.

Cumulative Impacts

Cumulative air quality impacts from Project construction and operational emissions will be evaluated based on the BAAQMD CEQA Guidelines emission thresholds. This scope does not propose or include quantified emissions calculations from cumulative or related projects, which is not required in the BAAQMD CEQA Guidelines methodology.

For CO hotspot impacts, ESA will conduct a screening assessment at the top three impacted intersections as determined by the Project traffic study based on cumulative plus Project traffic volumes.

For TAC emissions, the BAAQMD CEQA Guidelines provides cumulative cancer, non-cancer, and annual PM_{2.5} concentration thresholds when considering past, present, and foreseeable future sources within a 1,000-foot radius from the fence line of a source plus the contribution from the Project. However, these cumulative TAC emission thresholds were challenged in *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369,388, fn. 12. In light of the court opinion and for consistency with the County's approach to other environmental analyses, ESA will consult with the County to determine an appropriate cumulative threshold for TAC emissions. ESA will evaluate cumulative TAC impacts based on the outcome of these consultations. For the purposes of this scope, ESA assumes that BAAQMD data will be relied upon for TAC impacts from other cumulative projects as appropriate.

Greenhouse Gas Emissions

ESA will prepare a GHG emissions technical study that describes the analysis methodology and potential impacts associated with the project's generation of GHG emissions during and following reclamation. The analysis will estimate GHG emissions attributable to the project for the following sources: construction equipment, area sources, mobile sources, energy consumption (electricity and natural gas), potable water consumption, and solid waste generation. Reclamation- and post-reclamation-related GHG emissions will be quantified using the same approach as the air quality analysis using the CalEEMod version 2016.3.2 computer model, as well as EMFAC2017 emission factors for mobile sources.

The analysis will consider applicable emissions estimates as well as the existing independently-enforceable mitigation measures and other emissions control strategies and requirements from the 2012 Reclamation Plan Amendment EIR. The Project's GHG emissions will be compared to the BAAQMD carbon dioxide equivalents (CO₂e) significance threshold in the BAAQMD CEQA Guidelines. The Project's GHG emissions also will be compared to the applicable goals and recommended actions of the State's *2017 Climate Change Scoping Plan*, the BAAQMD's *2017 Clean Air Plan* and *Climate Protection Program*, County of Santa Clara *Climate Action Plan*, and other applicable state and local GHG reduction strategies and regulations.

By definition, all GHG impacts are recognized by the State as inherently cumulative in nature. Therefore, the Project-specific GHG impact analysis will serve as the basis for cumulative impacts. This scope does not include quantified GHG emissions calculations from cumulative or related projects. If it is determined that mitigation measures are determined to be necessary to reduce potential significant GHG impacts, ESA will identify feasible measures that can be readily quantified using standard emissions modeling tools. If mitigation measures are warranted, ESA also will quantify the GHG emissions reductions that could be expected to result if the measures were implemented.

Subtask 2.2 Deliverables

- Draft Air Quality and Greenhouse Gas Technical Report
- Final Air Quality and Greenhouse Gas Technical Report

Subtask 2.2 Additional Assumptions

ESA proposes to analyze reclamation-related emissions at the conclusion of one full calendar year of Project activities. The proposed technical study will describe the methodology and results of the analysis. The air quality modeling results will be included as exhibits to the technical study. This scope assumes that ESA will confer with the County and/or the Applicant team to establish complete and comprehensive data regarding the project prior to initiating modeling activities. Such data include, but are not limited to: construction schedule and fleet information; construction materials; demolition debris quantities; cubic yards of soil to be excavated, hauled or imported; and number of truck trips. ESA further assumes that project details relied upon in the modeling or analysis of modeling results will remain unchanged after ESA has commenced modeling activities. ESA assumes our receipt of one set of edits to the draft report following County review.

2.3 Biological Resources Report

ESA will prepare a Biological Resources Report to be included in the EIR that will inform understanding of the distribution of sensitive biological resources in the Project area, Project planning, and the potential for further review. A number of baseline studies have been performed at the Project Site, including:

1. Biological Resources Assessment (WRA, 2019c)
2. Biological Resources Report: Rock Plant Reserve Component (GEI, 2019a)
3. Biological Resources Report: North Highwall Lay-back Component (GEI, 2019b)
4. Revegetation Plan Update (WRA, 2019s), and Revegetation Test Plot Summary (WRA, 2019b)

While ESA has access to and may review these existing biological studies to establish the presence of known resources on the site, the present study will independently map and assess the presence and distribution of regulated and sensitive resources on the site.

The proposed Biological Resources Report will be used as the basis for the analysis of impacts and mitigation for the Project. The report will describe existing conditions, analyze impacts of the Project, and identify mitigation measures that could avoid or reduce the severity of potential significant impacts. A draft Biological Resources Report will be prepared for County review; a final report will be submitted that incorporates responses to County comments.

Tasks to prepare the Biological Resources Report are:

- Review Available Background Data. To become familiar with site conditions, ESA staff will review natural resource reports for the Project Site and surrounding area. The U.S. Fish and Wildlife Service and California Department of Fish and Wildlife databases will be reviewed to develop a list of rare, endangered or other special-status plants and animals and natural communities, that have been documented on or near the site. The review will include biological, geotechnical, or hydrological reports; arborist's reports; and vegetation management plans available for the Project area as well as relevant County biological protection policies and a records search of the California Natural Diversity Data Base (CNDDDB) for the site and surrounding area as habitat conditions and regional species distributions dictate.
- Biological Reconnaissance Survey. Two ESA biologists (a wetlands/botanical specialist and terrestrial wildlife biologist) will perform a reconnaissance-level biological survey of the site to characterize vegetation communities, wildlife habitat, sensitive biological resources and natural communities and associated buffers protected by Santa Clara County. Resources of note (e.g., habitat for special-status species, raptor nests or significant trees) will be documented and mapped on an aerial overlay of the site. A wetland assessment will be included in the survey to determine the need for a wetland delineation following the U.S. Army Corps of Engineers guidance. If wetlands are identified within the reclamation area, a separate wetland study may be needed and can be provided subject to a separate scope and budget. ESA biologists will identify tree species present in the study area; however, an arborist assessment and tree inventory will not be provided in the site assessment.
- Biological Resources Report. Based on the above tasks, a draft report will be prepared detailing ESA's survey methods, findings, and any recommendations for further action based on the presence of sensitive resources at the site. The report will include a review of relevant biological protection policies, photographs, field reports, and maps. The report will include a map of sensitive biological resources in the study area overlain with other known development constraints and site improvements.

Subtask 2.3 Deliverables

- Draft Biological Resources Report
- Final Biological Resources Report

Subtask 2.3 Additional Assumptions

This scope and cost estimate assume that Lehigh will confirm Project area boundaries and provide the locations of site improvements and known constraints in GIS or comparable format. Following ESA's receipt

from the County of notice to proceed with this task, reconnaissance surveys would begin within two weeks and a draft report will be available for review within two weeks following the completion of surveys. ESA will provide a final document within two weeks of receiving comments on the draft report. This scope and cost estimate assume receipt of one set of edits to the draft report following County review. This scope of work does not include a wetland delineation or tree inventory, which can be provided at the County's request subject to a separate scope and budget.

Protocol-level botanical surveys may be needed during the appropriate plant identification season(s); generally during late spring and summer months. If, based on Project timing relative to established survey periods, additional surveys beyond those described herein are determined to be warranted, ESA will submit a separate scope and budget for the work.

Protocol-level fish and wildlife surveys (e.g., for California red-legged frog) under the federal survey protocols are not provided in this scope of work. No fish habitat is anticipated on the Project Site. Habitat for these species will be mapped when identified, and species presence will be presumed in potentially suitable areas.

2.4 Cultural Resources Technical Report

To determine the cultural resources sensitivity of the Project area, ESA will complete a cultural resources study that will include a records search at the Northwest Information Center of the California Historical Resources Information System to identify previously recorded cultural resources and studies in the Project area, and a surface survey of the Project area to identify cultural resources and to report on existing site conditions. ESA assumes that the Project Site can be surveyed by four archaeologists in a two-day field effort. ESA will update the condition of three previously recorded architectural resources in the Project area.

ESA will prepare a technical report that identifies cultural resources and meets the requirements of CEQA. Recommendations for additional work will be provided as appropriate, and could include site recordation and evaluation, monitoring during project implementation, and/or actions to follow in the event of an inadvertent discovery of cultural materials or human remains. The report will serve as the background for the cultural resources and tribal cultural resources sections of the EIR.

Subtask 2.4 Deliverables

- Draft Cultural Resources Technical Report
- Final Cultural Resources Technical Report

Subtask 2.4 Additional Assumptions

It is not anticipated that archaeological resources will be identified; if archaeological resources are identified, then evaluation can be completed under a separate scope and budget. This scope and cost estimate assume receipt of one set of edits to the draft report following County review.

2.5 Noise Impact Assessment Technical Report

Noise impact considerations for this Project primarily include the addition of multi-year importation of clean fill to backfill the quarry pit. This importation of fill would require substantial truck traffic to and from the quarry in addition to that generated by existing quarry operations. Truck trips would access the site via roadways with sensitive receptors present on both sides of the road, and would increase noise levels currently experienced by receptors along these roadways. New off-road equipment operations within the Project Site also would be required to deposit and compact the backfill.

The Project would involve other noise-generating activities as well, including the operation of additional off-road equipment to reclaim the slopes of the upper highwall, reclaim a new 30.5-acre extraction area within the 65-acre Rock Plant Reserve, and the construction and improvement for two proposed haul routes connecting the Permanente Quarry with the Stevens Creek Quarry to deliver up to 1 million tons and up to 400 truck trips per year of aggregate for processing and sale by Stevens Creek Quarry without using public roadways. The equipment and trucks needed for this work would generate noise that will be considered in the EIR.

To inform the County's consideration of the Project's potential noise impacts, ESA will prepare a Noise Impact Assessment Technical Report that will:

- Describe the existing noise environment within the Project area by collecting up to six long-term (1-week) and up to four short-term noise measurements. These measurements will focus on sensitive receptors east and northeast of the Quarry.
- Summarize state and local noise policies, regulations, and standards, as they would pertain to off-road equipment noise sources, which could impact receptors in multiple jurisdictions. Discuss applicable County and City noise ordinances and existing General Plan policies. Specific restrictions or limitations on industrial activities and on any noise generating activities related to commercial or industrial uses (e.g., truck routes and unloading) that could occur due to the Project will be discussed.
- Discuss the existing noise levels at the nearest sensitive receptors generated by current operations.
- Project-related truck traffic noise increases associated with quarry pit fill transport will be assessed by using Federal Highway Administration's Traffic Noise Model (TNM) Version 2.5 or Computer Aided Noise Abatement (CadnaA) software due to the grade of the roadway being greater than 1.5% and to account for use of compression engine release brakes ("Jake Brakes"). Both programs will take into account grade of the roadways, terrain features, and existing structures as necessary. The number of traffic by vehicle type per hour will be provided by the Project team to determine hourly equivalent noise values at receptors along roadways used to access the Project Site.
- Vibration levels generated by loaded trucks associated with quarry pit fill transport will be calculated for receptors along roadways used to access the Project Site using the reference noise levels and vibration propagation equations of the Federal Transit Administration. Resultant vibration levels will be assessed using the peak particle velocity (PPV) threshold identified by the California Department of Transportation (Caltrans) to determine the significance of vibration impacts related to adverse human reaction and risk of architectural damage to normal buildings.¹¹
- Estimate and assess the resultant noise levels likely to be generated by off-road equipment used to reclaim the slopes of the upper highwall. Assess the potential or these noise levels to meet or exceed existing standards contained in the Municipal Code that limit noise from industrial land uses and assess compatibility.
- Estimate and assess the resultant noise levels likely to be generated by off-road equipment used to reclaim the proposed new 30.5-acre extraction area. Assess the potential or these noise levels to meet or exceed existing standards contained in the Municipal Code that limit noise from industrial land uses and assess compatibility.
- Estimate and assess the resultant noise levels likely to be generated by off-road equipment used to construct and improve the two haul routes proposed to connect the Permanente Quarry with the Stevens

¹¹ Architectural damage could be structural damage, such as cracking of floor slabs, foundations, columns, beams, or wells, or cosmetic architectural damage, such as cracked plaster, stucco, or tile (Caltrans, 2004).

