FINAL CONDITIONS OF APPROVAL

Approved by Planning Commission, June 7, 2012 and modified by the Board of Supervisors on June 26, 2012

(ATTACHMENT TO THE RESOLUTION, EXHIBIT 1)

MEETING DATE: June 7, 2012

FILE NUMBER 2250-13-66-10P-10EIR (M1)

NAME (Mine Operator): Hanson Permanente Cement, Inc. (Lehigh Southwest Cement)

PROJECT DESCRIPTION:

Reclamation Plan Amendment (RPA) for Lehigh Permanente Quarry, located at 24001 Stevens Creek Boulevard, in unincorporated Santa Clara County. The RPA amends and supersedes the previously approved 1985 Permanente Quarry Reclamation Plan for a 20-year period to satisfy the reclamation requirements of the Surface Mining and Reclamation Act of 1975. The RPA encompasses 1,238.7 acres within the Mine Operator's 3,510-acre ownership. The reclamation activities will be implemented in three phases over an estimated 20-year period. Phase I is approximately nine years, and involves reclamation activities in the EMSA and continuation of existing mining activities in the WMSA and Quarry Pit. Phase II is approximately five years, and includes reclamation activities within the WMSA and Quarry Pit. During Phase II, the WMSA overburden stockpile will be moved via a conveyor system to use as backfill of the Quarry Pit. The EMSA will be reclaimed during Phase II or sooner. Phase III is approximately 5 years, and involves removing the equipment, buildings and unnecessary roads from the Project area. Reclamation activities in the Permanente Creek Reclamation Area will occur during all three phases described above.

The conditions of approval of the RPA are not intended by the Planning Commission to prevent or interfere with more stringent requirements that have or may be imposed by the RWQCB or any other agency or court. Nothing in these conditions alters or has any limiting effect on the jurisdiction of any other agency, including the Regional Water Quality Control Board and the California Air Resources Board.

APPLICATION APPROVED SUBJECT TO CONDITIONS STATED BELOW BASED ON PLANS AS SUBMITTED.

GENERAL REQUIREMENTS:

1. The conditions of approval contained herein shall supersede and replace all previous conditions of approval from the 1985 Reclamation Plan approval.

2. All development, operations, and reclamation that occur under this RPA shall be consistent with the approved plans, unless modified per these conditions. The approved plans include maps, drawings, tables, and a narrative description within the RPA prepared by EnviroMINE Incorporated, including Attachments A through J, dated December 13, 2011 and received by the County on December 15, 2011. Plans also include engineered drawings prepared by Chang Consultants, dated December 12, 2011 (appended to the RPA), and Reclamation Water Quality prepared by Strategic Engineering & Science, Inc., dated December 2011 (RPA, Attachment G), and replacement Sheet 7 of 13 for Basin 40A by Chang Consultants, received by the County on March 13, 2012.

3. Within 60 days of approval of the RPA, Mine Operator shall submit six (6) copies plus one electronic copy of a "Final" RPA, incorporating changes required per the conditions of approval for the RPA, Mitigation Monitoring and Reporting Program, and Final Environmental Impact Report.

4. Within 60 days following approval of the RPA, the Mine Operator shall submit to the Planning Manager or the Manager's designee (hereinafter referred to as Planning Manager), legal descriptions for all affected parcels of real property. Pursuant to Section 2772.7 of the Public Resources Code, specifically referred to as SMARA, the County will record a Notice of Reclamation Plan Approval with the County Recorder's Office covering those parcels affected by the approved RPA. The notice shall read: *"Mining Operations conducted on the hereinafter described real property are subject to a RPA approval by the County of Santa Clara Planning Commission. A copy of said approved RPA is on file with the Department of Planning and Development, located the Santa Clara County Government Center, East Wing, 7th Floor, 70 W. Hedding Street, San Jose, CA 95110."* The Mine Operator shall be responsible for all the reasonable costs associated with recording said notice.

5. If reclamation is not complete on or before June 30, 2032, the Mine Operator shall file an application for an amendment to the reclamation plan prior to that date.

6. The proposed end use following reclamation is hillside open space.

7. The Mine Operator shall be responsible for paying all reasonable costs associated with work by the Department of Planning and Development, or with work conducted under the supervision of the Department of Planning and Development, in conjunction with, or in any way related to the conditions of approval identified in this RPA, the mitigations contained in the Mitigation Monitoring and Reporting Program, and the annual SMARA inspections and annual review of financial assurance cost estimates. This includes but is not limited to costs for staff time, attorney's fees, consultant fees, and direct costs associated with report production and distribution.

8. An Annual Report shall be prepared by the County each year that summarizes compliance with the RPA and conditions of approval, Mitigation Monitoring and

Reporting Program, and annual SMARA inspections and review of financial assurance cost estimates.

a. Annual Report shall be presented to the Planning Commission at a public meeting by December of each year, starting in 2013.

b. Mine Operator shall provide a reasonable amount of funding to the Department of Planning and Development for all aspects of report preparation, including but not limited to reimbursement for staff time, consultant fees, attorney's fees, and direct costs associated with report production and distribution.

c. Mine Operator shall provide by October 1 of each year, the information requested by the Planning Manager that is needed for the preparation of the Annual Report.

d. The County will include information provided by the Regional Water Quality Control Board related to the Water Board's determination regarding the Mine Operator's compliance with water quality standards, including waste load allocation and other permitting requirements, and the effectiveness of best management practices (BMPs) on the site.

9. If at any time the Planning Manager determines that the Quarry is not in compliance with the RPA, Mitigation Monitoring and Reporting Program, or any condition of approval, and as such is in violation of the RPA, the Director may take any and all actions necessary to ensure compliance with the Plan in accordance with applicable laws and regulations.

10. Copies of the RPA Mitigation Monitoring and Reporting Program, approved plans, conditions of approval shall be maintained at the premises of the Permanente Quarry, 24001 Stevens Creek Boulevard, at all times: one copy of all the documents shall be stored in the administration building at this location and one copy of all the documents shall be stored in the mine operations office.

11. By October 1 of each year, starting in 2012, the Mine Operator shall provide to the Planning Manager a report summarizing the date of the annual training, topics reviewed, and list of all employees attending the training. The Mine Operator shall annually train all mining staff, including outside vendors, contractors, or consultants who are responsible for implementation of any part of the mine operations or reclamation at Permanente Quarry, on the requirements and provisions of the RPA, the conditions of approval, and the MMRP.

12. Within 60 days following approval of the RPA, the Mine Operator shall submit to the Planning Manager a copy of its Storm Water Pollution Prevention Plan (SWPPP) of the approved RPA, which is hereby appended to the RPA by reference. The Mine Operator is responsible for providing the Department of Planning and Development with any and all updates to the SWPPP.

13. All mitigation measures contained within the Mitigation Monitoring and Reporting Program (MMRP) prepared for the project are adopted as conditions of approval and noted as such. The language contained within the MMRP shall be the guiding language for implementation of the condition or measure unless as modified within these conditions of approval.

14. By August 1st of each year, or as required by the Santa Clara County SMARA Inspection Program, the Mine Operator shall submit annually Financial Assurance Cost Estimates (FACE) to the Planning Manager for review and approval, which shall serve as the basis for the amount of financial assurances required of the Mine Operator, account for disturbed and those lands to be disturbed in the following year by the surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved RPA. Cost estimates shall utilize the most up to date cost figures for the San Francisco Bay Area and shall include appropriate costs for all materials to be utilized, labor rates, and equipment rates utilized in calculating the FACE. Upon approval of the FACE by the County and review by the State Office of Mine Reclamation (OMR), the Mine Operator shall post an acceptable Financial Assurance mechanism with the Department of Planning and Development prior to commencing any disturbance in areas not previously disturbed by the mining operation.

OTHER AGENCIES/JURISDICTIONS

15. Copies of all violations or abatement notices, requests for reports or information related to this RPA and its authorized uses by federal, state, or local jurisdictions/agencies, or subsequent modification of another agency's permit or submission of an application for any permit to another agency shall be provided to the Planning Manager within 10 business days of the County's request.

