

APPENDIX A-3
NOP COMMENTS



ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7

100 NORTH CANYONS PARKWAY, LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

June 6, 2019

**Bruce Jensen, Senior Planner
Community Development Agency
224 W. Winton Ave., Room 205
Hayward, California 94544-1215**

**Re: Application for Eliot Quarry SMP-23
Reclamation Plan Amendment
Project California Mine ID 91-01-0009**

Dear Mr. Jensen:

Alameda County Flood Control and Water Conservation District, Zone 7 (Zone 7) very much appreciates the opportunity to review and provide comments on an advance draft of the above-referenced proposed amendment to the reclamation plan SMP-23 for the Eliot Quarry. We have developed a good working relationship with the County and with CEMEX and look forward to open communications as we all proceed through this process.

Zone 7 has had a long and collaborative relationship with the County in managing the areas within the Livermore and Amador Valleys for the purposes of gravel mining and water supplies. Currently, the County is considering a request from CEMEX to amend the current reclamation plan for Lake B to allow CEMEX to excavate to a depth of 150 ft. msl from the current maximum depth of 250 ft. msl. The purpose of this letter is to: (i) describe the long history of collaboration between the County and Zone 7, and (ii) provide some preliminary high-level comments on the proposed amendment.

1. The County and Zone 7 Have a Long History of Collaboration to Protect Groundwater Resources in the Livermore and Amador Valley

Ever since 1969, the County has worked with Zone 7 to protect what would later become the "Chain of Lakes" concept and the groundwater basins in the Livermore-Amador Valley.

- In 1969, in Quarry Permit #76 (Q-76), the County limited excavation at what is now Lake B with an eye to protecting the groundwater basin. Paragraph 17 of Q-76 allowed for the excavation of the top 120 ft. of material but specifically provided that: "in no event [shall the mining] exceed the depth of the upper aquifer" as defined by the California Department of Water Resources. Paragraph 21 of Q-76 emphasized the need

to protect water quality in the groundwater basin by stating specifically that the "applicant shall conduct quarrying operations in a manner that shall not cause or result in pollution of the ground water basin."

- In 1975, the County prepared an EIR for an amendment to Q-76. The EIR was more specific about the potential depth of excavation than the original permit, indicating that the maximum depth of excavation might range from elevation ± 320 ft. msl at the east boundary of Lake B to elevation ± 280 ft. msl at the west boundary of Lake B. However, the EIR was clear that those depths were the maximum possible depths and that the operative standard was still the depth of the upper aquifer as it might vary across the area included in Lake B.
- In 1985, the County adopted the Specific Plan for the Livermore-Amador Valley Quarry Area Reclamation (LAVQAR). That plan has been incorporated by reference in all subsequent permitting and is the basis for the Chain of Lakes. LAVQAR provides that its objectives are to: (i) mitigate the impedance of groundwater movement from mining, (ii) mitigate the exposure of groundwater to evaporative losses from mining, (iii) mitigate the "exposure of groundwater to increase risk of quality degradation due to surface exposure as a result of mining operations," and (iv) preserve "undiminished and satisfactory water quantity and quality in the upper aquifer of the mined area for beneficial uses." LAVQAR specifically provided, in paragraph 11, that: "[t]he right of the public to manage and use water resources of the chain of lakes and area groundwater undiminished with respect to quantity and quality shall be expressly asserted and any other uses permitted in said areas shall be compatible with said right." In these ways, the County balanced the needs of the residents of the County for sand and gravel against the need to protect the groundwater basin.
- In 1987, the County adopted Surface Mining Permit #23 (SMP-23). That permit incorporated the terms of Q-76 and LAVQAR by reference. The application for SMP-23 from RMC-Lonestar specifically reiterated the maximum depths for mining and stated that mining will: "be confined to the upper aquifer as defined by the extensive clay layer which separates the top two regional aquifers. *The depth of mining varies according to the depth of this clay layer.*" (Emphasis added)
- In 1995, the County amended SMP-23. Of note is the fact that the County explicitly added the language of paragraph 21 from Q-76 (quoted above) into the permit. From a legal standpoint, the incorporation by reference of Q-76 in the original version of SMP-23 meant that this was not absolutely required. Its inclusion, though, shows the strength of the County's continuing commitment to protecting groundwater quality in the Chain of Lakes.
- In 2012, the County amended and restated SMP-23. Again, the County stated that mining must conform to the terms of LAVQAR and forbade the quarry operator from acting in a manner that resulted in the pollution of either groundwater or surface water.