Creek Quarry. Assess the potential for these noise levels to meet or exceed existing standards contained in the Municipal Code that limit noise from industrial land uses and assess compatibility.

- Estimate and assess the resultant noise levels likely to be generated by truck trips operating on the two haul routes proposed to connect the Permanente Quarry with the Stevens Creek Quarry.
- Qualitatively assess the potential for vibration impacts of the Project.
- Assess the cumulative noise impacts that may occur with development of the Project.
- Identify practical, feasible mitigation measures including the use of performance standards to address any/all identified significant impacts. Evaluate whether mitigation measures would reduce the impacts below a level of significance.

Subtask 2.5 Deliverables

- Draft Noise Impact Assessment Technical Report
- Final Noise Impact Assessment Technical Report

Subtask 2.5 Additional Assumptions

This scope and cost estimate assume that assumptions as to the number of traffic by vehicle type per hour will be established and agreed to by the County before the NOP is issued. This scope and cost estimate further assume receipt of one set of edits to the draft report following County review.

2.6 Transportation Study

ESA's teaming partner, Hexagon Transportation Consultants, Inc., will prepare a transportation study to be included in the EIR that will inform the County's consideration of potential impacts for the Project, and as they relate primarily to the thousands of proposed truckloads that would occur over a 20- to 30-year period to import clean fill to backfill the quarry pit.

To inform the County's consideration of the Project's potential transportation impacts, Hexagon will prepare a Transportation Study that will analyze traffic operations during peak hours at key intersections and freeway segments providing access to the site, as well as an analysis of VMT. Although the technical study will address both LOS and VMT, the CEQA analysis will focus exclusively on VMT. The intersections and freeway segments proposed for study are identified below.

Study Intersections:

1. Foothill Expressway & I-280 (N)
2. Foothill Expressway & I-280 (S)
3. Foothill Expressway & Cristo Rey Drive
4. Foothill Boulevard & Stevens Creek Boulevard

Freeway Segments:

5. I-280 west of Foothill Expressway
6. SR 85 north of I-280
7. SR85 south of I-280

Tasks to prepare the traffic analysis are:

- Site Reconnaissance. The physical characteristics of the Project Site and the surrounding roadway network will be reviewed to identify existing roadway cross-sections, intersection lane configurations, traffic control devices, and surrounding land uses.

- Observation of Existing Traffic Conditions in the Study Area. Existing traffic conditions will be observed in the field in order to identify any operational deficiencies and to confirm the accuracy of calculated levels of service.
- Data Collection. Existing weekday AM (7:00 – 9:00 AM) and PM (4:00 – 6:00 PM) peak-hour traffic volumes will be obtained from new manual peak-hour turning movement counts. Freeway segment traffic counts will be obtained from the latest Congestion Management Program (CMP) monitoring report.
- Evaluation of Existing Conditions. Existing traffic conditions will be evaluated based on existing traffic volumes at the study intersections. The existing traffic conditions at the key study intersections will be evaluated using the software TRAFFIX, which employs the 2000 Highway Capacity Manual (HCM) methodology for intersection analyses, and is the designated level of service methodology in Santa Clara County.
- Project Trip Generation, Distribution, and Assignment. Estimates of trips to be added to the surrounding roadway network by the Project will be based on information supplied by the Applicant about the expected number of trucks per day. The truck trips will be distributed to the roadways based on current truck routes.
- Evaluation of Existing Plus Project Conditions. Project-generated traffic will be added to the existing traffic volumes. Intersection levels of service under existing plus project conditions will be evaluated using the TRAFFIX software. Intersection impacts associated with the project will be evaluated relative to existing conditions.
- Freeway Segment Analysis. The magnitude of Project trips on freeway segments near the Project Site will be determined based on the trip assignment task described above. The number of trips on nearby freeway segments will be compared to the CMP's threshold for significant impacts.
- Evaluation of Cumulative Conditions. Year 2040 traffic volumes will be estimated based on previous traffic studies in the area. The cumulative base year traffic also will include the Stevens Creek Quarry Reclamation Plan Amendment project (PLN19-0110). The traffic for this Project will be added to cumulative baseline volumes to determine whether the Project would cause or contribute to any significant impacts at the study intersections.
- VMT Analysis. From a transportation perspective, the Project involves bringing dirt to the Project Site from areas where excess dirt is generated. Excess dirt is generated by projects that need to dig holes. These are generally development projects with underground parking or infrastructure projects that require digging or tunneling, such as the BART to San Jose project. Thus, excess dirt typically is generated in urban areas with development activity. There are several such areas in Santa Clara County and nearby counties. Whether refilling the quarry would generate positive or negative VMT is dependent on the assumption about where dirt would go without the Project. The transportation study will include a discussion of these VMT parameters but will not quantify the VMT increase or decrease associated with the Project.
- Description of Impacts and Recommendations. Based on the results of the level of service calculations and VMT discussion, impacts of the Project Site-generated traffic will be identified and described. Recommendations will be formulated that identify the locations and types of improvements or modifications necessary to mitigate potential significant near-term or long-range Project impacts.
- Preparation of Report. Hexagon will summarize its findings and recommendations in a draft transportation report to be provided for ESA and County review. Hexagon will respond to ESA and County input received on the draft in preparing the final transportation report.

Subtask 2.6 Deliverables

- Draft Transportation Report
- Final Transportation Report

Subtask 2.6 Additional Assumptions

This scope and cost estimate assume receipt of one set of edits to the draft report following County review. Costs further assume that Hexagon staff will be available to assist with responses to comments on the Draft EIR and to participate in up to a total of two public meetings/hearings.

Task 3: Independent Review

ESA proposes to independently review the 2,000+ pages of Project materials, which include for purposes of this scope of work, the following:

- Geotechnical evaluations (Lehigh 2019, Appendix G) for the:
 - WMSA (Stantec, 2019a)
 - North Highwall Reserve (Stantec, 2019b)
 - North Quarry Backfill (Stantec, 2019c)
 - Rock Plan Reserve (Stantec, 2019d)
 - Technical Memorandum: Ridgeline Protection Easement Analysis (Benchmark Resources, 2019)
 - Utility Road Geotech Review (Stantec, 2019e)
 - Technical Memo: Stevens Creek Quarry Access Road (Stantec, 2018)
- Hydrology and Water Quality
 - Hydrologic Investigation (Golder, 2019) (Lehigh 2019, Appendix H)
 - Drainage Report (Chang Consultants, 2019) (Lehigh 2019, Appendix I)
- Suitable Surplus Soil Availability Study (Pinnacle Consulting, 2019)
- A County-contracted economic feasibility study for the Project, including the proposal to backfill the quarry pit with clean fill to be trucked in from locations within the greater Bay Area.

The ESA team will independently review these studies and three additional studies assumed for purposes of costs to be comparable to the studies identified in the preceding bullet points in terms of the level of effort required to provide a thorough, independent review to determine whether the information they provide is suitable for use in the EIR, in combination with other sources of data. If clarification or additional information is needed, ESA will submit a data request. ESA will provide this input in a concise memo report format within 21 working days of our receipt of each technical report. ESA assumes that Lehigh's responses to any data requests will be delivered within 14 calendar days of receipt of the request.

Task 3 Deliverables

- Memoranda (provided electronically) documenting the results of the ESA team's independent review of project-specific studies

Task 3 Additional Assumptions

ESA assumes that all technical reports will be complete and of high quality. For purposes of cost, ESA assumes that no more than four of the reports will need to be resubmitted for a second review and that none would require a third review. Independent review of each study would conclude with the ESA team's submittal to the County of a memorandum for inclusion in the Project file that documents ESA's recommendation that the County accept the report.

Task 4: Scoping

A successful scoping process will set expectations, inform, and engage people in the overall CEQA process.

4.1 *Notice of Preparation*

ESA will provide electronic administrative draft and final copies of the NOP and Notice of Completion (NOC) to the County in Word and pdf formats. ESA also will submit 15 copies of the NOP and one copy of the NOC to the State Clearinghouse to initiate the scoping period; and will send the NOP via certified mail (with mailed or electronic return receipt) to up-to-20 Trustee, Responsible, and potentially affected federal agencies or other recipients to be identified in coordination with the County. This scope of work assumes that the County would provide all other notifications by U.S Post, web posting, or another means reasonably intended to inform potentially interested parties.

4.2 *Resource Analyst Site Visit*

ESA proposes a site visit to be attended by the County, Lehigh, and up to four members of ESA's technical team. The goals of this site visit are different than the site visit proposed in Task 1.2. Here, the primary purpose is to facilitate an efficient review of the technical studies and preparation of the technical studies and impact analyses. Resource analysts and County representatives also may check on-the-ground conditions on site and in the area during the site visit relative to initial expectations regarding baseline and cumulative conditions as discussed during the formal kick-off meeting (Task 1.1).

4.3 *Scoping Meeting*

ESA anticipates that one public scoping meeting will be held. Based on past experience, it is our expectation that the County will present information about the proposal and the CEQA process, and will invite agency and other participants to provide substantive input regarding impacts of concern, potential alternatives and mitigation measures that should be considered. This scope of work anticipates that up to four members of ESA's team will attend and provide logistical support for the scoping meeting, but that presentation materials and duties will be handled by the County. To fully and accurately capture all input, ESA will contract with a local transcription firm to record and transcribe oral comments received at the meeting. If requested, ESA also will prepare sign-in sheets, speaker's cards, and directional signage. ESA will provide up to five storyboards, initially expected to show the Project Site and relevant contextual specifics (two boards), preliminary viewpoints to be analyzed (if known within 7 days of the scoping meeting), preliminary biological resources data (i.e., CNDDDB flora and fauna occurrences in the Project Area), a public participation opportunities and contact information for the County's primary point of contact for the Project.

4.4 *Scoping Report*

ESA will prepare a draft Scoping Report for County review within 14 days of the later to occur of the close of the scoping period or receipt of the scoping meeting transcript. The draft Scoping Report will summarize input received from agencies and others during the scoping period. The purpose of the Scoping Report is to document and acknowledge participation in the process at this early stage, advise participants about how their input will be incorporated or addressed in the CEQA process, and inform the development of the EIR. Although some lead agencies elect to release the Scoping Report as soon as it is finalized, ESA proposes for this Project that the County release it for public review as an Appendix to the Draft EIR. Our price estimate to prepare the Scoping Report assumes receipt of a level of input consistent with what has been provided on other recent contested

projects, i.e., that written input will be received from approximately 150 entities in addition to oral comments made at the public scoping meeting.

Task 4 Deliverables

- NOP and NOC (administrative draft and final)
- NOP certified mail receipts (receipts either posted or electronic) for up-to-20 Trustee, Responsible, and potentially affected federal agencies
- Five storyboards for display at the Scoping Meeting
- Scoping Meeting logistical materials, as noted above
- Scoping Report (draft in Word; final in Word and as a pdf)
- Draft tables addressing the analytical baseline, methodological approach, and cumulative scenario, revised to reflect subsequent input and discussions

Task 4 Additional Assumptions

None – assumptions are as indicated above.

