

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



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

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

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

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

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

Prepared by:
 Robert Salisbury, Senior Planner

DocuSigned by:

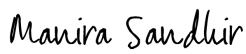
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Signature

 April 12, 2021

Date

Approved by:
 Manira Sandhir
 Principal Planner, AICP

DocuSigned by:

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Signature

 April 12, 2021

Date

Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Ken Yeager, S. Joseph Simitian
County Executive: Jeffrey V. Smith

Introduction

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

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

Project Location

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

Project Description

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

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

Concrete Channel (Reach 6)

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

Channel Widening Area (Reaches 8-10)

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

Rock Pile Area (Reaches 11 through 13)

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

“Old Crusher Foundation” (Reach 17)

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

Material Removal Area (Reaches 17 and 18)

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

Required Project Approvals

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

Potential Environmental Effects of the Project

An electronic copy of the 2012 EIR is available online:

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

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

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

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

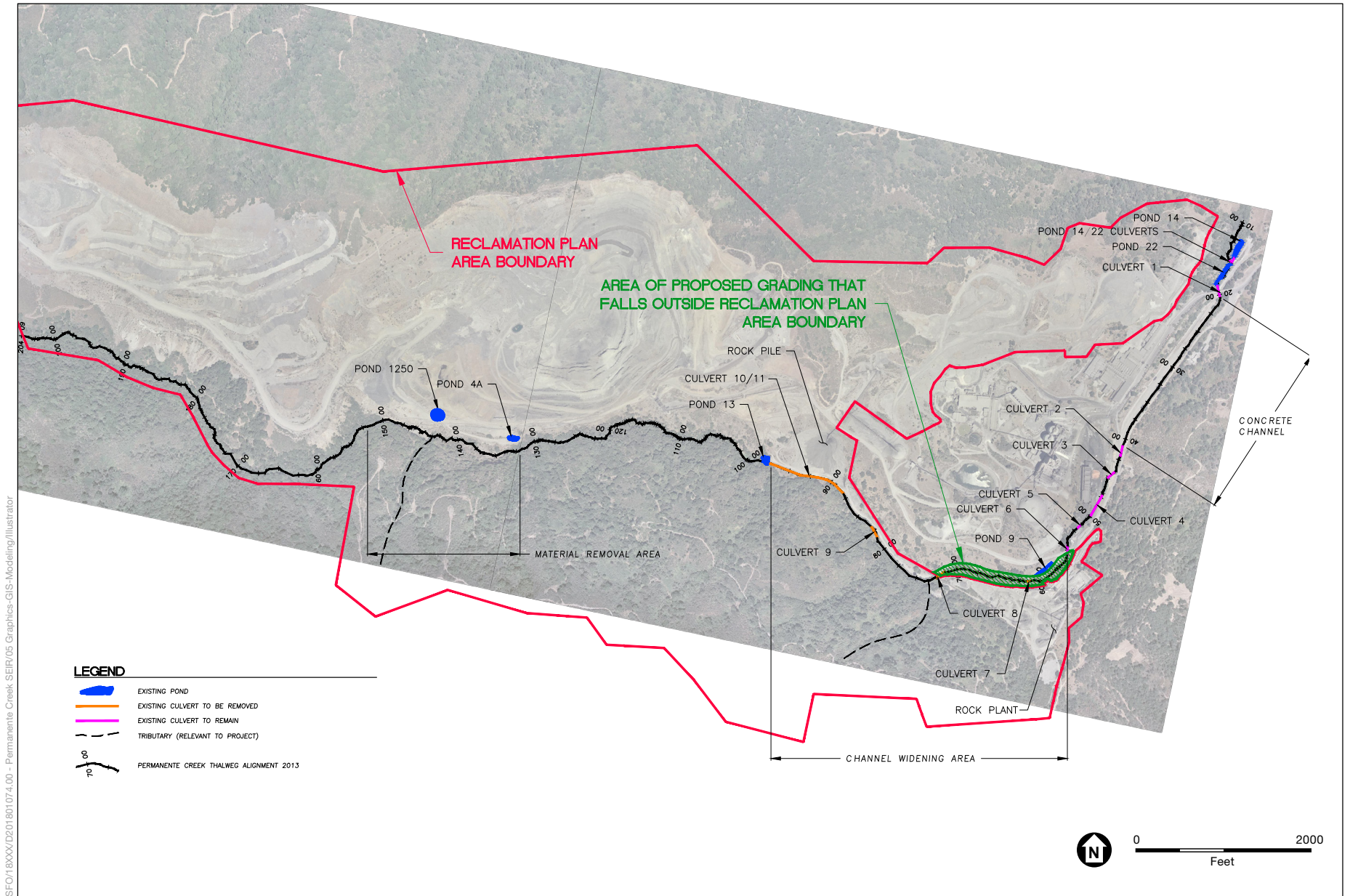
¹ Focusing the scope of the SEIR in this way is consistent with CEQA. See, for example, *City of Irvine v. County of Orange* (2015) 238 Cal.App.4th 526, 539, and the California Supreme court’s decision in *Friends of the College of San Mateo Gardens v. San Mateo County Community College District* (2016)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

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

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

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

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



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

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

Permanente Creek Restoration Project Grading Approval Notice of Preparation

Figure 1
Project Overview