- Finally, in 2013, the County approved a Corrective Action Plan (CAP) that would address the fact that CEMEX had excavated to a depth below what had been permitted by SMP-23. The interim reclamation plan approved with the CAP allowed CEMEX to excavate to a depth of 250 ft. msl, which is the current depth of Lake B. The County only approved the CAP after reviewing studies that allowed the County to find that there would be no adverse impact to groundwater from the deeper mining and after having sought and obtained concurrence from Zone 7 on that finding.

This history, and especially the collaboration on the CAP, shows the way that Zone 7 and the County have worked together to protect the groundwater basins in the Livermore-Arnador Valley, and especially their water quality, for the past half-century.

2. Zone 7 Has A Number of Concerns Regarding the Proposed Reclamation Plan Amendment

At this time, Zone 7 has general comments on the draft reclamation plan amendment. As illustrated in the foregoing chronology, reclamation plans are the way that the County implements the general requirements of LAVQAR. There are a number of provisions in LAVQAR indicating that mining operations must be consistent with the long-term use of the Chain of Lakes for water management purposes, particularly – as noted above – including the protection of water quality.

In general, our comments relate to the protection of the aquifers and the Livermore Valley Groundwater Basin, both as to water quantity/groundwater levels and as water quality. As such, we must ensure that water quality is maintained during mining operations, and that the reclamation plan results in the lakes being left in a condition in which Zone 7 can use the lakes for water management purposes as defined in LAVQAR. Zone 7 staff can prepare a detailed list of technical questions and comments if requested. We believe, however, that at this early stage in the process, it is more useful for us to provide the County and CEMEX with more general comments that will allow us collectively to make appropriate changes to the proposed reclamation plan amendment.

a. *Depth of Mining*

With regarding to the CEQA analysis of the proposed reclamation plan amendment, Zone 7 notes that the Project Description states, at pages 19-20:

The aquitard layer is not present everywhere [in the area to be mined], as it may contain zones of coarser-grained material, or may become very thin in some locations. In areas where these variations occur, the aquitard is referred to as “leaky” because it may allow groundwater to be transmitted between the two aquifers. There is substantial evidence that the aquitard layer is both thin and discontinuous in the area of the Eliot Quarry (EMKO 2019).

Zone 7 appreciates the candor of this discussion and concurs that there are some areas where the aquitard is "leaky." Because the lower aquifer provides the chief source of groundwater that is supplied for drinking water by Zone 7's retail water suppliers, it is very important for the EIR to evaluate whether the proposed mining could have adverse water quality impacts. Zone 7 requests that this subject be thoroughly discussed in the EIR. Zone 7 believes that the County should retain a national expert on this type of complicated hydrogeology to advise all parties and the public on what mining can be performed in a manner consistent with the County's longstanding protection of the groundwater basin of the Livermore-Amador Valley, as described in the above chronology.

b. Silt Placement

The Project Description includes significant changes to the reclamation plan in many aspects, including configuration of ponds and lakes, placement of silt during and after mining. Zone 7 requests that the impacts of silt operations on water quality and future groundwater recharge capability be thoroughly discussed in the EIR.

c. Spillway Structure

The Project Description seems to make changes to the spillway from Lake B into the Arroyo Valle. Our initial analysis suggests that this will mean that Lake B will spill more often, which means that there will be a commingling of water from Lake B with natural water in the Arroyo Valle. It is unclear whether this commingling could lead to changes in water quality in the Arroyo Valle or in the aquifers replenished by that stream. These issues should be thoroughly discussed in the EIR.

d. Diversion Operations

As currently designed, the Lake A diversion structure may not function as desired. General concerns include average flows washing out infiltration gravel, piping structures not being big or numerous enough to accommodate a diversion rate of 500 cfs and fish passage issues. The design and use of the diversion structure should be thoroughly evaluated in the EIR.

e. Slope Strength and Stability

Zone 7 has concerns regarding the slope strength and stability throughout the Project Description, for the various lakes and particularly for the proposed Arroyo Valle realignment. All slope design factors should be thoroughly evaluated in the EIR.

f. Climate Change

Long-term effects of climate change should be incorporated into the planning and evaluation efforts. Flood control structures are currently based on a 100-year flood event. Climate changes suggests that in the future, rainy years will become fewer but more intense. Flood engineering structures and projected water levels should be based on a larger flood event standard.