Task 5: Draft EIR

ESA proposes a concise rather than encyclopedic document in which the level of detail provided will meet the requirements of CEQA and be tailored to the County's preferences. ESA will prepare a Draft EIR informed by our past work with the County and supported by substantial evidence included in the record. The Draft EIR will reflect and include:

- County input;
- Scoping input from agencies and public stakeholders;
- Applicant-provided studies and data;
- ESA team-prepared studies and data;
- ESA technical impact analyses; and
- Mitigation measures where appropriate

5.1 Administrative Draft EIR

In preparing the Administrative Draft EIR (ADEIR), ESA will write for a non-technical audience. Examples of ways to make the EIR accessible for non-technical readers include: limiting the use of acronyms, not using jargon, using active voice, and overall attention to clarity in the editorial review process. Words and sentences will be as short as possible for clarity. Keywords will be defined. Graphics and figures will be used to the extent they are helpful, and headings and subheadings will provide a roadmap, allowing readers to follow the analysis in an organized way.

Preparation of the ADEIR will begin with the scoping period. Progress will be staggered as the scoping process concludes and as technical reports are finalized and approved for use by the County. Timely receipt of a stable, finite project description and the full suite of technical studies together with adherence to review windows are the key prerequisites of an accurate, internally consistent and timely ADEIR.

Project Description

To inform the project description, ESA will rely on facts and details presented by Lehigh in its May 2019 application materials, as they may be further developed and refined in advance of issuance of the NOP. Maps, figures, and clear, concise descriptions will be provided, with an emphasis on those aspects of the Project that are likely to drive impact conclusions or affect mitigation requirements. Areas of focus will include the key

considerations listed in Section B and details of the proposed schedule and workforce, equipment mix and fuel types, water demands and sources, reasonable assumptions, and measures proposed by Lehigh with the specific intention of avoiding or reducing potential significant impacts (APMs).

Identification of Potential Alternatives

ESA will identify a reasonable range of potentially feasible alternatives in light of Lehigh's Project Objectives and the potential significant impacts of the Project. For purposes of this scope and cost estimate, ESA anticipates that the EIR will describe up to three alternatives, including a No Project Alternative and up to two other alternatives that would meet most of the basic objectives of the Project and reduce one or more of the significant impacts of the Project.

The No Project Alternative will assume continued use and reclamation of the Quarry in accordance with the provisions of existing entitlements (including the 2012 Reclamation Plan's reclamation of the North Quarry Pit by backfilling it with materials from the WMSA and revegetation in accordance with approved plans), no mining within or reduction in the elevation of the Scenic Easement, no mineral extraction or related reclamation within the Rock Plan Reserve, no use of Quarry roads to deliver materials to the Stevens Creek Quarry. The analysis of the No Project Alternative will not be a no project/no change scenario, but rather will anticipate that reclamation would occur in accordance with the 2012 Reclamation Plan. The impact analysis will be qualitative, will evaluate change relative to the baseline established for the EIR, and will be provided at a lesser level of detail than for the Project. Based on our experience, this is surest way to satisfy CEQA's obligation to examine reasonably foreseeable future conditions that would exist if the Project were not approved.

Potential reclamation alternatives may include technical variations that meet the basic objectives of the Project and avoid or substantially reduce potential significant impacts of the Project. More specifically, they may reflect a different approach to the proposed drainage plan, revegetation plan, or other proposed approaches to compliance with current SMARA standards. They also may reflect no reclamation-related change in the elevation of the Scenic Easement and/or a different approach to reclaiming the North Quarry Pit. The EIR also will describe alternatives considered but not carried forward for more detailed review, and the rationale for not carrying them forward.

The schedule assumes that a discussion draft of alternatives will be submitted within two weeks of the close of the scoping period. The discussion draft will be informed by agency and other input as well as the Project-specific technical reports and initial conclusions of the Project impact analyses.

Development of the Cumulative Scenario

ESA will aggregate a list of potential cumulative projects based on desktop research and agency outreach for each of the resource areas to be evaluated in detail in the EIR. Past, other present, and reasonably foreseeable probable future projects will be evaluated on a resource-by-resource basis to determine whether they would cause impacts that could combine with the incremental impacts of the Project to cause or contribute to cumulative effects. The analysis also will use a plan-based approach to the analysis of cumulative effects. Any ongoing environmental impacts of the Cement Plant, quarrying activities, office uses (e.g., employee vehicle trips), maintenance facilities (e.g., hazardous materials use or storage), and other on-site activities will be considered as part of the cumulative scenario to the extent those impacts could combine with those of the Project to cause or contribute to a potential significant cumulative effects. It also is expected that ongoing and

proposed Stevens Creek Quarry activities will be considered in the cumulative effects analysis for each of the relevant resource areas.

The Analytical Baseline

The EIR will evaluate whether Project-specific changes are “significant” for CEQA purposes in terms of the magnitude of the change they cause relative to the actual physical environmental conditions on or about the date the NOP is issued. The description of baseline conditions will reflect the current context, including ongoing operations. As with all projects involving ongoing operations, it will be key for this Project to define the analytical baseline with appropriate precision to provide a reasonably informative analysis of potential impacts of the Project, and neither to over-inflate them by ignoring ongoing impacts of past projects nor minimize them by assuming permitted levels of disturbance rather than actual levels on or about the date of the NOP. The baseline level of the PG&E Road’s use will reflect the existing level of by PG&E personnel and emergency responders as averaged over a number of years to be determined reasonable in coordination with the County.

Significance Criteria

ESA will rely on the questions set forth in CEQA Guidelines Appendix G as significance criteria. For each, the term “substantial change” will be defined to create a bright line. These bright line thresholds will be informed by federal, State, and local statutes and regulations; adopted plans and policies; and best professional judgment and practice supported by substantial evidence.

Environmental Impacts and Mitigation Measures

For each resource area that could be affected by the Project, ESA will draft an EIR section that describes the environmental setting, regulatory setting, and methodology; and that evaluates direct, indirect, and cumulative impacts of the Project and alternatives. Where the Project could cause a significant adverse impact, the EIR will identify necessary and appropriate mitigation measures and will describe any residual impacts remaining following their implementation. ESA assumes that the methodologies used in the analysis and mitigation measures will be consistent with other EIRs in the County to the extent that continuity of format and approach is consistent with the updated CEQA Guidelines and preferred by County staff and decision-makers. Additionally:

- Any Applicant-proposed design features or measures to avoid or reduce anticipated significant impacts will be considered as aspects of the Project and not as mitigation measures; all such measures would be carried forward into the mitigation monitoring and reporting program (MMRP) (Subtask 7.1) for ease in future enforcement should the Project be approved.
- Existing, independently-enforceable obligations, such as the conditions of approval of other agencies’ existing permits and approvals, will be considered (to the extent they are known to the County or can be determined during the scoping period) as part of the regulatory setting and neither ignored nor imposed as duplicate mitigation measures. A table or other clear documentation of applicable requirements of each such permit or approval will be prepared for purposes of the record; summaries of requirements will be provided in relevant resource analysis sections in the EIR.
- To keep the focus of the resource sections on potential significant impacts, the resources and considerations where “No Impact” conclusions are appropriate will be summarized in the EIR’s introduction to the analysis of environmental impacts. This scope assumes that Agriculture, Population and Housing, Public Services, and Recreation could be addressed in this way.
- For efficiency in the consideration of similar topics, this scope further assumes that the analysis of potential impacts to Forestry Resources could be combined with Land Use and Planning considerations; that Cultural

and Tribal Cultural Resources will be combined; and that Geology, Soils, Paleontological and Mineral Resources also could be combined.

Subtask 5.1 Deliverables

- Initial draft Project Description with requests for additional data or clarification, if needed
- Revised draft Project Description with request for County authorization to proceed to analyze potential impacts on the basis of facts and descriptions provided
- Discussion draft of Alternatives to be further developed or refined in consultation with the County
- Discussion draft cumulative scenario to be further developed or refined in consultation with the County
- Administrative Draft EIR

Subtask 5.1 Additional Assumptions

The scope, schedule and costs assume that a response will be provided within 10 calendar days to all requests for input, additional data, and clarifications. Lack of a timely response may delay submittal of the ADEIR. The scope, schedule and costs further assume that the Project Description will not change meaningfully once the analysis of potential resource impacts begins; and that the format of the Draft EIR (as outlined in a proposed Table of Contents) and significance criteria will be agreed upon at the kick-off meeting (Subtask 1.1), and will not change once substantive work on the EIR begins.

5.2 Agency and Applicant Comments on the Administrative Draft EIR

ESA will revise the ADEIR in response to County input received. This scope and cost assume that comments will provide editorial and strategic input, and that additional or revised technical studies would not be required at this stage. The scope and cost further assume that comments will be provided using the “tracked changes” function of Word and comment bubbles rather than a memo or table format. The integration of input received in the form of a spreadsheet or chart can be accommodated, but takes longer and therefore adds expense. Costs assume that a single ADEIR will be sufficient. Additional rounds of review, if determined appropriate, could be accommodated under a separate scope and budget.

If the County elects to allow Lehigh to review the ADEIR, the duration of Lehigh’s review period will be determined by the County; for schedule management purposes, ESA anticipates that any Lehigh review period would be a subset of the County’s own 45-day review period. To avoid the creation of competing versions, ESA anticipates that any Applicant team input would be provided to the County and that the County would provide direction to ESA as to suggested edits. In this way, the County would reconcile any potential inconsistencies before directing ESA to take next steps. If inconsistent comments are identified, ESA will facilitate in-person working sessions, or “page turns,” with the County to resolve and determine outcomes and changes to the document. With current technology, live working sessions also can be accomplished via a shared computer screen among multiple locations.

Subtask 5.2 Deliverables

- If a meeting(s) or call is held to resolve inconsistencies or to clarify input received, ESA to provide a proposed agenda and, if requested, notes of decision points reached.

Subtask 5.2 Additional Assumptions

None – assumptions are as indicated above.

5.3 Screen-check Draft EIR and Public Notices

ESA will revise the ADEIR in accordance with input received, will provide a redline for the County's ease in assuring that proposed and requested revisions have been made, and will prepare and provide a clean electronic Screen-check Draft EIR for the County's approval in advance of publication. Based on the assumption reflected in the proposed costs and schedule, ESA assumes that only minor revisions would be requested at this stage, and so proposes to provide the clean electronic Screen-check version of the Draft EIR in the same submittal as the redline confirming that County-requested revisions have been addressed.

ESA will prepare a draft NOC and draft Notice of Availability (NOA) as soon as the ADEIR is submitted for County review. ESA anticipates up to one request for revision for the NOC and NOA. ESA will provide a signature-ready NOC and publication-ready NOA with submittal of the Screen-check Draft EIR. ESA assumes that the County will coordinate publication of the NOA and obtain proof of publication for inclusion in the record (Subtask 5.4).

Subtask 5.3 Deliverables

- Draft NOC to be provided for the County to sign and return to ESA for submittal to the State Clearinghouse (Subtask 5.4)
- Publication-ready NOA to be provided to County for next steps.
- One redline (tracked changes) version showing revisions to the ADEIR made in response to input received on the ADEIR (to be provided electronically in Word)
- One electronic Screen-check Draft EIR to be provided in two formats: a clean Word version of the body of the document and a pdf that includes of figures and appendices.

Subtask 5.3 Additional Assumptions

Based on the proposed level of coordination throughout the EIR development process, this scope of work and costs assume that revisions to the Screen-check Draft EIR will not be required or requested in excess of the amount shown in Exhibit A.

5.4 Issue Draft EIR

Upon receipt of approval to print the public review Draft EIR, ESA will conduct final editing and word processing, and will proceed to produce copies in the numbers and formats noted below. Internal quality assurance/quality control of all deliverables is included in the cost.