SEVERABILITY

16. If any of the RPA conditions of approval, or RPA approval, are held to be invalid, that holding shall not invalidate any of the remaining conditions or limitations set forth.

17. If any condition(s) of approval is invalidated by a court of law, and said invalidation would change the findings and/or mitigation measures associated with the approval of this RPA, the amendment may be reviewed, at the discretion of the Planning Commission, and substitute feasible condition(s)/mitigation measures may be imposed to adequately address the subject matter of the invalidated condition(s).

DUTY TO DEFEND AND INDEMNIFY

18. As a condition of RPA approval, including adjustment, modification or renewal, the Mine Operator agrees to:

    a. Defend, at the Mine Operator's sole expense, any action brought against the County by a third party challenging either its decision to approve the RPA or the manner in which the County is interpreting or enforcing the conditions of the RPA; and

    b. Indemnify the County against any settlements, awards, or judgments, including attorney's fees, arising out of or resulting from any such action.

19. Upon demand from the County, the Mine Operator shall reimburse the County for any court costs and or attorney's fees which the County may be required by a court to pay as a result of any such action the Mine Operator defended or which it had control of the defense. The County may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the Mine Operator of its obligations under this condition.

20. The Mine Operator agrees to defend, indemnify and hold harmless the County, its agents, officers and employees, from any claim, action or proceeding against the County, to challenge any portions of the EIR certification, reclamation plan process or approval. In addition to damages, indemnification includes reimbursing the County for staff and consultant cost, and attorney's fees (including claims for private Attorney General fees).

21. Neither the approval of the RPA or compliance with conditions of approval shall relieve the Mine Operator from any responsibility otherwise imposed by law for damage to persons or property, nor shall the issuance of any RPA or related permit serve to impose any liability upon the County of Santa Clara, its officers, employees or agents for injury or damage to persons or property.

RECLAMATION REQUIREMENTS

22. Within 60 days of RPA approval, the RPA limit of disturbed area surrounding the northern and eastern edges of the EMSA, the northern and western edges of the WMSA, and the perimeter of the Rock Plant area shall be clearly demarcated in the field and shall remain in place until final reclamation has been completed. On an annual basis, demarcation shall be modified to encompass the RPA boundaries nearest the areas subject to surface mining and reclamation, as shown on aerials submitted per Condition #23. Demarcated areas shall be located and marked in the field by a licensed land surveyor or registered civil engineer authorized to practice land surveying. Demarcation shall use orange construction fencing or other brightly colored material acceptable to the Planning Manager.

23. At the same time as the proposed Annual Report each year, the operator shall submit to the Planning Manager a surveyed coordinate list file obtained by Global Positioning System (GPS), prepared by a licensed land surveyor or registered civil engineer authorized to practice land surveying, to be reviewed and approved by

the County Surveyor, identifying the limits of reclamation, with aerial photographs of the RPA area, annotated to illustrate (a) where surface mining and reclamation activity occurred within the prior 24 months and (b) areas where mining and reclamation activities will occur in the next 24 months. Existing topographic data shall be included with the aerial photographs, and the operator shall provide projected topographic data demonstrate how the topography will look two years later. The aerial photographs must be flown and taken biennually between June 1 and June 30 starting with June 2013. If requested by the Planning Manager or Planning Commission the materials shall be in a readable scale.

24. Reclamation of finished slopes and benches shall commence at the earliest feasible date once the slopes and benches are established, as set forth in the RPA.

25. Rockfills, where used, should be spread in lifts not exceeding five-feet in thickness by tracked equipment, and compacted by track-walking or wheel-rolling using heavy dozers (Caterpillar D-9 or larger) and/or fully loaded rubber-tired hauling equipment, respectively. A minimum of three passes should be performed for each lift.

26. Within 60 days of RPA approval, Mine Operator shall submit a site plan identifying area(s) where topsoil, dirt, soil amendments shall be retained and used in the reclamation and re-vegetation process. Soil stored for reclamation purposes shall be clearly identified and marked in the field.

27. The Mine Operator shall safeguard stockpiles of topsoil or overburden to be used for reclamation from wind and erosion by using controls including, but not limited to, hydroseeding, erosion control mats, and coir wattles (aka "straw wattles").

28. The Mine Operator shall use soil amendments, in accordance with the RPA, to improve the effectiveness of the soils used for re-vegetation of final slopes. Re-vegetation shall satisfy the criteria identified in the RPA. Reporting of the test plots for the re-vegetation criteria identified in the RPA shall be submitted to the County as part of the Mine Operator's annual report. Re-vegetation shall include only plant materials identified in the re-vegetation palette contained in the approved RPA. The Mine Operator shall follow the "test plot" program in the RPA to determine the appropriateness and success rates of the proposed re-vegetation palette identified in the RPA. Reporting on the test plot program shall be part of the Mine Operator's annual report submitted by the County and shall be prepared by a qualified biologist.

29. Re-vegetation of all reclaimed slopes within the RPA Boundary shall meet the minimum success criteria listed in the approved RPA before any completed phase of reclamation may be deemed reclaimed by the County and Office of Mine Reclamation (OMR).

30. The Planning Manager shall have authority to administratively review and approve minor revisions to the re-vegetation palette contained in the approved RPA. Status report shall be given to the Planning Commission after any revisions and presented at the next available Planning Commission meeting.

31. Equipment, structures, nonessential roads, as identified in the RPA, shall be removed from the project area prior to that area being deemed reclaimed by the County and OMR.

32. Construction or demolition waste or any other foreign materials are prohibited from being stored in overburden or used in reclamation. Overburden shall be compacted, tested, and documented to demonstrate it will support post-mining uses. Regarding compaction, testing, and documentation of the overburden, documentation shall be submitted to the Planning Manager within 30 days of completion.

33. Stilling basins shall be maintained in good conditions and cleaned of silt and debris as necessary. A report shall be submitted to the Planning Manager as part of the Annual Report, fully depicting total quantities of silt removed from the basins (reported in cubic yards or tons) and where such silt is placed on the site or off the site.

34. The Mine Operator shall comply with the conditions of permits and plans required by and issued from the Regional Water Quality Control Board (RWQCB), including but not limited to approval of the Permanente Creek Restoration Plan and water discharge permits. The Mine Operator shall provide copies of all permits to the Planning Manager within 10 business days of issuance by RWQCB.

35. Reclamation shall be deemed complete by the County and State Office of Mine Reclamation (OMR) once reclamation has been performed to the terms of the approved RPA, and required monitoring and inspections have demonstrated compliance with the reclamation performance standards and mitigation measures as prescribed in the Mitigation, Monitoring and Reporting Program, including compliance with all pertinent permits or other requirements for reclamation issued by non-Santa Clara County public agencies, including but not limited to the RWQCB and the State Department of Fish and Game.

36. The Mine Operator shall comply with the conditions of permits required by and issued from the Bay Area Air Quality Management District (BAAQMD). Upon request by the County, the Mine Operator shall provide copies of all permits, and amendments to the Planning Manager within 10 business days of the request.

37. The Mine Operator shall obtain and comply with all applicable permits required by the Santa Clara County Hazardous Materials Division of the Department of Environmental Health. The Mine Operator shall provide copies of all permits to the Planning Manager within 10 business days of issuance.

Permanente Creek Restoration Area (PCRA)

38. Within 30 days of final RPA approval, submit to the Planning Manager a detailed schedule describing the implementation actions to control sedimentation, remove limestone boulders, and stabilize slopes within the Permanente Creek Restoration Area in the Summer and Fall of 2012, consistent with the RPA.

39. **Limestone Boulder Removal**. By October 15, 2012, per the RPA, identified limestone boulders in the PCRA shall be removed. In addition, any limestone boulders identified in the future shall be removed. Submit to the Planning Manager by August 1, 2012, a report and map summarizing the field inspection and identification of all limestone boulders in the PCRA. Submit to the Planning Manager by December 15, 2012, a report and summarizing the actions to remove all limestone boulders in the PRCA, consistent with the "Best Management Practice for Removal of Limestone Boulders from Permanente Creek" (Attachment J to the RPA).