In addition to these high level comments, as the Reclamation Plan is being refined, Zone 7 requests to be involved in the preparation of construction level drawings related to the various facilities, including but not limited to spillways, culverts, drainage and other such facilities.

3. Conclusion

The Zone 7 Water Agency has been designated as the Groundwater Sustainability Agency for the Livermore Valley Groundwater Basin by the 2014 Sustainable Groundwater Management Act (SGMA). In accordance with this State law, Zone 7 is responsible for maintaining the long-term sustainability of the groundwater basin. The groundwater basin is to be managed in such a manner as to avoid six undesirable results, which are to avoid impacts that significantly and unreasonably degrade: (1) groundwater storage, (2) chronic lowering of groundwater levels, (3) surface water depletion, (4) seawater intrusion, (5) water quality and (6) land subsidence. As the Groundwater Sustainability Agency for the Livermore Valley Groundwater Basin, Zone 7 looks forward to working with your office and with CEMEX on these important questions.

Very truly yours,



Valerie Pryor
General Manager

cc: Board of Directors, Zone 7
Supervisor Scott Haggerty
Supervisor Nate Miley

South Livermore Trail Gap closure opportunity on CEMEX Lake A property (Dave Lunn 6/29/19 1 PM)

On 6/26/2019 Alameda County and CEMEX (The Gravel mining company) presented the Reclamation plan for Lake A. Lake A is the Reclamation Plan and Zone 7 name for reclaimed gravel mining pit on the Elliot Mine property owned by CEMEX located between Vallecitos Rd. and Isabel Ave. along the Arroyo Valle (See map). **The LARPD trail on the north of Lake A is missing from the plan.**

There was an opportunity to connect the LARPD trail on the north side of Lake A with Sycamore Grove park. Alameda County and the Gravel mining company CEMEX have been refining their plans over the past few years and will be turning over the land for water resource management and recreation.

LARPD has an existing trail segment on the north side of Lake A. There is a community need to extend this trail east utilizing a small segment of the Lake A property for about 200 yards. This extension would allow the trail to connect on public property with Sycamore Grove and the rest of the South Livermore Trail. This was an important trail opportunity for coordination during the past four years as Alameda County and Cemex refined plans for Lake A. This opportunity was noted by many members of the public in the recently updated LARPD masterplan (June 2016) and City of Livermore Active Transportation Plan, (June 2018).

But Public agencies responsible for recreational trails in Livermore have apparently not communicated the need to accommodate this trail into the reclamation plan. **A joint public letter from LARPD and the City of Livermore to CEMEX & the County is needed now.**

LARPD budget summary (26 June 2019) for this trail segment.

Trail Name: T10 Trail north of Lake A- Plotkin Gap

This is a City of Livermore Trail Project

Item 21; Project 617; Name: Oak Trail (**T10-B**) behind Plotkin property; Action: Removed; Reason: City of Livermore Project: Alternate routes for the trail are being designed by the City to circumvent the property; LARPD comment: *“Cemex no longer allowing trail on their property”*.

D. Lunn notes and background on this issue in preparation for the meeting:

Cemex will be giving the land to Zone 7 as part of a long-term mining reclamation agreement adopted circa 1981. A public meeting will be held on Wednesday June 26th to present the CEMEX revised plan for mining reclamation. Cemex will be doing final grading of the Lake Area and will be transferring the land to Zone 7 within the next two to three years. There is an opportunity for Cemex to grade a mining road along the north side of Lake A that could be used as a base level for a future regional trail connecting the existing T10 trail to Holmes Street. If this same trail was graded after transfer to Zone 7 the CEQA analysis required for a public owner could add over \$100K to the cost of the trail. In March 2015, CEMEX management agreed to consider doing this work if they received the request in writing from either the city of Livermore, The County, Zone 7 or LARPD. The plan had always been to open the trail to the public when ownership transferred from Cemex to Zone 7. The issue was: Would Cemex grade the road before they gave the property to Zone 7??

Did LARPD, Zone 7 or the City of Livermore ever request this trail in writing after the 2015 public meeting? Is there any written record of this claim that Cemex would no longer allow the trail?