Subtask 5.4 Deliverables

- Upon direction from the County, ESA to alert agencies that provided scoping input in response to the NOP that publication of the Draft EIR is anticipated within a month or another interval determined by the County to provide reasonable notice (Subtask 1.3)
- County to receive copies of all reference materials relied upon in the drafting of the Draft EIR so that they can be made available for public inspection upon release of the Draft EIR.
- County to receive up to 20 printed copies of the Draft EIR. Appendices to be provided in electronic format only.
- County to receive up to 35 electronic copies of the Draft EIR (i.e., on CD or USB device).
- State Clearinghouse to receive 15 hard copies of the State Clearinghouse's 2-page summary form, 15 electronic copies of the Draft EIR, and the signed NOC.
- Each of three library repositories (e.g., the Woodland, Cupertino and Saratoga branches of the Santa Clara County Library District) to receive one hard copy of the Draft EIR, with appendices and reference materials provided electronically on accompanying CD or USB device.

Subtask 5.4 Additional Assumptions

This scope of work and costs assume that the County will coordinate publication of the NOA, and will alert stakeholders by email of the availability of the Draft EIR via the electronic distribution list already established for Permanente Quarry-related news and updates.

Task 6: Final EIR

The Final EIR will consist of a Response to Comments document and the Draft EIR. The Response to Comments document will contain EIR comments and responses and revisions to the Draft EIR. This scope of work assumes that a draft Mitigation Monitoring and Reporting Program (MMRP) would not be prepared for inclusion as an Appendix to the Final EIR, but rather would be prepared for inclusion in the Staff Report to County decision-makers (Subtask 7.1).

ESA will begin initial drafting of the Final EIR as soon as the comment period on the Draft EIR begins. The process of responding to comments may begin as soon as comments are received.

6.1 Public Comment Meetings

ESA proposes to support the County at up to two public meetings to be held during a 45- to 60-day comment period to accept comments on the Draft EIR. This scope of work anticipates that up to four members of ESA's team would be available to provide logistical support for and would attend each meeting, but that presentation materials and duties would be handled by the County. ESA either will contract with a local transcription firm to record and transcribe oral comments received at each meeting, or will rely on a transcription to be prepared by County staff if the comment meeting occurs as part of a County Planning Commission meeting.

6.2 Response to Comments Document

ESA will review all input received on the Draft EIR from reviewing agencies and members of the public, delineate substantive comments, and categorize the input received for a response by a team of relevant resource experts. The effort required to review and respond to input received cannot be known with precision until the comment period concludes. For purposes of this scope and the proposed costs, ESA assumes an effort to prepare responses to comments commensurate with our estimate, which is informed by actual costs incurred in responding to comments received on the May 2012 Permanente Quarry Reclamation Plan Amendment EIR. Once the comment period has closed, ESA will evaluate the magnitude of effort necessary to respond, compare it to the budget, and provide the County with a scope and budget for any work that is anticipated outside of the current scope and budget. ESA will prepare an administrative draft Response to Comments document that may include "master" responses to address groups of comments that raise the same or similar issues, will include individual responses to individual comments, and will clearly identify any proposed revisions to the text of the Draft EIR.

6.3 Screen-check Final EIR

ESA will further develop or refine the administrative draft Responses to Comments document based on input received, and then will submit a redline electronically for the County's ease in confirming that requested revisions have been made. A clean electronic version also will be provided as a Screen-check Final EIR for the County's approval before publication.

6.4 Publish Final EIR

Upon receipt of County-authorization to proceed to production, ESA will conduct final editing and word processing, and will proceed to produce up to 50 copies of the Final EIR (20 printed copies with electronic copies of appendices; 35 electronic-only copies on CD or USB device). This scope of work anticipates that ESA will prepare a submittal-ready NOC for the County to sign and that ESA will submit the signed NOC with the Final EIR to the State Clearinghouse. ESA also will provide the agencies that commented on the Draft EIR with a copy of responses to their comments (on CD or USB device). Postcards and/or an email with access instructions will be mailed to all non-agency commenters. ESA will submit the Final EIR and accompanying NOC to the State Clearinghouse.

ESA will submit electronic copies of all reference materials relied upon in the Final EIR to the County in an electronic format so that such materials can be made available for public inspection and for ease of inclusion in the formal project file and, if later needed, the administrative record of the County's CEQA process.

Task 6 Deliverables

- Administrative Final EIR to be provided electronically (responses to comments and related text in Word; Appendices and Figures in pdf).
- Screen-check Final EIR to be provided in tracked changes and clean versions (word and pdf)
- Draft NOC to be provided electronically
- Final EIR in the numbers and formats to recipients noted above. Agencies that commented on the Draft EIR to receive responses to their comments at least 10 days in advance of a County decision on the Project.

Task 6 Additional Assumptions

Cost assumptions for production, postage and delivery are consistent with the cost summary provisions of ESA's February 27, 2015 on-call contract SOQ: ESA assumes that up to 50 copies of a 200-page document would be produced at a cost of \$5,000, and that posted and delivery fees would be limited to \$500.

Task 7: Decision Support

7.1 Mitigation Monitoring and Reporting Program

ESA will prepare an MMRP that identifies each proposed mitigation measure that could, if adopted, avoid or reduce the severity of potential significant impacts. In addition to the measures, the MMRP will identify required implementation activities and schedule, the party responsible for monitoring implementation, and the required monitoring and reporting activities and schedule. ESA assumes the County's preferred format for the MMRP will be substantially similar to what was prepared for the 2012 Reclamation Plan Amendment EIR and will confirm County direction as to format before initiating work on the MMRP.

7.2 CEQA Findings and Statement of Overriding Considerations

Consistent with estimated costs (Exhibit A), ESA proposes to support the County's decision-making process by preparing draft Resolutions and draft CEQA Findings, including a Statement of Overriding Considerations should one be needed. The format of the CEQA Findings will be consistent the County's practice for preparing CEQA Findings. Estimated costs assume that the County and Lehigh will provide input and evidence of Project benefits, County staff will coordinate review with County Counsel, and that requested format will be efficient and satisfy the requirements of CEQA without being encyclopedic. Submittal of an Administrative Draft and Draft of the Resolutions and CEQA Findings is anticipated. All submittals will be made electronically.

7.3 Hearing Support

Two ESA team members will support County Staff at up to three public hearings, which could be before the Planning Commission, the Board of Supervisors, or a combination of the two. Such support could include, for example, providing responses to late-entered comments or EIR specific details in response to questions of decision-makers.

7.4 Notice of Determination

ESA will prepare a draft Notice of Determination (NOD) for County review and will file it with the County Clerk and State Clearinghouse promptly upon learning of project approval.

7.5 Administrative Record Support

ESA will collect, index, and provide an electronic copy of records for inclusion in the formal project file (“Administrative Record”) for the Project. The index and materials to be provided by ESA will include: project application materials (including project-specific studies prepared on Lehigh’s behalf), the EIR and related reference materials, public notices, and County staff reports (including any proposed decisions or findings submitted to the decision-making body). Materials protected from public disclosure (such as cultural resources reports or other confidential information) will be provided in this deliverable. ESA does not propose to index and scan project-related emails as part of this scope of work, but, if needed in the future, would be available to do so subject to a separate scope and fee. These materials would be provided electronically within 10 days after the expiration of the appeal period or within 4 days after receipt of the transcript for any hearing on appeal.

ESA anticipates that the Administrative Record Index and materials to be provided will be supplemented by the County to include documents in the County’s possession including, but not limited to, historical information in the County’s permit file for the Permanente Quarry and other items listed in Public Resources Code Section 21167.6(e).

Task 7 Deliverables

- Administrative Draft and Draft MMRP for inclusion in a Staff Report for County decision-makers
- Administrative Draft and Draft CEQA Findings and Statement of Overriding Considerations
- Notice of Determination
- Administrative record index (in Excel)
- Administrative record materials (in pdf or native format)

Task 7 Additional Assumptions

None – assumptions are as indicated above.

Task 8: Project Management

Information about the Project Management Team is provided in Section B(4), above. Of the management team members, Project Manager Janna Scott will be the County’s primary point of contact. Key project management responsibilities, from the initiation of formal kick-off meeting planning (Subtask 1.1) to submittal of Administrative Record materials, will include:

- Meeting and communications management
- Schedule management
- Budget management

- Subcontract oversight and management
- Quality control

Regular communication will be a key element of the success of the County's EIR process and the ESA team's project management approach. We anticipate scheduled coordination at established intervals between the County and ESA (Subtask 8.1); among the County, ESA and Lehigh (Subtask 8.2); between the County and Trustee, Responsible, and potentially affected federal agencies (Subtask 1.3); and with members of the community (Subtask 1.4).

8.1 County/ESA Coordination

Regular coordination keeps momentum. ESA has had great success with a formal schedule of regular coordination at times, durations, and intervals convenient to the Lead Agency's Project Manager. The time can be used effectively as a "flash meeting" to touch on critical path tasks and the status of items like pending requests, the schedule, or budget; or to take a deep-dive to progress a substantive question or issue. ESA's highest objective for these meetings is to be sure that the County's Project Manager has everything wanted or needed to address his internal clients (such as other County Planning staff or leadership) or external ones (such as community members). For purposes of the cost estimate, ESA assumes that up to two ESA team members would participate in weekly coordination calls, anticipated to be an average of 30 minutes each from contract execution through the decision-making process (anticipated to be no longer than 24 months). With timing to occur at the County's discretion, ESA's Project Manager also will be available for up to four in-person meetings at the Santa Clara County Department of Planning and Development. Additional meetings or calls could be accommodated subject to separate scope and budget.

8.2 County-Applicant Coordination

Regular coordination with the Applicant will keep the Project moving on schedule, ensure that the analysis reflects the most up-to-date information and avoid unwelcome surprises. ESA proposes to establish and facilitate formal County-Applicant coordination calls (up to an average of 30 minutes each) every other week until the Draft EIR is published, and that the interval for such calls be revisited thereafter. Two ESA team members would participate. ESA otherwise will communicate directly with Lehigh only as directed or permitted by the County and will keep the County involved in any such communications via invitations to participate, follow-up immediately after, and/or by copying the County on all written communications.

ESA will seek input as to discussion items, circulate agendas, and take notes of decision points for inclusion in the formal project file so that an Administrative Record readily can be compiled in the event of a legal challenge (Subtask 7.5). If a necessary information exchange could as readily be accomplished by email, a regularly-scheduled County-Applicant call could be cancelled to respect people's time.

8.3 Contract Administration

ESA will circulate the project schedule or milestones with County-Applicant coordination call agendas, at regular intervals, or when asked. Monthly written progress reports will be provided with invoices.

Task 8 Deliverables

- Meeting agendas and notes (if requested) for calls and in-person meetings
- Project schedule updates to be provided monthly
- Budget status updates to be provided monthly

D. Costs

The proposed work plan proposes eight separate tasks. The projected costs of each, inclusive of subconsultant teaming partners and direct costs, are summarized in **Table 1**. A detailed cost spreadsheet is provided in Exhibit A.

TABLE 1: SUMMARY OF COSTS BY TASK

Task 1, Project Initiation	\$20,713
Task 2, Preparation of Technical Studies	\$316,784
Task 3, Independent Review	\$69,520
Task 4, Scoping	\$39,502
Task 5, Draft EIR	\$342,723
Task 6, Final EIR	\$134,599
Task 7, Decision Support	\$42,224
Task 8, Project Management	\$157,160

E. Schedule

The proposed schedule would proceed from execution of the contract and the County's notification to ESA to begin work. Separate from the preparation of technical studies (Task 2), ESA proposes to prepare and deliver a Final EIR within 18 months after issuance of the NOP. A detailed schedule will be provided for discussion and agreement at the kick-off meeting (Task 1.1).