40. **Permanente Creek Restoration**. Prior to the start of Permanente Creek restoration activities in Phase III for PCRA subareas 3, 4, 5 and 7, as identified in the RPA, the Mine Operator shall submit to the Planning Manager a Permanente Creek Restoration Plan. The Restoration Plan shall include the elements of the Permanente Creek Long Term Restoration Plan (URS, March 11, 2011) to the extent set forth in the RPA. The Restoration Plan shall include, at minimum, engineered drawings for creek restoration, a riparian re-vegetation plan, hydrology / hydro-geomorphology studies supporting concepts to be used in creek restoration, and a long term monitoring and reporting program. The Creek Restoration Plan shall be reviewed and approved by the County prior to implementation. The Mine Operator shall obtain all necessary permits and approvals from all applicable local, state, and federal authorities, including without limitation the Regional Water Quality Control Board, Department of Fish and Game, and U.S. Army Corps of Engineers to implement the work.

41. Prior to the start of any grading or any grading activity that affects jurisdictional resources of the California Department of Fish and Game, Regional Water Quality Control Board, or U.S. Army Corps of Engineers, the Mine Operator must provide to the Planning Manager proof of permits / clearances (or documentation that a permit is not needed).

ENVIRONMENTAL CONDITIONS AND EIR MITIGATION MEASURES

Light and Glare:

42. No night lighting shall be allowed or permitted on the east-facing slope of the EMSA or any other location within the EMSA that would be visible from public locations on the Santa Clara Valley floor including roadways. *(Implements Mitigation Measure 4.1-7)*

Air Quality – Health Hazards Risk:

43. Within 90 days of final RPA approval, the Mine Operator shall submit to the County and BAAQMD a comprehensive inventory of all RPA-related off-road construction equipment expected to be used during any portion of the RPA period. The inventory shall include the horsepower rating, engine production year, and projected hours of use or fuel throughout for each piece of equipment. The inventory shall be updated and submitted annually to the Planning with the Annual Report, throughout the duration of the RPA. *(Implements Mitigation Measure 4.3-3a)*.

44. Within 90 days of final RPA approval, the Mine Operator shall provide a plan for approval by the Planning Manager and BAAQMD demonstrating that off-road equipment to be used for Reclamation of the EMSA would achieve an average 35 percent reduction in Diesel Particulate Matter (DPM) emissions compared to the proposed fleet described in the ALG report (Ashworth Leininger Group, December 13, 2011) during RPA Phase I. The plan shall be updated and submitted annually to the Planning Manager, with the Annual Report each year throughout the duration of the RPA. Options for reducing emissions may include, but are not limited to:

    a. Using newer model engines (e.g. engines that meet US EPA interim/final Tier 4 engine standards).

    b. Use of Retrofit Emission Control Devices that consist of diesel oxidation catalysts, diesel particulate filters, or similar retrofit equipment control technology verified by CARB (www.arb.ca.gov/diesel/verdev/verdev.htm)

    c. Use of low emissions diesel products or alternative fuels;

    d. Use of alternative material handling options (e.g. conveyor system); or other options as may become commercially available and verifiable. *(Implements Mitigation Measure 4.3-3b).*

45. In lieu of Condition No. 43 and No. 44 (Mitigation Measures 4.3-3a and 4.3-3b), the Mine Operator may submit within 90 days of the RPA approval evidence establishing to the Planning Manager's satisfaction that there are legally binding restrictions precluding any occupancy of the caretaker's residence located at 2961 Stevens Creek Boulevard, Cupertino (APN 342-63-003) during the entirety of Phase I of the Project. *(Implements Mitigation Measure 4.3-3c)*

Biological Resources- Avian Species

46. **Avian Species - Preconstruction Surveys.** Ground disturbance into undisturbed areas and vegetation (tree and shrub) removal should occur between September 1 and January 30, outside of the breeding season for most bird species. If ground disturbance or tree and shrub removal occurs between February 1 and June 15, preconstruction surveys will be performed within 14 days prior to such activities to determine the presence and location of nesting bird species. If ground disturbance or removal of vegetation occurs between June 16 and August 31, pre-construction surveys will be performed within 30 days prior to such activities.

Thirty (30) days prior to the start of any ground disturbance into undisturbed areas or vegetation removal, the Mine Operator shall submit to the Planning Manager a copy of a contract with a qualified ornithologist to conduct pre-activity surveys.

The pre-construction surveys shall be submitted to the Planning Manager no later than five (5) business days prior to the start of such activities. If the tree removal or vegetation clearing shall occur during the non-nesting season, submit documentation both before and after tree removal / vegetation clearing confirmation completion of work within this time frame.

47. **Avian Species - Use of Buffers for to Avoid Nests**. If preconstruction surveys determine that active nests are found close enough to the land clearing and tree removal area to be disturbed by these activities, the ornithologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone (typically 250 feet) to be established around the nest to prevent nest abandonment and direct mortality during construction.

Biological Resources- Bat Species

48. **Bat Species - Non-Roosting Season**. Removal of potential bat roost habitat (buildings, large trees, snags, vertical rock faces with interstitial crevices) or construction activities within 250 feet of potential bat roost habitat should occur in September and October to avoid impacts to bat maternity or hibernation roosts. *(Implements Mitigation Measure 4.4-2a).*

49. **Bat Species – Maternity Roosting Season.** If removal of potential bat roost habitat cannot occur during September and October, bat roost surveys will be conducted to determine if bats are occupying roosts.

    Nighttime evening emergence surveys and/or internal searches within large tree cavities shall be conducted by a qualified biologist during the maternity season (April 1 to August 31) to determine presence/absence of bat maternity roosts within 100 feet of wooded Project boundaries. All active roosts identified during surveys shall be protected by a minimum buffer determined by a qualified bat biologist, in consultation with California Department of Fish and Game (CDFG). The buffer shall be determined by the type of bat observed, topography, slope aspect, surrounding vegetation, sensitivity of roost, type of potential disturbance. Each exclusion zone shall remain in place until the end of the maternity roosting season. If no active roosts are identified, then work may commence as planned. Survey results are valid for 30 days from the survey date. Should work commence later than 30 days from the survey date surveys shall be repeated. Operations may continue for many years. Surveys do not need to be repeated annually unless additional clearing of potential roosting or hibernation habitat could occur outside of the non-roosting season.

    Thirty days prior to the removal of potential bat roost habitat, the Mine Operator shall submit to the Planning Manager a copy of a contract with a qualified

biologist to conduct pre-activity surveys. The pre-construction surveys shall be submitted to the Planning Manager no later than five (5) business days prior to the removal of any potential habitat. *(Implements Mitigation Measure 4.4-2b).*

50. **Special Status Bat Species- Hibernation Season**. During the November 1 to March 31 hibernation season, work shall not be conducted within 100 feet of any woodland habitat (as identified in the Draft EIR Figures 4.4-1 through 4.4-4), unless a qualified bat biologist determines that woodland areas do not provide suitable hibernating conditions for bats and they are unlikely to be present in the area.