David Lunn's Meeting Comments presented 26 June 2019 at the CEMEX meeting.

In March 2015, Cemex held a public meeting at the LARPD Robert Livermore Community Center on East Avenue to present plans for the reclamation of the gravel mining pit and Lake A and transfer of the land to the public.

At the meeting, the need to extend the LARPD trail on the north side of Lake A eastward to Sycamore Grove was discussed. A proposal to utilize a section of the Lake A property for the LARPD trail was proposed and it appeared feasible to Cemex. Cemex staff commented that they would consider grading a gravel road for a future trail along part of the north side of Lake A. All Cemex would need is a letter from one of the agencies: Zone 7, City of Livermore, Alameda County or LARPD.

The proposed trail would drop down from the existing LARPD T10, South Livermore Trail (Oaks trail on the north side of lake A)) near Lake side Circle.

The trail would then run parallel to the existing perimeter road separated by "K Rails" including a chain link fence on top of the K-Rails. (K-Rails are the 20-foot-long, massive concrete portable barriers used in highway construction to separate traffic lanes)

The trail would then ascend back up to the berm/path along Siena Road.

A chain link fence would separate the trail area from the Access road used in the future by Zone 7.

My question is: Did CEMEX ever receive a letter requesting this gravel road from either Zone 7, Alameda County, The City of Livermore or LARPD?

Answer: Cemex comment was that they were not aware of any letter requesting a trail on the north.

Andy Ross, a Planner with the City of Livermore was asked privately and responded that many letters have been exchanged but he was not aware of a specific letter requesting this trail. But he was not working for the City at that time, so he does not know. **Director Palmer commented publicly that she remembered the comment by Cemex as did Sue Plotkins and Dick Quigley.** I did not ask Bruce Jensen from Alameda County publicly but in private he said that the County would not send a letter unless there was agreement between the recreation agencies and Zone 7. LARPD staff was not at the meeting. It is unclear if any letter was sent regarding this opportunity to add the LARPD trail to the Reclamation plan. Board members from LARPD and Zone 7 are unaware of any letter being sent. CEMEX is allowing the Regional trail on their property to the south, but the north-side trail gap property will be public property (given to Zone 7) so **it is not an issue of Cemex no longer allowing a trail on their property.**

This South Livermore Trail Gap closure is very important to the South Livermore Plan for trails through the open space of South Livermore. This South Livermore trail will extend from Isabel west to Wetmore Road and west further to Wentz street, South Livermore and Tesla Road. Progress is being made and just Yesterday (June 25th) graders were clearing the South Livermore trail route along the fence line south of Tesla Road on the Byers Ranch Property. This trail will eventually extend all the way from Isabel to Greenville road right near where we are meeting right now.

This short trail gap on the Lake A property will soon be the only trail gap in the entire South Livermore Trail. (see attached map). Closing this Trail gap is important to the people of Livermore!