**Exhibit A: Cost Estimate for the Lehigh Permanente Quarry Reclamation Plan Amendment EIR
ESA Labor Detail and Expense Summary**

[illegible]

PROJECT TOTAL

Exhibit A: Cost Estimate for the Lehigh I ESA Labor Detail and Expense Summary

Employee Names																			
		J McNamara	E Hsiung	A Sims	T Witwer	M Hensel	J Sanders	J O'Dell	D Alexander	Sung-Jerecz	B Carroll	J Nichols		L Laxamana	R Teitel	L Sakai			
Labor Category																			
		Senior Associate I	Senior Associate I	Associate III	Associate III	Associate II	Associate II	Associate II	Associate I	Associate I	Associate I	Associate I	Subtotal	Project Technician III	Project Technician III	Project Technician II	Subtotal	Total Hours	Labor Price
Task #	Task Name/Description	\$ 150	\$ 150	\$ 135	\$ 135	\$ 125	\$ 125	\$ 125	\$ 105	\$ 105	\$ 105	\$ 105		\$ 120	\$ 120	\$ 100			
1.0	Project Initiation	0	0	0	0	0	0	25	0	7	0	0	\$ 28,380	0	0	0	\$ -	148.00	\$ 28,380
	Formal kick-off meeting							6		2			\$ 12,270				\$ -	62.00	\$ 12,270
	"All hands" County/Consultant Kick-off							3					\$ 1,575				\$ -	8.00	\$ 1,575
	Site visit									5			\$ 5,545				\$ -	28.00	\$ 5,545
	Agency engagement and coordination							16					\$ 7,470				\$ -	42.00	\$ 7,470
	AB 52 Consultation and Tribal Outreach												\$ 1,520				\$ -	8.00	\$ 1,520
2.0	Preparation of Technical Studies	50	90	124	48	0	26	0	20	0	0	0	\$ 209,680	6	14	4	\$ 2,800	1,179.00	\$ 212,480
2.1	Aesthetics Technical Study												\$ 2,000				\$ -	10.00	\$ 2,000
2.2	Air Quality and Greenhouse Gas Emissions Assessment		90		48								\$ 94,670	2	10		\$ 1,440	531.00	\$ 96,110
2.3	Biological Resources	50					26						\$ 22,030			4	\$ 400	134.00	\$ 22,430
2.4	Cultural Resources			124					20				\$ 43,420	2			\$ 240	266.00	\$ 43,660
2.5	Noise and Vibration Study												\$ 41,820	2	4		\$ 720	210.00	\$ 42,540
2.6	Transportation Impact Analysis												\$ 5,740				\$ -	28.00	\$ 5,740
3.0	Independent Review of Project-specific Materials	0	0	0	0	0	0	0	0	0	0	0	\$ 5,350	0	0	0	\$ -	25.00	\$ 5,350
	Geo/Hydro Studies provided by Lehigh												\$ 2,470				\$ -	13.00	\$ 2,470
	Two soils availability/feasibility studies												\$ 2,880				\$ -	12.00	\$ 2,880
4.0	Scoping	0	0	0	0	0	0	44	0	71	0	6	\$ 31,745	0	8	4	\$ 1,360	226.00	\$ 33,105
	NOP									4			\$ 1,780			4	\$ 400	16.00	\$ 2,180
	Resource Analyst Site Visit							8					\$ 4,040				\$ -	24.00	\$ 4,040
	Scoping Meeting									17			\$ 5,225		8		\$ 960	41.00	\$ 6,185
	Scoping Report							36		50		6	\$ 20,700				\$ -	145.00	\$ 20,700
5.0	Draft EIR	0	0	0	0	111	0	81	0	195	142	42	\$ 299,875	28	12	8	\$ 5,600	1,819.00	\$ 305,475
	Administrative Draft EIR					101		73		195	142	24	\$ 274,285	12	12		\$ 2,880	1,654.00	\$ 277,165
	Agency, Applicant Comments on ADEIR												\$ 12,200				\$ -	60.00	\$ 12,200
	Screen-check Draft EIR												\$ 7,160	10			\$ 1,200	44.00	\$ 8,360
	Public Notices					10							\$ 2,200	1			\$ 120	16.00	\$ 2,320
	Issue Draft EIR							8				18	\$ 4,030	5		8	\$ 1,400	45.00	\$ 5,430
6.0	Final EIR	0	0	0	0	0	0	26	0	0	46	18	\$ 102,340	12	0	8	\$ 2,240	547.00	\$ 104,580
	Public Comment Meeting												\$ 3,840				\$ -	16.00	\$ 3,840
	Responses to Comments Document										30	12	\$ 77,160	8			\$ 960	394.00	\$ 78,120
	Mitigation Monitoring and Reporting Program										16		\$ 4,060				\$ -	28.00	\$ 4,060
	Screen-check Final EIR							20					\$ 11,100	4			\$ 480	64.00	\$ 11,580
	Publish Final EIR							6				6	\$ 6,180			8	\$ 800	45.00	\$ 6,980
7.0	Decision Support	0	0	0	0	1	0	0	0	0	0	70	\$ 26,665	0	0	36	\$ 3,600	193.00	\$ 30,265
	CEQA Findings and Statement of Overriding Considerations												\$ 8,400			36	\$ 3,600	76.00	\$ 12,000
	Hearing Support												\$ 9,600				\$ -	40.00	\$ 9,600
	Notice of Determination					1							\$ 125				\$ -	1.00	\$ 125
	Administrative Record Support											70	\$ 8,540				\$ -	76.00	\$ 8,540
8.0	Project Management	0	0	0	0	0	0	0	0	0	0	0	\$ 107,040	0	0	0	\$ -	468.00	\$ 107,040
	County-ESA Coordination												\$ 79,020				\$ -	349.00	\$ 79,020
	County-Applicant Coordination												\$ 17,700				\$ -	71.00	\$ 17,700
	Contract administration												\$ 10,320				\$ -	48.00	\$ 10,320
													\$ -				\$ -	-	\$ -
													\$ -				\$ -	-	\$ -
													\$ -				\$ -	-	\$ -
Total Hours		50	90	124	48	112	26	176	20	273	188	136	811,075	46	34	60	15,600	4,605	826,675
Total Labor Costs		\$ 7,500	\$ 13,500	\$ 16,740	\$ 6,480	\$ 14,000	\$ 3,250	\$ 22,000	\$ 2,100	\$ 28,665	\$ 19,740	\$ 14,280	\$ 811,075	\$ 5,520	\$ 4,080	\$ 6,000	\$ 15,600		\$ 826,675
Percent of Effort - Labor Hours Only		1.1%	2.0%	2.7%	1.0%	2.4%	0.6%	3.8%	0.4%	5.9%	4.1%	3.0%	97.0%	1.0%	0.7%	1.3%	3.0%	100.0%	
Percent of Effort - Total Project Cost		0.7%	1.3%	1.6%	0.6%	1.3%	0.3%	2.0%	0.2%	2.7%	1.8%	1.3%		0.5%	0.4%	0.6%			76.6%

ESA Labor Cost		\$	826,675
Labor Cost Communication Fee	3%	\$	24,800
ESA Non-Labor Expenses			
Reimbursable Expenses	(see Attachment A for detail)	\$	8,787
ESA Equipment Usage	(see Attachment A for detail)	\$	4,400
Subtotal ESA Non-Labor Expenses		\$	13,187
Subconsultant Costs	(see Attachment B for detail)	\$	214,172

PROJECT TOTAL	\$ 1,078,834
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Attachment A
Cost Proposal: ESA Non-Labor Expenses Summary

Reimbursable Expenses

Project Supplies	\$	1,795
Printing/Reproduction	\$	2,635
Document and Map Reproductions (CD + Digital Photo)	\$	1,990
Postage and Deliveries	\$	722
Mileage	\$	1,645
Vehicle Rental	\$	-
Lodging	\$	-
Airfare	\$	-
Other Travel Related	\$	-
-	\$	-
-	\$	-
-	\$	-
Subtotal Reimbursable Expenses	\$	8,787
0% Fee on Reimbursable Expenses	\$	-
Total Reimbursable Expenses	\$	8,787

ESA Equipment Usage

General Equipment:

Company Vehicle Usage	\$	-
HP Plotter	\$	-
Computer Time (GIS)	\$	-
Trimble GPS	\$	-
Tablet GPS	\$	-
Laser level	\$	-
Garmin GPS or equivalent	\$	-
Laptop Computers	\$	-
LCD Projector	\$	-
Noise Meter	\$	4,400
Electrofischer	\$	-
Sample Pump	\$	-
Surveying Kit	\$	-
Total Station Set	\$	-
Field Traps	\$	-
Digital Planimeter	\$	-
Cameras/Video/Cell Phone	\$	-
Miscellaneous Small Equipment	\$	-
Stilling Well/Coring Pipe (3 inch aluminum)	\$	-

Hydrologic Data Collection, Water Current, Level and Wave Measurement Equipment:

Culvert Flow Meter	\$	-
Logging Rain Gage	\$	-
Marsh-McBirney Hand-Held Current Meter	\$	-
Logging Water Level Logging-Stainless Steel Pressure Transducer	\$	-
Logging Water Level -Titanium Pressure Transducer	\$	-
Logging Barometric Pressure Logger	\$	-
Well Probe	\$	-
Bottom-Mounted Tripod / Mooring	\$	-

Water Quality Equipment:

Logging Turbidimeter/Water Level Recorder	\$	-
Logging Temperature Probe	\$	-
Hach Hand-Held Turbidimeter Recording Conductivity Meter w/Datalogger	\$	-
Refractometer	\$	-
YSI Hand-Held Salinity Meter	\$	-
Hand-Held Conductivity/Dissolved Oxygen Probe	\$	-

Sedimentation / Geotechnical Equipment:

Peat Corer	\$	-
60lb Helly-Smith Bedload Sampler with Bridge Crane	\$	-
Suspended Sediment Sampler with Bridge Crane	\$	-
Vibra-core	\$	-
Shear Strength Vane	\$	-
Auger (brass core @ \$ 5/each)	\$	-

Boats:

14 foot Aluminum Boas with 15 HP Outboard Motor	\$	-
Single or Double Person Canoe	\$	-
17' Boston Whaler w/ 90 HP Outboard	\$	-