    Submit a report by a qualified bat biologist to the Planning Manager verifying the absence of suitable habitat as described above if work is proposed within 100 feet of woodland habitat between November 1 and March 31. *(Implements Mitigation Measure 4.4-2a)*

51. **Special Status Bat Species - Maternity Season Emergence.** Any trees felled during vegetation removal will not be chipped or otherwise disturbed for a period of 48 hours to allow any undetected bats potentially occupying these trees to escape. *(Implements Mitigation Measure 4.4-2b).*

52. **Bat Roost Replacement.** All special-status bat roosts destroyed by the Project shall be replaced by the Mine Operator at a 1:1 ratio onsite with a roost suitable for the displaced species (e.g., bat houses for colonial roosters). The design of such replacement habitat shall be in consultation with CDFG. The new roost shall be in place prior to the time that the bats are expected to use the roost (e.g., prior to April 1 if the roost destroyed by the Project was used by a maternity colony), and shall be monitored periodically for 5 years to ensure proper roosting habitat characteristics (e.g., suitable temperature and no leaks). The roost shall be modified as necessary to provide a suitable roosting environment for the target bat species. *(Implements Mitigation Measure 4.4-2c)*

Biological Resources- Dusky Footed Woodrat

53. **San Francisco Dusky Footed Woodrat.** Within 30 days prior to initial ground disturbance in woodland or scrub/chaparral communities, (as identified in the Draft EIR Figures 4.4-1 through 4.4-4), conduct pre-construction surveys for active woodrat stick nests that could be directly impacted. Surveys should take place in all suitable habitat types within the Project Area. Any stick nests within active work areas will be flagged and dismantled under the supervision of a biologist. If young are encountered during the dismantling process, the material shall be placed back on the nest and remain unmolested for three (3) weeks in order to give the young enough time to mature and leave of their own accord. After that period, the nest dismantling process may begin again. Nest material shall be moved to suitable adjacent areas (oak woodland, scrub, or chaparral) that will not be disturbed. If construction does not occur within 30 days of the pre-construction survey, surveys shall be repeated.

Sixty (60) days prior to initial ground disturbance within woodland or scrub / chaparral communities, the Mine Operator shall submit to the Planning Manager a copy of a contract with a qualified biologist to conduct pre-activity surveys. The pre-construction surveys shall be submitted to the Planning Manager no later than five business days prior to the start of initial ground disturbance.

54. To reduce indirect impacts on San Francisco dusky-footed woodrat by attracting urban-adapted predators, trash and food waste shall be disposed of in proper waste receptacles and emptied on a regular basis. Additionally, quarry personnel, contractors, and visitors shall not feed wildlife within the Permanente Property and appropriate site signage and employee education shall facilitate this condition.

Biological Resources- Invasive Plants, Sudden Oak Death

55. **Introduction of Invasive Plants or Pathogens**. If regulated or restricted plant materials are to be transported between the Project Area and a location in a non-infested county or state, the spread of the Sudden Oak Death pathogen shall be avoided by obtaining the necessary certificates of transport pursuant to the regulations described in the Biological Resources Assessment prepared for the Lehigh Permanente Quarry by WRA Environmental Consultants, dated December 2011.

56. **Sudden Oak Death.** To reduce the possibility of spreading Sudden Oak Death to oak woodlands in the Study Area, the Mine Operator shall implement the following measures:

    a. Prior to any reclamation work within the Project Area, equipment shall be sanitized, including shoes, pruning equipment, trucks, and heavy equipment such as earthmoving, tree trimming, chipping, or mowing equipment. Except for trucks, this equipment shall remain onsite for the duration of Project activities and shall not be transferred between this and other worksites, as doing so increases the potential of transferring infected spores to or from another site.

    b. After the completion of work activities, any accumulation of plant debris (especially leaves), soil, and mud shall be washed off of equipment or otherwise removed onsite, and air filters shall be blown out.

    c. All contractors shall have sanitation kits onsite for cleaning equipment. Sanitation kits should contain chlorine bleach (10/90 mixture bleach to water) or Clorox Clean-Up or Lysol, scrub brush, metal scraper, boot brush, and plastic gloves.

    d. All organic material imported for mixing with Quarry pit backfill shall have been composted at a facility that meets the standards of Title 14 California Code of Regulations, Division 7, Chapter 3.1; alternative sources of organic material may be used if approved by the County of

Santa Clara Agricultural Commissioner as being as effective as the composting process to sanitize SOD-infected materials.

e. All other imported fill material, soil amendments, gravel, etc. required for construction and/or restoration activities to be placed within the upper 12 inches of the ground surface shall be free of vegetation or plant material. *(Implements Mitigation Measure 4.4-7)*

Biological Resources- Wetlands

57. **Wetland Identification and Avoidance.** A qualified wetland biologist shall physically delineate all federal and state waters and wetland features identified in the 2008 wetland delineation (WRA, 2008) before any Permanente Creek Reclamation Area (PCRA) activities begin, and when feasible, reclamation activities shall avoid filling these areas unless authorized by the appropriate permitting agencies. Silt fence or other appropriate barriers and buffer zones shall be installed between jurisdictional waters or wetlands and areas sprayed with hydroseed to prevent filling of wetlands with tackifier or other hydroseed material; alternatively, the use of hand-seeding or working with hand tools may be utilized to avoid filling wetlands. *(Implements Mitigation Measure 4.4-8a)*

    Prior to the start of PCRA activities, the wetland biologist shall submit a report to the Planning Manager showing the wetland areas delineated and the installation of all fencing and barriers (photos and map).

    This condition shall not apply to Phase III Permanente Creek Restoration Activities in subareas 3, 4, 5 and 7, as identified in the RPA. Such Activities are expected to require an independent review and permitting process, as described in the RPA.

58. **Wetland Mitigation Plan.** If filling of jurisdictional waters or wetlands is not feasible, the following measures shall be implemented:

    a. A qualified wetland biologist shall prepare a wetland Mitigation and Monitoring Plan (MMP) for impacts to wetlands and waters under state or federal jurisdiction. The MMP shall be submitted for review and approval by the Planning Manager, and as required by law by the Regional Water Quality Control Board and US Army Corps of Engineers. The MMP shall outline any anticipated mitigation obligations for temporary and permanent impacts to waters of the state and/or U.S., including wetlands, resulting from PCRA activities. The MMP shall include:

        i. Baseline information;

        ii. Anticipated habitat enhancements to be achieved through compensatory actions, including whether mitigation will occur within the Project Area along Permanente Creek or at an offsite location, as well as including mitigation site location and hydrology;

iii. When possible, a preference for mitigation within the Permanente Quarry property, for impacts to both jurisdictional waters and wetlands;

iv. Performance and success criteria for habitat enhancement of Permanente Creek or other waterways to compensate for impacts to Other Waters, including:

1. A replanting plan for appropriate native riparian woody vegetation, including but not limited to arroyo willow, white alder, California wild rose, and snowberry, bigleaf maple, western creek dogwood, and Oregon ash;

2. An 80% overall re-vegetation planting success for all mitigation areas over a ten-year period;

3. A minimum overall mitigation ratio of 1.1:1 acres for permanent impacts and 1:1 acres for temporary impacts;

4. Plantings that are self-reliant, exhibit average or better health and vigor and have observable growth in stems and leaves at least two years prior to the end of the ten-year monitoring period;

5. Visual inspection of all re-vegetation sites during each growing season, with qualitative and quantitative measures of plant cover and performance;

6. Observations of total percent plant cover in the planting area, natural recruitment of native species, and establishment of new non-native species; and

7. Annual monitoring reports submitted to CDFG and RWQCB documenting re-vegetation conditions, including recommendations to adapt maintenance and replacement of failed plantings.

b. Performance and success criteria for wetland creation or enhancement including, but not limited to, the following:

i. At least 70 percent survival of installed plants for each of the first three years following planting.

ii. Performance criteria for vegetation percent cover in Years 1-4 as follows:

1. at least 10 percent cover of installed plants in Year 1;

2. at least 20 percent cover in Year 2;

3. at least 30 percent cover in Year 3;

4. at least 40 percent cover in Year 4.

c. A performance criteria for hydrology in Years 1-5 as follows:

i. Fourteen or more consecutive days of flooding, ponding, or a water table 12 inches or less below the soil surface during the growing season at a minimum frequency of three of the five monitoring years; OR establishment of a prevalence of wetland obligate plant species.

ii. Invasive plant species that threaten the success of created or enhanced wetlands should shall not be allowed to contribute relative cover greater than 35 percent in year 1, 20 percent in years 2 and 3, 15 percent in year 4, and 10 percent in year 5.

d. MMP monitoring reports shall be submitted to the Planning Manager and responsible permitting agencies. *(Implements Mitigation Measure 4.4-8b)*

Biological Resources- California Red Legged Frog (CRLF)

59. To minimize disturbance to dispersing or foraging CRLF, all grading activity within PCRA subareas 4 through 7 shall be conducted during the dry season, generally between May 1 and October 15, or before the onset of the rainy season, whichever occurs first, unless exclusion fencing is utilized. Construction that commences in the dry season may continue into the rainy season if exclusion fencing is placed around the construction zone to keep the frog from entering the construction area.