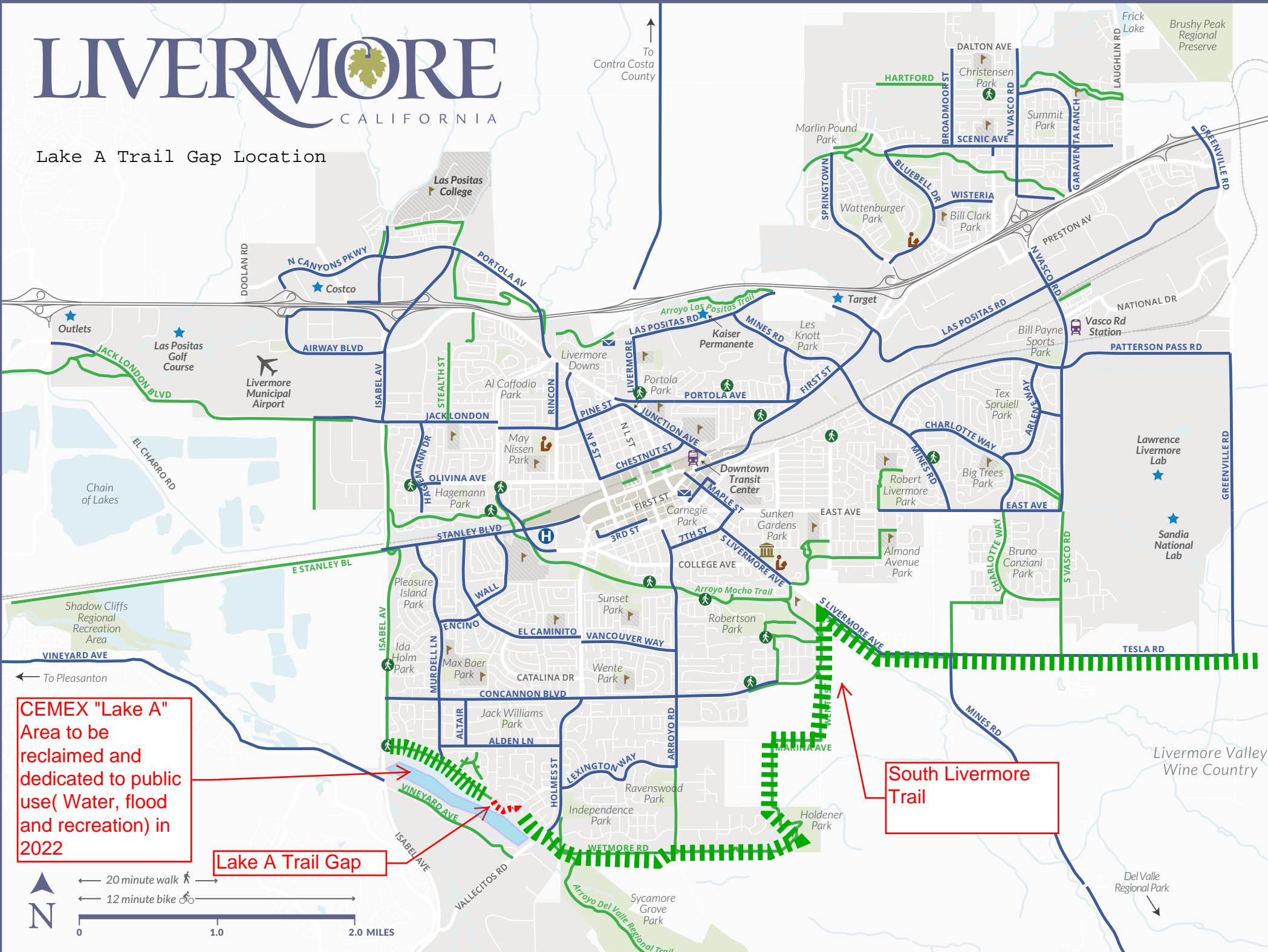
Thank you for your consideration, Dave Lunn

The City of Livermore must request the ²grading and dedication of this trail (hopefully in coordination with Zone 7 and LARPD) or this opportunity will be lost. Letters are due by July 18, 2019

LIVERMORE

CALIFORNIA

Lake A Trail Gap Location



CITY OF LIVERMORE

Bicycle, Pedestrian, & Trails Map















LEGEND

 Paved Shared Use Path



 Bicycle Lane



-  City of Livermore
-  Downtown Livermore
-  School Grounds
-  Park
-  Railway
-  Creek
-  ACE Station
-  Pedestrian Connector
-  City Hall
-  Hospital
-  Library
-  Points of Interest
-  Post Office
-  School

NATIVE AMERICAN HERITAGE COMMISSION
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July 1, 2019

Bruce Jensen
Alameda County
224 W. Winton Ave., Suite 111
Hayward, CA 94544

RE: SCH# 2019060144 Eliot Facility (SMP-23) Reclamation Plan Amendment, Alameda County

Dear Mr. Jensen:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. **Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
2. **Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).
 - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
3. **Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
4. **Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:
 - a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
5. **Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
6. **Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

7. **Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
8. **Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
9. **Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
10. **Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- Avoidance and preservation of the resources in place, including, but not limited to:
 - Planning and construction to avoid the resources and protect the cultural and natural context.
 - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
 - Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
11. **Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email

address: Gayle.Totton@nahc.ca.gov.