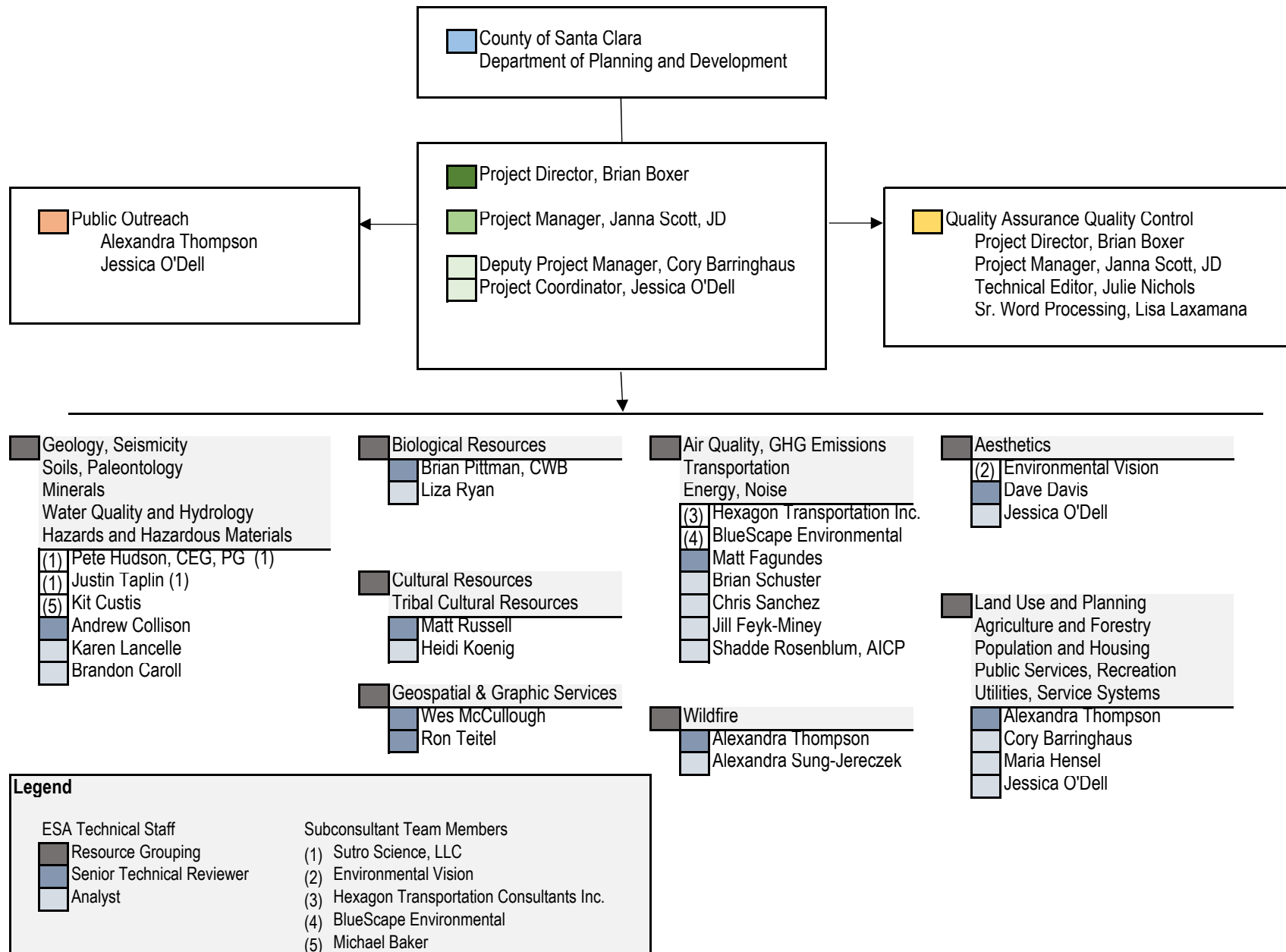
Total Equipment Usage Costs	\$	4,400
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Attachment B
Cost Proposal: Subconsultant Detail

Task Number / Description		Subconsultant Costs					
		Subconsultant 1 Sutro Science	Subconsultant 3 Environmental Vision	Subconsultant 4 BlueScape	Subconsultant 5 Hexagon	Subconsultant 6 Michael Baker	Total Subconsultant Project Cost
Insert Budget By Task							
1	Project Initiation	\$ 5,520	\$ 587	\$ 587	\$ 587	\$ 587	\$ 7,866
2	Preparation of Technical Studies		\$ 24,495	\$ 18,400	\$ 36,520		\$ 79,415
3	Independent Review of Project-specific Materials	\$ 22,770				\$ 4,560	\$ 27,330
4	Scoping	\$ 1,518					\$ 1,518
5	Draft EIR	\$ 24,288					\$ 24,288
6	Final EIR	\$ 18,975			\$ 1,886		\$ 20,861
7	Decision Support	\$ 7,590			\$ 2,358		\$ 9,948
8	Project Management	\$ 23,719				\$ 19,228	\$ 42,947
							\$ -
							\$ -
							\$ -
Subconsultant Total		\$ 104,380	\$ 25,082	\$ 18,987	\$ 41,350	\$ 24,375	\$ 214,172

Exhibit B: Organization Chart

Lehigh Permanete Quarry Reclamation Plan Amendment EIR



County of Santa Clara

Department of Planning and Development

County Government Center, East Wing, 7th Floor

70 West Hedding Street

San Jose, CA 95110

Phone: (408) 299-5700

www.sccplandev.org



MEMORANDUM

DATE: August 5, 2020

TO: Honorable Board of Supervisors

FROM: ^{DS}
 Jacqueline R. Onciano, Director, Dept. of Planning and Development

SUBJECT: Proposal to evaluate the consistency of proposed surface mining activities at Lehigh Permanente Quarry with vested rights
File No. PLN19-0106;
Location: 24001 Stevens Creek Boulevard, Cupertino, CA 95014

This memo is intended to inform the Board of Supervisors of the proposed expansion in surface mining activities at Lehigh Permanente Quarry ("Quarry"), and the Department of Planning and Development's ("Department") proposal that the Board determine whether certain of these proposed activities fall within the scope of Lehigh's vested rights to conduct surface mining operations.

Project Background

Lehigh Permanente Quarry is a 3,510-acre limestone and aggregate surface mining operation located at 24001 Stevens Creek Boulevard in rural unincorporated Santa Clara County, with a portion extending inside City of Cupertino jurisdiction. The Quarry is owned and operated by Lehigh Southwest Cement Company and Hanson Permanent Cement, Inc. (collectively, "Lehigh").

On March 1, 2011, the County of Santa Clara Board of Supervisors ("Board") determined that Lehigh holds the vested right to conduct quarry surface mining operations on 13 of its parcels identified by the Board, referred to as the "Vested Parcels." The 2011 Resolution (Attachment A) adopted by the Board stated that "[q]uarry surface mining operations on the Vested Parcels are a legal non-conforming use, and do not require a County use permit for continued surface mining operations within the geographic area bounded by the Vested Parcels." The Vested Parcels, identified in Attachment B, consist of parcels that include the North Quarry Pit, two

overburden disposal areas (the West Materials Storage Area [WMSA] and East Materials Storage Area [EMSA]), and the access roads within the mine operation.

In June, 2012, the Board approved the operative amended Reclamation Plan (“2012 Reclamation Plan”) for the Quarry. The 2012 Reclamation Plan governs restoration of the Quarry over a 20-year period following the conclusion of surface mining activities, in accordance with the Surface Mining and Reclamation Act (SMARA).

On May 22, 2019, Lehigh submitted to the County an application to amend the 2012 Reclamation Plan. This Reclamation Plan Amendment (“2019 Reclamation Plan”) contemplates a significant expansion of surface mining and related activities within the Vested Parcels. Specifically, as shown in Attachment C, the 2019 Reclamation Plan contemplates the following new surface mining and related activities: (1) expanded excavation and layback of the north highwall of the North Quarry Pit; (2) expanded surface mining in the new 30-acre Rock Plant Reserve Area, south of the North Quarry Pit; (3) reactivation and use of the Quarry’s existing rock crusher; and (4) hauling of unprocessed aggregate to the adjacent Stevens Creek Quarry via an internal haul road. The expanded surface mining activities would increase total mining production by approximately 600,000 tons per year relative to the annual mining production under the 2012 Reclamation Plan. The 2019 Reclamation Plan application proposes activities to reclaim these expanded surface mining operations, including importation of 20 million cubic yards of clean fill to backfill the North Quarry Pit for reclamation and retention of overburden and mine waste stored on-site at the West Material Storage Area. Lehigh’s application also requests modification of an existing Scenic Easement held by the County that protects a ridgeline adjacent to the North Quarry pit.

Recommendation for Vested Rights Consistency Determination

Under SMARA and the County Zoning Ordinance, Lehigh must either hold a vested right or obtain a use permit to conduct surface mining operations. As discussed above, the Board’s 2011 vested rights determination conclusively determined that Lehigh holds the vested right to conduct quarry surface mining operations on the Vested Parcels. But because the 2011 vested rights determination focused on the *geographic extent* of Lehigh’s vested right, it did not delineate the *substantive scope* of that right—that is, precisely which surface mining and related activities are consistent with the vested right.

A vested right confers an entitlement to continue the overall business operation that existed prior to the vesting date (here, 1948). (*Hansen Brothers Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal.4th 533, 565-66.) A substantial change to the operation may exceed the scope of the vested right. (*Id.* at 575; County Zoning

Ordinance, § 4.10.370(II)(B)(1).) So too, while a gradual and natural increase in a lawful, nonconforming use of a property is within the scope of a vested right, a sudden intensification in use that substantially exceeds production in recent years may also exceed the scope of the vested right. (*Hansen*, 12 Cal.4th at 572-73.)

Certain of the expanded surface mining activities set forth in the 2019 Reclamation Plan application are different in nature or intensity than those occurring under the 2012 Reclamation Plan. Specifically, Lehigh's plan to sell unprocessed greenstone offsite and physically export the unprocessed commodity via an internal haul road is a departure from its current practice. In addition, the expansion of mining in the North Quarry Pit and into the new Rock Plant Reserve Area is expected to intensify production at the site. These or other activities could exceed the scope of Lehigh's Vested Right if they were determined to constitute a substantial change in its vested operation and thus require a use permit.

Process and Timing for Evaluating Vested Rights

In 2011, the Board conducted an evidentiary hearing to determine the geographic extent of legal non-conforming surface mining operations at Lehigh Permanente Quarry. Whether there is a substantial change in operations is similarly a question of fact, which should generally be determined in a noticed public hearing. While not all changes in surface mining activities will require an evidentiary hearing, a hearing is recommended for those that may constitute a significant change in operations and therefore be inconsistent with Lehigh's vested right. Because it is settled that Lehigh has a vested right to conduct surface mining on the Vested Parcels, such a hearing would focus solely on whether the proposed activities are consistent with that vested right such that they may occur without a use permit.

Although the Board may consider all proposed surface mining activities under the 2019 Reclamation Plan in such an evidentiary hearing, the Department recommends based on its review of the application that a public hearing occur solely for: (1) the proposed off-site sale of unprocessed greenstone and physical export of the commodity and (2) the proposed increase in production volume associated with the opening of the new Rock Plant Quarry Area.

The 2019 Reclamation Plan application was deemed complete by the Department on November 8, 2019, and the Department is finalizing a scope of work with a consultant to prepare an Environmental Impact Report (EIR) for the application. Once the EIR process has been completed, the Planning Commission and Board would consider the proposed 2019 Reclamation Plan application and modification of the Scenic Easement. The Department requests that the Board conduct an evidentiary hearing in conjunction

with its hearing on the 2019 Reclamation Plan application to determine if the proposed offsite sale of unprocessed aggregate and intensification in production are consistent with Lehigh's vested right to conduct surface mining operations at the Quarry. Conducting the evidentiary hearing at that time would allow the Board to evaluate the totality of the proposed actions within one series of hearings and would facilitate efficient processing of Lehigh's application.