60. Pre-construction surveys for CRLF shall be conducted prior to construction activities within PCRA subareas 4 through 7. If CRLF are observed in the construction area or access areas, they shall be removed from the area by a USFWS permitted biologist and temporarily relocated to nearby suitable aquatic habitat.

61. Because dusk and dawn are often the times when CRLF are most actively foraging, all restoration activities within PCRA subareas 4 through 7 shall cease one half hour before sunset and shall not begin prior to one half hour after sunrise. Additionally, restoration activities shall not occur during rain events, as CRLF are most likely to disperse during periods of precipitation.

Cultural Resources

62. The Mine Operator shall document the physical characteristics and their historic context of the contributing features of the Kaiser Permanente Quarry Mining District, including archival photo-documentation, mapping, and recording of historical and engineering information including measured drawings about the property according to the standards of the Historic American Building Survey/Historic American Engineer Record/Historic American Landscapes Survey (HABS/HAER/HALS), to be placed in a local public archive such as the Archives of the County of Santa Clara.

Verification of documentation as described above shall be submitted to the Planning Manager within sixty (60) days prior to removal of the Permanente Quarry Conveyor System as described under Condition #63. *(Implements Mitigation Measure 4.5-1a)*

63. Prior to any of the following: modification, relocation, removal, or demolition of the Permanente Quarry Conveyor System, the Mine Operator shall salvage and/or relocate a representative portion of the Permanente Quarry Conveyor System and the remains of the early 1940s crusher, which constitute character-defining features that otherwise would be lost as a part of implementation of the Project.

    Verification of salvage / relocation as described above shall be submitted to the Planning Manager within thirty (30) days prior to start of mining / reclamation activities in the existing Conveyor System and 1940's crusher area. Conveyor is located west of the EMSA and southeast of the Quarry Pit, the crusher is located south of the Quarry Pit adjacent to Permanente Creek (reference Historic Resource Evaluation, Permanente Quarry Facility Comprehensive Reclamation Plan Project – Lehigh Southwest Cement Company, prepared by Archives and Architecture, LLC, October 2011). *(Implements Mitigation Measure 4.5-1b)*

64. At least sixty (60) days prior to commencement of any work as described above Condition #63, the Mine Operator shall prepare public information programs to educate the general public on the historic nature of the potential Kaiser Permanente Quarry Mining District, including but not limited to exhibits at the Quarry office, publications available at the Quarry office, and an online presentation available on the their website (currently, www.lehighpermanente.com). Verification of documentation as described shall be submitted to the Planning Manager. *(Implements Mitigation Measure 4.5-1c)*

65. If cultural resources are encountered during Project implementation the Mine Operator shall notify the Planning Manager and all activity within 100 feet of the find shall stop until the cultural resource is evaluated by a qualified archaeologist and a Native American representative. Prehistoric archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil ("midden") containing heat-affected rocks, artifacts, or shellfish remains; and stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered stone tools, such as hammerstones and pitted stones. Historic-period materials might include stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse.

    If the archaeologist and Native American representative determine that the resources may be significant and cannot be avoided, they shall notify the Planning Manager and an appropriate treatment plan for the resources shall be developed by the Mine Operator in consultation with the Planning Manager, and the archaeologist. Measures in the treatment plan could include preservation in place (capping) and/or data recovery. The archaeologist shall consult with Native

American representatives in determining appropriate treatment for prehistoric or Native American cultural resources. Ground disturbance shall not resume within 100 feet of the find until an agreement has been reached as to the appropriate treatment of the find. *(Implements Mitigation Measure 4.5-2)*

66. If a paleontological resource is encountered during implementation of the RPA the Mine Operator shall notify the Planning Manager, and all activity within 100 feet of the find shall stop until it can be evaluated by a qualified paleontologist as defined by the Society of Vertebrate Paleontology Guidelines (SVP, 1995). The paleontologist shall evaluate the resource and determine its significance. If significant, the paleontologist shall notify the Planning Manager. The Mine Operator, in consultation with the County and the paleontologist, shall prepare a treatment plan such that the fossil would be recovered and scientific information preserved. The paleontologist shall implement the treatment plan in consultation with the Planning Manager and Mine Operator, prior to allowing work in the 100-foot radius to resume. *(Implements Mitigation Measure 4.5-3)*

67. In the event that human skeletal remains are encountered, the Mine Operator is required by Health and Safety Code Section 7050.5, Public Resources Code Section 5097.98, Title 14 California Code of Regulations Section 15064.5(e), and County Ordinance No. B6-18 to immediately notify the County Coroner. Upon determination by the County Coroner that the remains are Native American, the coroner shall contact the California Native American Heritage Commission, pursuant to subdivision (c) of §7050.5 of the Health and Safety Code and the County Coordinator of Indian affairs. No further disturbance of the site shall be made except as authorized by the County Coordinator of Indian Affairs in accordance with the provisions of state law and the County Ordinance. If artifacts are found on the site, a qualified archaeologist shall be contacted along with the Planning Manager. No further disturbance of the artifacts shall be made except as authorized by the Planning Manager. *(Implements Mitigation Measure 4.5-4)*

Geological and Soils

68. **Avoidance and containment of shallow slumps and/or fall-back of overburden material.** In all areas requiring the use of excavators for grading within the Permanente Creek Reclamation Area (PCRA) (e.g., access road in-sloping, installation/repair of sedimentation basins, and removal of slide debris), the Mine Operator and/or its contractor shall begin excavations from the top of slope and proceed downward. The Mine Operator and/or its contractor shall not undercut sloped materials unless no other option is feasible as determined by a registered geotechnical engineer (e.g., excessively sloped or otherwise inaccessible terrain). In all areas of the PCRA where excavations would occur in sloped materials, the Mine Operator and/or its contractor shall install barriers immediately downslope of the activity. Downslope barriers shall be designed and installed in a manner that would be adequate to prevent overburden and/or native materials from falling, sloughing or sliding further downslope, or into Permanente Creek. Such measures may consist of temporary interlocking soldier piles,

wooden shoring systems, wire mesh or other containment measures(s). The Mine Operator and/or its contractor shall not be permitted to conduct excavation or grading activities downgradient of the barrier, or prior to its installation. The ultimate location, design and installation method of such measures shall be prepared and certified, or reviewed and approved by a California State registered civil geotechnical engineer.

Thirty days (30) prior to the start of all excavation / grading activities as described above, submit to Planning Manager a plan showing the installation of all downslope barriers as described above. *(Implements Mitigation Measure 4.7-1)*

69. Within thirty (30) days following approval of the RPA, submit a Geotechnical Engineer's Plan Review letter that confirms the RPA, as modified by other conditions of approval, conforms with the recommendations presented in Golder's Report (RPA Appendix C, dated November 2011). In regards to the EMSA, specifically, the letter must verify that the plans indicate where the native slope is steeper than 2.5H:1V, the topsoil and colluvium will be over-excavated within the area extending inward 100 feet from the toe of the outer slope.