Sincerely,



for

Gayle Totton

Associate Governmental Program Analyst

cc: State Clearinghouse



P.O. Box 1191, Livermore, CA 94551 www.fov.org

July 8, 2019

Mr. Bruce Jensen, Senior Planner
Alameda County Community Development Agency
Planning Department
224 W. Winton Ave, Suite 111
Hayward, CA 94544

SUBJECT: Environmental Impact Report (EIR) for the Proposed Reclamation Plan Amendment for the Eliot Quarry Surface Mining Permit-23 (SMP-23) in Alameda County

Friends of Open Space and Vineyards (FOV) supports the reclamation plan amendment for the Cemex mining location known as Lake A with one exception. The exception has to do with the need to provide a connection of the Lake A trail, also referred to as LARPD trail, to the South Livermore Trail.

There are several miles of trails in and around Livermore. The South Livermore Trail traverses roughly 4 miles from Mines Road to just east of Lake A. Connecting the Lake A trail to the South Livermore Trail will provide a critical link so that there will be a safe and seamless continuation of trail paths from southeast Livermore to Pleasanton and eventually to the Iron Horse Trail. The Lake A trail as it is proposed today leaves approximately 200 yards of land without a trail and is a key break in the system.

The history of the desire for this trail connection dates back several years. In March 2015, Cemex held a community meeting at the Robert Livermore Community Center to discuss their reclamation plans for the gravel mining and Lake A and their transfer to the public. Cemex indicated a willingness to grade a path of about 200 yards from the Livermore Area Recreation and Park District (LARPD) trail that parallels Lake A, to connect with the trail access to the east. Cemex indicated that they only required a request from Zone 7, City of Livermore, Alameda County or LARPD. This trail connection is part of the 2016

LARPD master plan as well as the 2018 City of Livermore Active Transportation Plan.

The desirability of this trail connection is well documented. The land will be owned by Zone 7 at the conclusion of the restoration process. Cemex has indicated in the past a willingness to provide the trail connection. Both the City of Livermore Active Transportation Plan and the LARPD master plan assume this trail connection in their plans. It seems the most logical course is to include the trail connection in the Cemex restoration plan now and avoid future costs for grading and an additional EIR when it can be so easily accommodated now.

Sincerely,

A handwritten signature in black ink that reads "Mark Palajac". The signature is written in a cursive, flowing style.

Mark Palajac
Director

From: Bruce Steubing
Sent: Monday, July 29, 2019 1:29 PM
To: Christy Seifert
Subject: FW: SMP-23 Reclamation Plan Amendment SEIR

From: Jensen, Bruce, CDA [<mailto:bruce.jensen@acgov.org>]
Sent: Monday, July 29, 2019 10:31 AM
To: Bruce Steubing
Subject: FW: SMP-23 Reclamation Plan Amendment SEIR

More negative comments.

Bruce Jensen
Alameda County Planning Department
224 West Winton Avenue, Room 111
Hayward, CA 94544
(510) 670-5400

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From: Nancy Harrington <nancyrh1@sbcglobal.net>
Sent: Monday, July 8, 2019 9:23 AM
To: Jensen, Bruce, CDA <bruce.jensen@acgov.org>
Subject: SMP-23 Reclamation Plan Amendment SEIR

Hi Bruce,
My husband and I live in Ruby Hill and have attended some past meetings regarding further digging by the active mining companies in the Chain of Lakes area. We are very much opposed to further digging, fearing damage to the water table affecting our water supply and its quality. There is a time to stop this and that is now. No digging beyond 150 feet. That's enough!

Thank you for allowing further input on this issue.

Nancy & Gary Harrington



Alameda Creek Alliance

P.O. Box 2626 • Niles, CA • 94536
Phone: (510) 499-9185
E-mail: alamedacreek@hotmail.com
Web: www.alamedacreek.org

July 9, 2019

Sent via e-mail on 7/9/19 to bruce.jensen@acgov.org

Mr. Bruce Jensen, Senior Planner
Alameda County Planning Department
224 W. Winton Avenue, Suite 111
Hayward, CA 94544

Re: Draft SEIR for Eliot Quarry SMP-23 Reclamation Plan Amendment Project

These are comments of the Alameda Creek Alliance on the Draft Subsequent Environmental Impact Report (SEIR) for the Eliot Quarry SMP-23 Reclamation Plan Amendment Project. The Alameda Creek Alliance is a community watershed group with more than 2,000 members, dedicated to protecting and restoring the natural ecosystems of the Alameda Creek watershed. Our organization has been working to protect and restore streams in the Livermore-Amador Valley since 1997.