In general, the environmental review of a reclamation plan takes into account only the proposed reclamation activities, rather than underlying mining activities. But if underlying mining activities require a use permit, the impacts of those activities will need to be analyzed as part of the California Environmental Quality Act (CEQA) review of the use permit. To allow for efficient processing and ensure that the entire project is subject to environmental review, the Department has requested that the EIR for the 2019 Reclamation Plan include an environmental impact analysis of the activities associated with the export of unprocessed greenstone and the intensification in production. This will ensure that the EIR is comprehensive and would not require recirculation, in the event that the Board were to determine at the proposed evidentiary hearing that either or both of these activities are not consistent with Lehigh's vested right and thus require a use permit. The subject EIR would then be used in the processing of this use permit.

cc: Megan Doyle, bosagenda@cob.sccgov.org

Attachments:

Attachment A - Board Resolution Regarding Vested Rights at Lehigh
Attachment B - Existing Vested Parcels
Attachment C - Proposed Reclamation Plan Amendment Map

RESOLUTION NO. _____

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA FINDING THAT THERE IS A LEGAL NON-CONFORMING USE FOR SURFACE MINING ACTIVITIES ON CERTAIN PARCELS COMPRISING THE PERMANENTE QUARRY AND ADDRESSING RELATED MATTERS

WHEREAS, Lehigh Southwest Cement Company operates, and Hanson Permanente Cement Inc. ("Lehigh") owns the Permanente Quarry ("Quarry"), a limestone and aggregate mining operation located two miles west of the City of Cupertino;

WHEREAS, the County of Santa Clara is the lead agency for surface mining operations within the County under California's Surface Mining and Reclamation Act (Pub. Resources Code § 2710 *et seq.* ("SMARA"));

WHEREAS, the County has land use authority over all unincorporated areas within the County, including the property on which the Quarry operates;

WHEREAS, the County approved the existing reclamation plan for the Quarry in March 1985, and Lehigh has filed with the Department of Planning and Development two applications to amend the Quarry's reclamation plan to include, respectively, an approximately 89-acre area known as the East Materials Storage Area ("EMSA"), and the remaining acreage forming the balance of mining operations within Lehigh's property over approximately the next 20 years (known collectively as the "Reclamation Plan Amendment");

WHEREAS, the County has never required a use permit for the Quarry, and has historically considered the Quarry to operate as a legal non-conforming use (also referred to as a "vested" use), although the County has not previously made a specific determination concerning the geographic extent of the Quarry's vested rights;

WHEREAS, the County has found it necessary to define the Quarry's vested rights in order to guide the Department of Planning and Development's processing of the Reclamation Plan Amendment, and therefore duly noticed a public hearing to consider the question of the geographic extent of the Quarry's vested rights, which requires examinations into the history of the use of Quarry parcels, the objective intent of the owners of parcels that the Quarry now owns with regard to the extension of mining operations to property that was not subject to mining operations prior to the vesting date when the Quarry was first subject to County land use restrictions, the adoption and amendment of the County Zoning Ordinance restricting the ability to mine property without obtaining applicable permits, and the history of Permanente Road, which formerly ran through the area that is now the Quarry;

WHEREAS, County staff, the public, and Lehigh provided documentary, photographic and historical evidence pertaining to the extent of the vested mining use at the Quarry, as well as legal authorities bearing on the analysis of vested rights;

WHEREAS, on February 8, 2011, the Board conducted a duly-noticed public hearing and considered the evidence presented on the question of vested rights, including substantial public testimony and written commentary, and all persons wishing to testify were heard and the matter was fully considered;

WHEREAS, all of the findings and conclusions made by the Board pursuant to this Resolution are based upon substantial evidence in the entire record before the Board, including all written evidence presented prior to the hearing and additional written and oral evidence presented during the hearing, and reflect the independent judgment of the Board;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Santa Clara, State of California, that the Board of Supervisors finds and determines all of the following based on substantial evidence in the record:

1. That because Permanente Road no longer functioned as a public street as of approximately 1935, the requirement for a Use Permit for quarrying activities within 1,000 feet of a public road in the 1937 County Zoning Ordinance does not apply.
2. That the County Zoning Ordinance first required a use permit for quarrying in the "A-1" district in January 1948.
3. That the area within the boundaries of the 1985 reclamation plan amendment is not relevant to determining the geographic extent of the Quarry's legal nonconforming use.
4. That the Board has determined, on the basis of substantial evidence in the record and controlling legal authority, that vested rights exist over the entirety of parcels 1, 2, 3, 5, 6, 7, 8, 9, 11, 14, 15, 16, and 17, as shown on Exhibit 45 attached hereto ("Vested Parcels"), and that vested rights do not exist over parcels 4, 10, 12, 13, 18 and 19. Quarry surface mining operations on the Vested Parcels are a legal non-conforming use, and do not require a County use permit for continued surface mining operations within the geographic area bounded by the Vested Parcels.
5. That the Quarry must apply for a Use Permit for all of the property within the boundaries of its reclamation plan amendments that is outside the geographic extent of its legal nonconforming use as determined by the Board and that will be disturbed by surface mining operations, except for property utilized for cement production and subject to a separate use permit therefor.
6. That the owners of the Quarry property, Heidelberg Cement, Incorporated and Hanson Permanente Cement, Incorporated, shall apply to the County for a formal abandonment of Permanente Road.
7. That, in making the determinations set forth herein, the Board analyzed and considered all written, photographic, and other documents submitted for the record, including but not limited to the County's Final Staff Report, dated January 27, 2011, and all appendices and exhibits thereto ("Staff Report") and staff's oral and graphic presentation to the Board on

February 8, 2011; all communications submitted by Lehigh, including its submittals, with all attachments, of November 5, 2010, January 4, 2011, February 2, 2011, and February 7, 2011 and its oral and graphic presentation to the Board on February 8, 2011; all communications submitted by members of the public, including all letters submitted prior to the hearing and all oral testimony and statements made during the duly-noticed public hearing held on February 8, 2011.

8. That these determinations are supported by the following findings and evidence:

a. The legal standards governing the existence and scope of vested mining rights are articulated in the California Supreme Court case *Hansen Bros. Enterprises v. Board of Supervisors of Nevada County* (1996) 12 Cal.4th 533 ("*Hansen Bros.*") and authorities cited therein, as well as in other cases and provisions in SMARA and the County Surface Mining and Land Reclamation Standards. Under these authorities, vested mining rights exist where property was used for "surface mining operations" (as that term is defined in SMARA and County regulations) or for which the owner had objectively manifested the intent to use the property for surface mining operations prior to the vesting date.

b. According to County Staff, January 1948 is the earliest date that surface mining operations at the Permanente Quarry required a use permit under the applicable zoning regulations beyond 1,000 from a public street, which represents the "Vesting Date." Lehigh has submitted evidence and analysis that the Vesting Date should be 1960. The Board finds that the December 29, 1947 Zoning Ordinance amendment imposed the first requirement for obtaining a use permit for mining operations in the Quarry area and that January 28, 1948 was the Vesting Date for the property on which the Quarry operates today. (See Staff Report, pp. 8-11 and Exhibits 4-10.) The Board's determination as to the Vested Parcels remains the same under either a 1948 or 1960 vesting date.

c. Mining operations commenced at the Permanente Quarry in approximately 1903. By 1930, Lehigh's predecessors incorporated the core Quarry property into a 1,300-acre mining tract that supported limestone quarry operations. (See Staff Report, p. 11 and Exhibits 10, 15, 44 and 45; Lehigh's January 4, 2011 letter, p. 7, Appendix A, B-1; February 2, 2011 letter, Exhibit B.)

d. In or around 1935, no public access was allowed on Permanente Road. County records do not evidence any action by the Board to vacate Permanente Road, but show that at a public hearing in 1935, the County Surveyor advised the Board that a gate that had been erected across Permanente Road "was not across a county road." As of 1935, Permanente Road was not a "public street" as that term was defined in the County 1937 Zoning Ordinance because the road was no longer a public thoroughfare that afforded the principal means of access to abutting property. Because surface mining operations commenced on the Quarry property prior to 1937 and because the portion of Permanente Road running through the Quarry property was not a "public street" as of 1937, no part of the Quarry required a use permit under the County's 1937 Zoning Ordinance by virtue of its proximity to Permanente Road. (See Staff Report pp. 21-22; Exhibits 4, 21 and 43; Lehigh's January 4, 2011 letter, pp. 29-31, Appendix B; Lehigh's February 2, 2011 letter, Exhibit E.)

e. On July 10, 1939, the Henry J. Kaiser Company and/or affiliated entities (hereinafter "Kaiser") purchased the 1,300-acre Quarry property from the Santa Clara Holding Company. Beginning in 1941, Kaiser acquired several contiguous parcels. As shown on Exhibit 45 to the Staff Report, parcels acquired beginning in 1941 but prior to the Vesting Date include parcels 8 (1941); 2, 5, 14, 15, and 17 (1942); and 11 (1943). (See Staff Report Exhibits 44 and 45; Lehigh's November 5, 2010 letter, p. 2, Exhibit 3; Lehigh's January 4, 2011 letter, pp. 8-11, Appendix A-3; Lehigh's February 2, 2011 letter, Exhibit B; Lehigh's oral and graphic presentation at the February 8, 2011 hearing.)

f. Kaiser conducted surface mining operations, or showed the objective intent to conduct surface mining operations on the Vested Parcels. The scale of Quarry operations, ownership of the Vested Parcels prior to the Vesting Date, actual land disturbance over a portion of the Vested Parcels, evidence of progressive expansion, exploratory activities, and mineral analysis, show objective intent to use all of the Vested Parcels for surface mining operations, in their entirety. (See Staff Report, Exhibits 1, 10, 11, 12, 13, 14, 15, 16, 21, 22, 37, 38, 44, 63; Lehigh's November 5, 2010 letter, Exhibits 1-15; Lehigh's January 4, 2011 letter, Appendix A, B, C, D, E, F; Lehigh's February 2, 2011 letter, Appendix B, C, D; Lehigh's February 7, 2011 letter and attached Exhibits (declarations and letters); Lehigh's oral and graphic presentation to the Board of Supervisors at the February 8, 2011 hearing.)

g. As respects the EMSA (comprising a portion of Vested Parcels 16 and 17) the area was used for surface mining operations both before and after the Vesting Date. Evidence in the record, including photographs and expert analysis of the area from 1939 forward, show that the area was used for the main Quarry access road, internal haul and access roads, administrative facilities, and materials storage used in connection with Quarry operations prior to the Vesting Date and continuing thereafter. Parcels 16 and 17 were also used for other components of site operations, including cement production and metals production. This fact does not affect the vested status of the area. This area was integral to overall operations, including Quarry operations. Transfer of title from Kaiser Cement to Kaiser Metals did not constitute an abandonment of surface mining use or otherwise affect the vested mining rights. Such rights run with the land. (See Staff Report, Exhibits 1, 10, 11, 12, 13, 14, 15, 16, 21, 22, 37, 38, 44, 63; Lehigh's November 5, 2010 letter, Exhibits 1-15; Lehigh's January 4, 2011 letter, Appendix A,

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B, C, D, E, F; Lehigh's February 2, 2011 letter, Appendix B, C, D; Lehigh's February 7, 2011 letter and attached Exhibits (declarations and letters); Lehigh's oral and graphic presentation to the Board of Supervisors at the February 8, 2011 hearing.)

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on _____, 2011, by the following vote:

AYES:

NOES:

ABSENT:

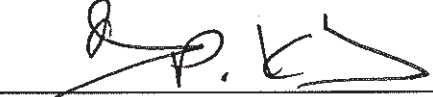
ABSTAIN:

DAVE CORTESE, President
Board of Supervisors

ATTEST:

MARIA MARINOS, Clerk of the Board of Supervisors

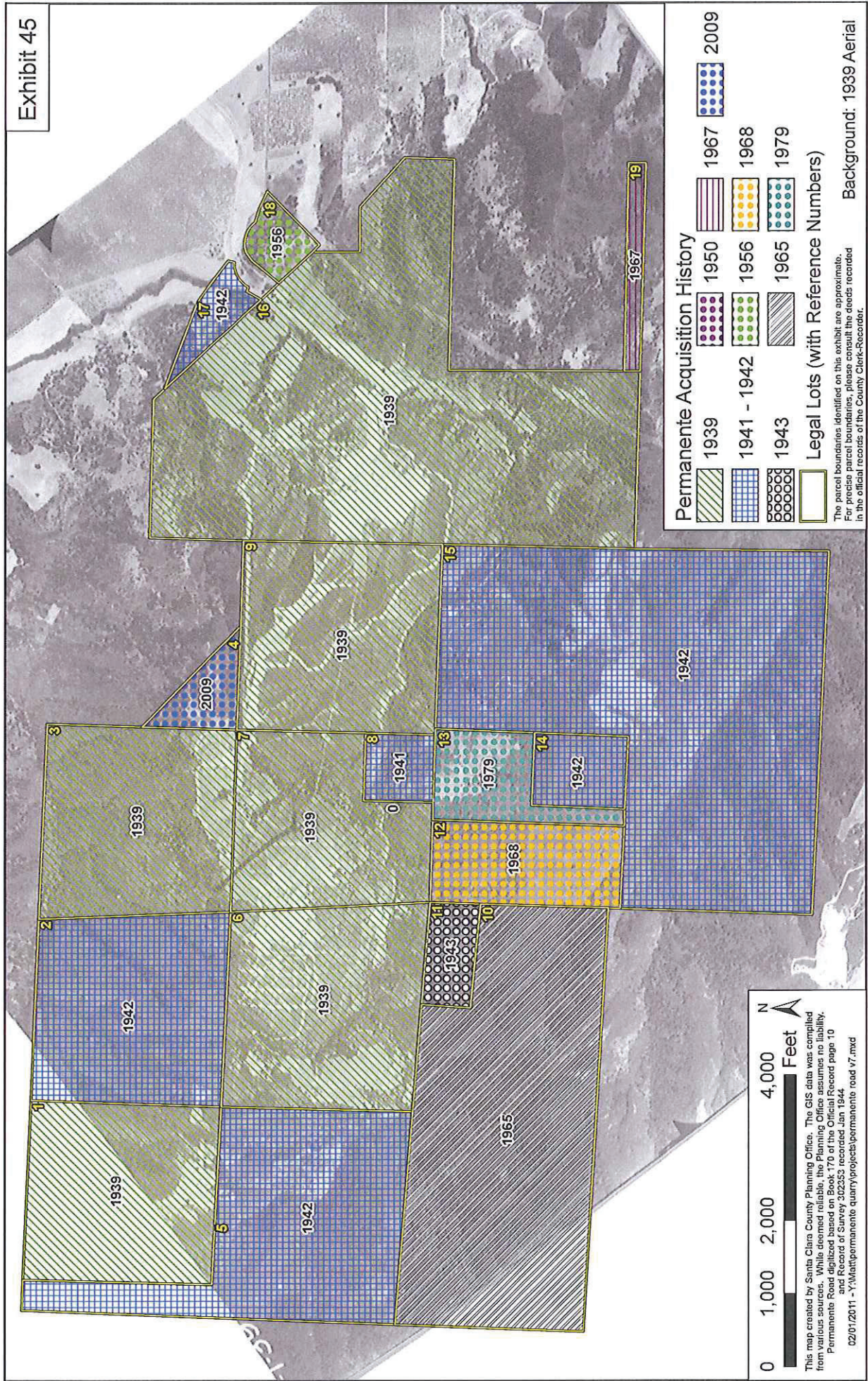
APPROVED AS TO FORM AND LEGALITY:

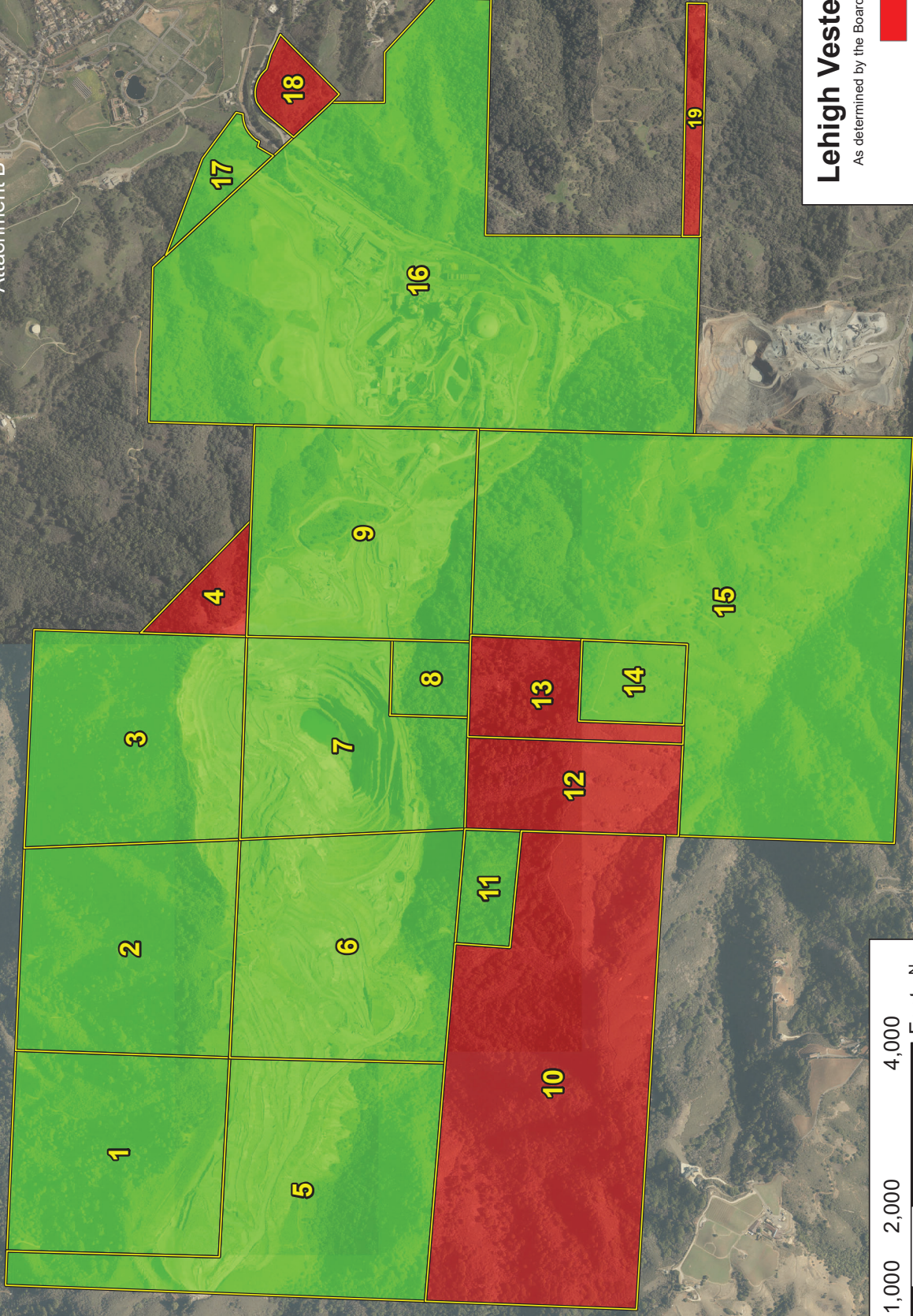


ORRY P. KORB, Assistant County Counsel

Exhibits to this Resolution:

45 – Map of Parcels



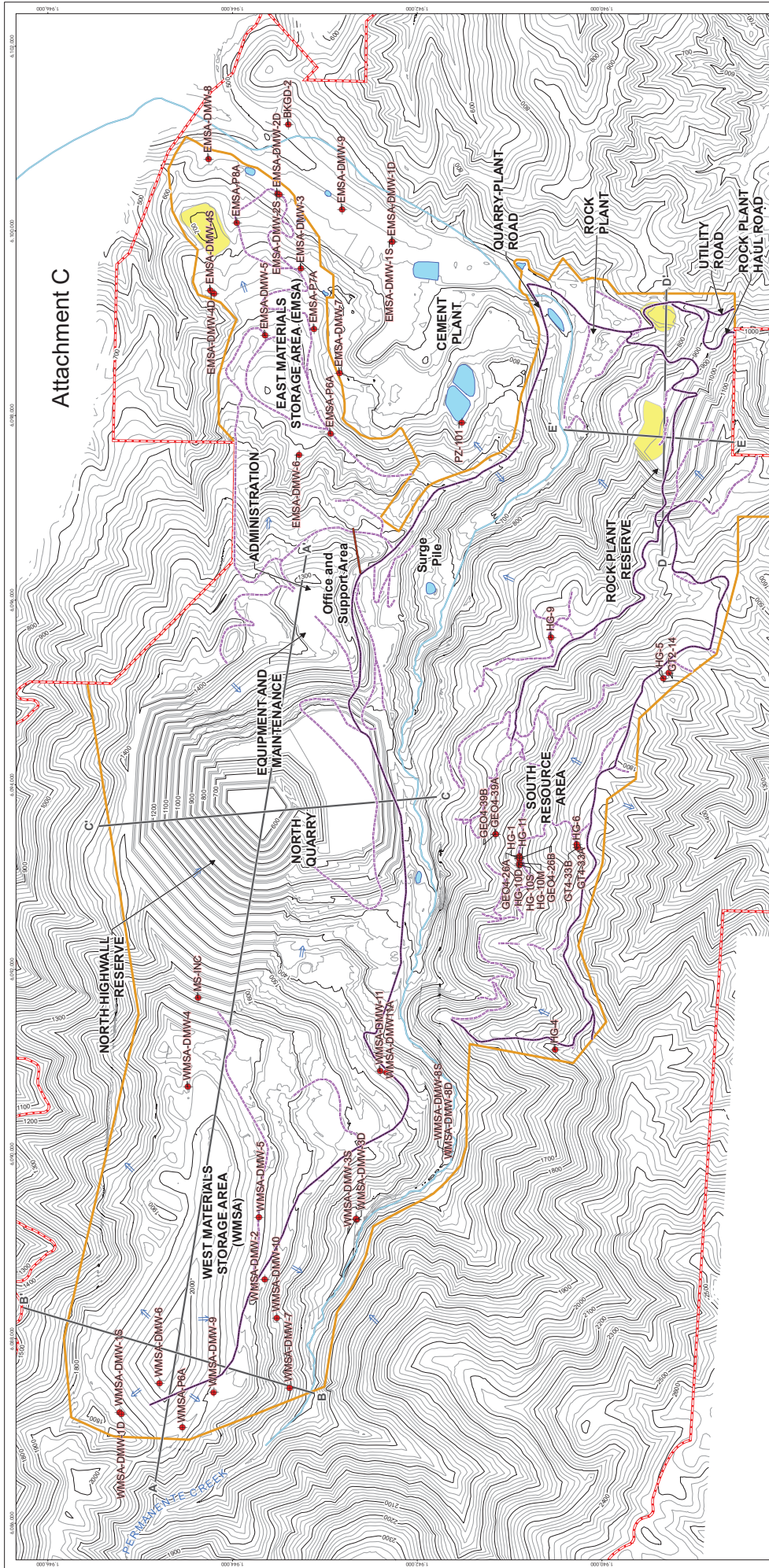


Lehigh Vested Rights Map

As determined by the Board of Supervisors on Feb. 8, 2011



The parcel boundaries identified on this exhibit are approximate. For precise parcel boundaries, please consult the deeds recorded in the official records of the County Clerk-Recorder.



Attachment C

¡puede!

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Notes

1. Coordinate System: NAD 1983 StatePlane California III FIPS 5403 Feet
2. Background Pattern: S - Extent of Mining Topography
3. Ranges: Access roads, and primary travel routes vary in location and size throughout mine progression
4. The planned surface disturbance boundary and mining depth are shown; however, the actual surface disturbance boundary and mining depth are not indicated and are reclaimed well within the limits of the reclamation plan boundaries. Facilities and configurations within this boundary are approximate. All acreages are approximate and are intended to give a general impression of the size of the area. The area is subject to natural mined conditions and will affect various planning land criteria.
5. Active slopes may be steeper and have different bench intervals than final reclaimed conditions.
6. Topsoil locations may vary.

Nelson Karamana



0100 00 0000

1,000 2,000 Feet
(At original document size of 24x36)
1:6,000

Disclaimer: This document has been prepared based on information provided by others as cited in the Notes section. Statco has not verified the accuracy and/or completeness of this information and shall not be responsible for any errors or omissions which may be incorporated herein as a result. Statco assumes no responsibility for data supplied in electronic format, and the recipients of the data shall be responsible for verifying the accuracy and completeness of the data.



Project Location	Review
T07S, R02W Santa Clara County, CA	Prepared by CBB on 2019-02-21 Final Review by PK on 2019-05-20

Client/Project
High Southwest Cement Company

Lehigh Southwest Cement Company Permanente Quarry Reclamation Plan Amendment

Figure No.

Sheet 2

Title	Mine Plan