70. The geotechnical design recommendations provided by Golder Associates (RPA Appendix C, November 2011) are being implemented as part of the ongoing stockpiling activities within the EMSA and as a condition of approval Project. The measures are identified below:

    a. Foundation preparation should be completed prior to fill placement of the outer 50 feet beneath the EMSA fill. Foundation preparation should consist of over-excavation of outer 50 feet of topsoil, organic materials (trees, brush, grasses), fine-grained colluvium with a Plastic Index greater than 25, or other unsuitable soils until firm bedrock, granular soils, or clay soils with a Plastic Index less than 25 are exposed. If the exposed foundation surface is inclined at 5H:1V or steeper, the over-excavation distance from the outer slope should be extended from 50 feet to 100 feet. Furthermore, the fill placed on slopes of 5H:1V or steeper should be benched into the slope with individual bench heights of at least 2 feet and up to approximately 5 feet.

    b. A qualified California Registered Professional Geologist, Certified Engineering Geologist, or a California Registered Civil Engineer with geotechnical experience should inspect the foundation preparation to ensure all unsuitable materials are removed prior to placement of the outer 50 to 100 feet of EMSA fill.

    c. If seepage or wet zones are observed in the foundation, suitable drainage provisions should be incorporated into the foundation prior to fill placement. Suitable drainage provisions include the placement of a blanket of free-draining sand or gravel over the seepage/wet zone in conjunction with a perforated, polyvinyl (PVC) or high-density polyethylene (HDPE) drain pipe that drains positively toward and daylights at the slope face. The sand or gravel drainage material should be fully covered with a

minimum 8-oz/square yard, non-woven, geotextile filter to provide separation from the EMSA materials.

d. The fine waste materials shall be placed in lifts not to exceed 8-feet, and offset a minimum of 30 feet from the final slope face. Each lift of fine waste should be allowed to dry before being covered by overburden material. Each lift shall be overlain by a minimum 25-foot thick lift of overburden.

e. Any modification to the EMSA fill geometry including increases to the maximum overall slope inclination, maximum inter-bench slope inclination, slope height, or footprint shall require an additional or revised slope stability analysis.

Greenhouse Gas Emissions (GHG)

71. **Develop Annual GHG Inventory.** The Mine Operator shall become a reporting member of The Climate Registry. Beginning with the first year of the Project and continuing for the duration of the Project, the Mine Operator shall conduct an annual inventory of GHG emissions and shall report those emissions to The Climate Registry. The annual inventory shall be conducted according to The Climate Registry protocols and third-party verified by a verification body accredited through The Climate Registry.

    Within 90 days of approval of the RPA, the Mine Operator shall submit documentation verifying registration with The Climate Registry to the Planning Manager. Copies of annual reporting to Climate Registry shall be submitted to the Planning Manager by October 1 of each year. *(Implements Mitigation Measure 4.8-1a)*

72. **Greenhouse Gas Emissions Reduction Plan.** The Mine Operator shall prepare, submit for County and BAAQMD approval, make available to the public, and implement a Greenhouse Gas Emissions Reduction Plan (GHG Plan) containing quantifiable strategies to ensure that the Project-related incremental increase of GHG emissions does not exceed 1,100 MT Co2e per year. The GHG Plan shall include, but not be limited to, the following measures:

    a. Replacement of on-road and off-road vehicles and construction equipment with lower GHG-emitting engines, such as electric or hybrid.

    b. Use of the Overland Conveyor System, powered by electric motors, to move more than 75 percent of the waste rock from the WMSA to reclaim the Quarry pit.

    The Greenhouse Gas Emissions Reduction Plan shall be submitted to the Planning Manager within 90 days of final RPA Approval. *(Implements Mitigation Measure 4.8-1b)*

73. **Greenhouse Gas Offsets.** If the Mine Operator is unable to reduce the Project-related incremental increase of GHG emissions to below 1,100 MT Co2e per year

per Condition #72, the Mine Operator shall offset all remaining Project incremental emissions above that threshold. Any offset of emissions related to the RPA shall be demonstrated to be real, permanent, verifiable, and enforceable. To the maximum extent feasible, as determined by the County in coordination with the BAAQMD, offsets shall be implemented locally. Offsets may include but are not limited to, the following (in order of preference):

a. Onsite offset of Project emissions, for example through development of a renewable energy generation facility or a carbon sequestration project (such as a forestry or wetlands project for which inventory and reporting protocols have been adopted). If the Mine Operator develops an offset project, it must be registered with the Climate Action Reserve or otherwise approved by the BAAQMD in order to be used to offset Project emissions. The number of offset credits produced would then be included in the annual inventory, and the net (emissions minus offsets) calculated.

b. Funding of local projects, subject to review and approval by the BAAQMD, that would result in real, permanent, verifiable, enforceable, and additional reduction in GHG emissions. If the BAAQMD or County of Santa Clara develops a GHG mitigation fund, the Mine Operator may instead pay into this fund to offset Project incremental GHG emissions in excess of the significance threshold.

c. Purchase of carbon credits to offset Project incremental emissions to below the significance threshold. Carbon offset credits must be verified and registered with The Climate Registry, the Climate Action Reserve, or other source that is approved by the California Air Resources Board as being consistent with the policies and guidelines of the California Global Warming Solution Act of 2006 (AB 32), or available through a County- or BAAQMD-approved local GHG mitigation bank or fund.

Documentation verifying that offsets have been accomplished, if required, must be submitted for review and approval to the Planning Manager and BAAQMD within 90 days of final RPA Approval. *(Implements Mitigation Measure 4.8-1b)*

Hydrology and Water Quality:

74. **Certified Geologist Verification of Non-Limestone-Containing Material Use.** A California Certified Engineering Geologist shall be onsite during reclamation to verify that non-limestone run-of-mine rock is used as cover on the EMSA and WMSA. In addition, the Geologist shall observe and document activities associated with placing the final overburden on the Quarry Pit (i.e., ensuring that organic material is mixed to specifications). Using visual and field testing methods, with occasional bulk sampling and laboratory analysis, the geologist shall observe and document the type of rock placed over the limestone-containing material during reclamation activities. The geologist shall inspect and document whether limestone is present at the source area (Quarry Pit and WMSA), whether limestone rock is transported from the source area to segregation stockpiles, and whether limestone is present within the lifts of the proposed 1-foot layer of run-

of-mine cover rock (in the EMSA, WMSA, and Quarry Pit). Inspection involves observing the excavation, hauling, stockpiling, and placement of the non-limestone cover material, performing a visual assessment of the rock, and conducting random spot sampling and field testing of suspect rock fragments. If observation, field-testing, or laboratory analysis indicates that significant amounts of limestone are intermixed with the supposed non-limestone cover material, the geologist shall document its presence, temporarily halt fill operations, and notify the Planning Manager and field superintendent. Once notified, the Mine Operator shall remove the limestone-containing materials and then perform verification field sampling in addition to laboratory verification. *(Implements Mitigation Measure 4.10-1a)*

Within ninety (90) days of final RPA Approval, the Mine Operator shall submit to the Planning Manager a copy of a contract or an employee resume employed by the Mine Operation that is a California-certified Engineering Geologist responsible to conduct monitoring as described above. Quarterly reports shall be submitted from the Geologist to the Planning Manager describing effectiveness of mitigation and monitoring during final reclamation as described above.

75. The County reserves the right to retain, if it deems necessary, at the expense of the Mine Operator, a third-party California-certified Engineering Geologist, to provide independent oversight or monitoring to implement Condition #74.

76. **Verification and Water Quality Monitoring**. Within ninety (90) days of RPA approval, the Mine Operator shall begin and continue throughout the backfilling and reclamation phases and for 5 years following completion of reclamation and for 5 years following the start of groundwater discharge from the Quarry Pit into Permanente Creek as described on page 4.10-39 of the Final Environmental Impact Report, a Verification and Water Quality Monitoring Program. The Mine Operator shall implement the following:

    a. Collect quarterly Quarry pit water samples and analyze for general water chemistry and dissolved and total metals, including selenium.

    b. Perform quarterly electrical conductivity and pH measurements of the Quarry water.

    c. Measure and record daily volume of any water that is pumped from the pit area.

    d. Conduct annual seep surveys in March or April of each year within the Quarry pit. Any seeps identified shall be sampled for general water chemistry and minerals and dissolved metals, and the seep flow rate shall be estimated.

    e. Perform routine testing of each of the various rock types that comprise the overburden to further characterize bulk and leachable concentrations of key metal constituents (selenium in particular). Such testing shall be performed until the average concentrations and the variability within a rock type is no longer changing significantly as new data are gathered.

f. Sample and test runoff from the EMSA and WMSA throughout and following reclamation to confirm the concepts and closure plans (i.e., that cover with non-limestone material and re-vegetation results in runoff water quality that meets Basin Plan Benchmarks and all other applicable water quality standards, including, but not limited to, a site specific NPDES permit for the Quarry and a TMDL for selenium in Permanente Creek. Stormwater runoff monitoring and sampling shall be conducted following the placement and final grading of the 1-foot run-of-mine non-limestone cover material to ensure that surface water discharging from this cover does not contain selenium at concentrations exceeding Basin Plan Benchmark values. Three rounds of representative surface water samples shall be collected and analyzed to verify rock cover performance prior to the placement of the vegetative growth layer.

g. Sample and test groundwater discharge from the Quarry Pit into Permanente Creek following reclamation as described on page 4.10-39 of the Final Environmental Impact Report to confirm that water quality in discharge meets Basin Plan Benchmarks and all other applicable water quality standards.

h. The data obtained through this mitigation measure shall be used to reevaluate the water balance components such as runoff and groundwater inflow and the water quality associated with these within the last five years of active mining. Based on the results of any refined water balance and water quality projections, the Mine Operator shall also review and refine the water management procedures. *(Implements Mitigation Measures 4.4-5 and 4.10-1b.)*

All testing data shall be submitted to the Planning Office with the Annual Report by October 1 of each year.

77. Reclamation of the Quarry Pit, EMSA, and WMSA areas shall not be considered complete until 5 years of water quality testing as described above demonstrate to the satisfaction of the Planning Manager that selenium in surface water runoff and any point source discharges has been reduced below all applicable water quality standards, including Basin Plan Benchmarks.

78. Within 90 days of RPA approval, the Mine Operator shall implement the following stormwater and sediment management controls in addition to general BMPs required by the SWPPP in active and inactive reclamation areas throughout Phase I, II, and III of the RPA. The Mine Operator shall:

a. Segregate limestone materials from the non-limestone materials (breccia, graywacke, chert, and greenstone) by way of operational phasing to ensure that non-limestone materials are placed beneath and are covered by non-limestone materials. A California Professional Geologist shall oversee stockpiling, segregation, and placement of non-limestone materials.

b. Stabilize inactive areas, such as temporary stockpiles or dormant excavations that drain directly or indirectly to Permanente Creek using an appropriate combination of BMPs to cover the exposed rock material, intercept runoff, reduce its flow velocity, release runoff as sheet flow, and provide a sediment control mechanism (such as silt fencing, fiber rolls, or hydroseeded vegetation). Standard soil stabilization BMPs include geotextiles, mats, erosion control blankets, vegetation, silt fence surrounding the stockpile perimeter, and fiber rolls at the base and on side slopes.

c. Temporarily stabilize active, disturbed reclamation areas undergoing fill placement before and during qualifying rain events expected to produce site runoff. Stabilization methods include combined BMPs that protect materials from rain, manage runoff, and reduce erosion. Reclamation activities involving grading, hauling, and placement of backfill materials cannot take place during periods of rain.

d. In areas such as the WMSA where fill slopes are steep and composed of loose material, controls shall be in place to prevent material from sloughing off into the PCRA and Permanente Creek. These controls shall include debris/silt fencing placed on outer edge of grading and excavation operations back-sloping excavations to prevent grade slope towards the creek, operations buffer areas that require the use of smaller grading equipment, temporary berms along the outer extent of operations closest to the creek, Mine Operator training regarding the prevention of triggering debris slides.

e. Cover active haul roads with non-limestone materials where exposed limestone surfaces are present. Roads that undergo dust control by watering must have fiber rolls or equivalent runoff protection installed along the road side to reduce runoff and avoid drainage to Permanente Creek.

f. Divert all runoff generated from disturbed active and inactive reclamation areas to temporary basins, the Quarry pit, or temporary vegetated infiltration basins and kept away from drainage pathways entering Permanent Creek. To the extent possible, drainage of the non-limestone materials shall be diverted directly to sediment control facilities and natural surface drainages.

g. Install up-gradient berms where limestone fines or stockpiles are placed, to protect against stormwater run-on, and install ditches and down-gradient berms to promote infiltration rather than run-off.

h. Replace the limestone rock and materials that are currently used in the existing BMP ditches and cover or otherwise separate runoff from limestone rock in the existing sediment pond embankments.

i. Cover large limestone surfaces that would remain exposed during the rainy season with interim covers composed of non-limestone rock types.

j. Inspect and maintain BMPs after each qualifying rain event to ensure their integrity.

k. Reconstruct or reline all existing stormwater conveyances and check dam structures that are constructed or lined with limestone rock using non-limestone material (greenstone, breccias, greywacke, metabasalt), available at the Quarry.

l. Regularly inspect all stormwater and erosion controls, especially before and following qualifying rain events. Inspections shall be documented and periodically reported. Any violations shall be corrected immediately.

m. Provide adequate erosion control training to all equipment and mine operators, site superintendants, and managers to ensure that stormwater and erosion controls are maintained and remain effective.

n. Use only jute netting or other suitable replacement for erosion control in the PCRA; no plastic monofilament shall be used for erosion control or other purposes, as California Red Legged Frogs and other wildlife may become entangled in it.

o. Ensure that all stormwater, erosion, and sediment control BMPs are installed, inspected, maintained, and repaired under the direction of either a California certified engineer, geologist, or landscape architect, a registered professional hydrologist, or a certified erosion control specialist.

Implementation of the Best Management Practices described above shall begin within 30 days of final RPA Approval. Prior to October 1, 2012, the Operator shall provide a report, with photos, documenting and demonstrating that the aforementioned BMP's are being implemented in all areas as described above. Prior to October 15 of each year, a County Inspector shall verify installation of the aforementioned BMP's. Inspection of BMP's by a County Inspector shall occur monthly between October 15 and April 15 for each year when interim reclamation activities occur. *(Implements Mitigation Measures 4.4-5 and 4.10-2a)*

79. **Interim Stormwater Monitoring Plan.** Prior to the start of reclamation activities, the Mine Operator shall develop a Stormwater Monitoring Plan for sampling and testing stormwater, that would supplement preexisting surface water monitoring required by General Industrial Storm Water and Sand and Gravel NPDES Permit and any other applicable permits designed to specifically monitor surface water during reclamation activities in active and inactive excavation and backfill areas, and locations where water discharges to Permanente Creek. The purpose of this plan is to evaluate performance of temporary BMPs and completed reclamation phases and to identify areas that are sources of selenium (measured on recoverable basis), sediment, or high TDS. At a minimum, the plan shall require the Mine Operator to inspect BMPs and collect water samples for analysis of TDS and metals, including selenium, within 24 hours after a qualifying rain event and sample non-stormwater discharges when they occur. If elevated selenium, sediment, or TDS is identified through sample analysis, the

Mine Operator shall identify the source and apply any new or modified standard BMPs available. BMPs that show sign of failure or inadequate performance shall be repaired or replaced with a more suitable alternative. Following implementation, the Mine Operator shall retest surface water to determine the effectiveness of such modifications, and determine whether additional BMPs are necessary. *(Implements Mitigation Measures 4.4-5 and 4.10-2b)*

For Phase I, submit the Stormwater Monitoring Plan for Phase I to the Planning Manager for review and approval prior to October 1, 2012.

For Phase II and III, submit a Monitoring Plan to the Planning Manager for review and approval sixty (60) days prior to the start of Phase II.

Stormwater testing results shall be submitted to Planning Manager on a monthly basis between October 15 and April 15 of each year. If a qualifying rain event did not occur during any month during this period (and stormwater testing was not conducted), notification shall be submitted to the Planning Manager in lieu of testing results.

80. **Monitoring and Determination of BMP Effectiveness for the EMSA**:

    a. Within 30 days of RPA approval, sampling and testing shall occur within 24 hours after a qualifying rain event. If no qualifying rain event occurs within 30 days of RPA approval, then testing shall begin at the first qualifying rain event. Testing shall be conducted in accordance with the Interim Stormwater Monitoring Plan developed and approved in accordance with Condition #79.

    b. If test results for two consecutive years show that stormwater discharging from the EMSA into Permanente Creek exceeds total recoverable selenium of Basin Plan Water Quality Objective, currently 5 μg/L (micrograms per liter), or other applicable discharge requirement as determined by the RWQCB, then the County shall schedule a public hearing before the Planning Commission to determine whether the Mine Operator is complying with stormwater discharge requirements. For purposes of triggering Planning Commission review, the sampling shall occur at locations where water discharges to Permanente Creek.

    c. If the Planning Commission determines that the Mine Operator is not complying with discharge requirements, then the operator shall install a treatment system (or alternative) as described in Condition #82. *(Implements Mitigation Measures 4.4-5 and 4.10-2c)*

81. **Monitoring and Determination of BMP Effectiveness for the WMSA and Quarry Pit**

    a. Within 30 days of the start of reclamation activities for Phase II, the Mine Operator shall conduct monthly water sampling and testing results in

compliance with the Interim Stormwater Monitoring Plan, as described under Condition #79.

b. If test results for two consecutive years show that selenium levels are higher than base levels, then the County shall schedule a public hearing before the Planning Commission to determine whether the reclamation activities are causing an increase in total selenium above the base levels. "Base levels" shall be defined as water testing results for an average for two years immediately prior to start of Phase II reclamation for discharge into Permanente Creek from the WMSA and Quarry Pit. For purposes of triggering Planning Commission review, the sampling shall occur at locations where water discharges to Permanente Creek.

c. If the Planning Commission finds that reclamation activities are causing an increase in selenium over base levels, then the Mine Operator shall install a treatment system (or alternative) as described under Condition #82. *(Implements Mitigation Measures 4.4-5 and 4.10-2d.)*

82. **Design, Pilot Testing, and Implementation of Selenium Treatment Facility or Alternative for the EMSA and/or WMSA and Quarry Pit.**

a. Within 30 days of RPA approval, the Mine Operator shall begin designing a treatment facility (or alternative) and pilot system for discharge into Permanente Creek. The treatment shall be designed to achieve the Basin Plan Water Quality Objective for selenium (total recoverable selenium of 5 μg/L) for discharge from the EMSA as defined in Condition #80, and/or to achieve the "base level" standard for the WMSA and Quarry Pit as defined in Condition #81 *(reference to Mitigation Measures 4.10-2d).*

b. The Mine Operator shall complete design, pilot testing, and feasibility analysis for a treatment facility within 24 months of RPA approval or by such other time as may be prescribed by the RWQCB.

c. The Planning Commission shall hold a public hearing no later than 30 months after RPA approval to determine feasibility of the treatment facility (or alternative). The Planning Commission may defer the public hearing if the RWQCB determines that additional time is necessary to complete the design, pilot testing, and feasibility analysis. If the Planning Commission determines that a treatment facility is feasible, the Planning Commission shall also establish a timeline for implementing the treatment facility.

d. Construction, installation, and operation of a treatment facility (or alternative) shall be required if discharge requirements are not met as described under Conditions # 80 and # 81 based on a determination of the Planning Commission, and if it has been determined feasible by the Planning Commission following a public hearing. *(Implements Mitigation Measures 4.4-5 and 4.10-2e.)*

Downstream Flood Protection

83. **Construction of Onsite Detention Facility.** The Mine Operator shall design and construct detention facilities that would 1) manage increased runoff caused by the reclaimed Quarry pit, 2) reduce excessive discharges to Permanente Creek, and 3) develop the capacity to detain and release the 100-year flow using onsite detention pond basins while optimizing groundwater infiltration. The final drainage design shall ensure that offsite, downstream flows would not cause an increased flooding potential or lead to hydro-modification effects. Design considerations for onsite detention basins shall include the following performance standards:

    a. Maintain turbidity of receiving water outflows within discharge limitations for Permanente Creek, as set forth by the San Francisco Bay Regional Water Quality Control Board Basin Plan or other more stringent, site-specific limitations set forth by the RWQCB.

    b. Effectively drain between storm events within the period of time specified by the Santa Clara County 2007 Drainage Manual.

    c. Enhance the settlement of fine sediment while limiting the potential for sediment-laden water to be discharged to Permanente Creek.

    d. Incorporate appropriate sediment traps (i.e., low areas that promote sediment settlement) in areas away from outflow structures to limit discharge of sediment at high flow periods.

    e. Control surface water inflows to the detention facility using energy reduction features (i.e., rip-rap aprons, vegetated swales) to reduce inflow velocity and agitation of sediment within the basin.

    f. Infiltrate surface water, to the extent practicable and consistent with the water-quality recommendations for the backfill material as described in the RPA, while accounting for and protecting the local groundwater condition and water quality.

    g. In addition to the detention facilities for the Quarry pit, the Mine Operator shall ensure that the desiltation ponds proposed in other smaller project areas such as the EMSA, are engineered to function as detention basins and attenuate stormwater flows to the extent practical. The Mine Operator shall also consider a broader watershed approach and consult with Santa Clara Valley Water District (SCVWD) on ways to detain peak flows offsite in relation to areas of existing flooding and to the current SCVWD flood control improvement project. *(Implements Mitigation Measure 4.10-4)*

84. **Stormwater Control to Avoid Ponded Water and Selenium Accumulation**. The Mine Operator shall incorporate drainage features into the final drainage design for the Quarry pit area to eliminate the potential for surface ponding on the floor of the Quarry pit once it has reached its final elevation (990 amsl). The drainage design for the finished Quarry pit fill shall include engineered elements (e.g., conveyance channels, infiltration galleries) that facilitate groundwater recharge and percolation from limestone area to groundwater in the Quarry

backfill with the objective of accommodating high groundwater elevation without creating surface water bodies that may contain elevated levels of selenium. These measures shall be incorporated into the design of the proposed basin for the floor of the Quarry pit once the floor is raised to its final elevation. (*Implements Mitigation Measure 4.10-6*)

Prior to the start of Phase III, submit final drainage design demonstrating compliance with the standards described above.

85. Any body of water created during the operation of the quarry, both during excavation and processing the material, shall be maintained to provide for mosquito control and to prevent creation of any health hazards or public nuisance.

86. Sixty (60) days following RPA approval, the Mine Operator shall provide to the Planning Manager revised plans that show redesigned rip-rap energy dissipaters per the Association of Bay Area Governments (ABAG) standard for the 25 year storm for all discharge points on the reclamation plans.

Noise

87. The Mine Operator shall prohibit all heavy equipment operations in the northeasterly 11.5 acres of the EMSA (as shown in Draft EIR, Figure 4.13-8) during nighttime hours (i.e., between 10:00 p.m. to 7:00 a.m.). *(Implements Mitigation Measure 4.13-1a)*

88. The Mine Operator shall either: (1) limit all operations in the EMSA within 1,600 feet of the caretaker's residence (as shown in Figure 4.13-8) to no more than one 8-hour shift per day, or (2) submit evidence establishing to the County's satisfaction that there are legally-binding restrictions precluding any occupancy of the caretaker's residence during the entirety of Phase 1 of the RPA. *(Implements Mitigation Measure 4.13-1b)*

EMSA Equipment

89. Within thirty (30) days of the RPA Approval, the Mine Operator shall post a sign inside all mine equipment operating in the EMSA area with the text from Condition #42 (Light and Glare) and Conditions # 87 and # 88 (Noise). The sign shall be posted prominently within view of the vehicle operator. Within 30 days of the RPA approval, the Mine Operator shall submit to the Planning Manager photo documentation demonstrating compliance of this.

90.

TABLE 1 (Continued)
MITIGATION MONITORING, REPORTING, AND COMPLIANCE PROGRAM FOR THE LEHIGH PERMANENTE QUARRY RELCMATION PLAN AMENDMENT

Potentially Significant Impact	Mitigation Measures	Implementing Action	Timing of Implementation	Responsible Department or Agency	Compliance Verification
existing visual character or quality of the Project Area.					