We have concerns about the potential impacts of the project on native fish and wildlife, aquatic habitat, hydrology, and water quality in Arroyo del Valle and downstream in Arroyo de la Laguna and Alameda Creek. The SEIR should fully assess these potential impacts.

Project Description

The project would construct a small low-head dam in Arroyo del Valle as part of a Lake A water diversion structure, and realign a $\pm 5,800$ linear foot reach of the Arroyo del Valle south of Lake B, creating a new creek channel and riparian corridor south of the Lake B mining area. The SEIR should fully describe proposed water conveyance and diversion facilities to be constructed in Arroyo de la Laguna, including the water diversion structure, low-head dam, foundation, spillways, and water intake structures. The SEIR should also describe the proposed operation of these facilities, including water diversion rates. The SEIR should analyze the potential impacts of these facilities and their operation on native fish and wildlife, aquatic habitat, hydrology, and water quality in Arroyo del Valle, as well as further downstream in Arroyo de la Laguna and Alameda Creek.

Endangered and Sensitive Species

The March 2019 application to amend the Eliot Quarry reclamation plan notes protected and sensitive wildlife species that are presumed to be present in the project area. These include bald and golden eagle, western pond turtle, American peregrine falcon, white-tailed kite, and special-status bat species. The SEIR should evaluate potential project impacts on these species and provide appropriate avoidance and mitigation measures. American peregrine falcon and white-tailed kite are California Fully Protected Species, thus no take is allowed of these species. The SEIR should describe how the project will comply with the no take provision for these species.

The western burrowing owl is described as having a low potential to occur in the project area

due to active mining operations, but the March 2019 application notes CNDDDB occurrences nearby and the potential for ruderal grassland and portions of developed areas along the Arroyo del Valle to provide habitat for this species. Due to the regional rarity of burrowing owls, the project should be required to resurvey for nesting or wintering burrowing owls before project construction, according to California Department of Fish and Wildlife survey protocols. The SEIR should describe appropriate avoidance and mitigation measures for burrowing owls should they be found in the project area.

A 2016 National Marine Fisheries Service (NMFS) letter for the nearby Lehigh Hanson Arroyo Mocho Diversion Structure project discussed whether there was a need for Endangered Species Act Section 7 consultation regarding potential impacts to federally threatened steelhead trout (*Oncorhynchus mykiss*). At the time, NMFS determined that the action area of the project (nearby Arroyo Mocho) did not support listed steelhead or designated critical habitat (see attached NMFS 2016 letter). However, NMFS noted that plans are actively underway to remediate fish passage barriers in lower Alameda Creek and that NMFS anticipates that threatened Central California Coast (CCC) steelhead will return to the upper Alameda Creek watershed (including potentially the current project area in Arroyo del Valle) by 2021. Construction has been completed on one fish ladder and construction was initiated in 2019 on a second fish ladder in lower Alameda Creek (see <https://www.acwd.org/456/Current-Fish-Passage-Related-Projects>). The Alameda County Water District will complete construction on the second fish ladder in 2021, at which time listed CCC steelhead could be present in the current project area. NMFS noted that ESA Section 7 consultation will be required for the nearby Lehigh Hanson Arroyo Mocho Diversion Structure project once steelhead access to the upper watershed has been restored in 2021. The SEIR for this project should detail the anticipated construction dates for the project and the potential for listed steelhead to be present in the project area in Arroyo del Valle.

Project Alternatives

The SEIR should evaluate project alternatives with no realignment of Arroyo del Valle and no mining south of the existing Arroyo del Valle channel, to avoid significant impacts to Arroyo del Valle and its aquatic and riparian habitat.

Project Impacts

The SEIR should evaluate whether the proposed realignment of Arroyo del Valle will actually improve or restore more ecologically desirable stream and riparian conditions. The SEIR should describe the current ecological conditions in the reach of Arroyo del Valle along Lakes A and B, including existing aquatic habitat, native vegetation, riparian resources, native fish and wildlife, nesting birds, and the potential presence of any special-status wildlife. The SEIR should compare existing conditions in the current Arroyo del Valle with the proposed conditions in a realigned, reconstructed channel and compare the relative habitat values for native fish and wildlife. The SEIR should also describe what existing native riparian trees are to be removed due to realignment. The SEIR should evaluate the likely success of proposed riparian plantings in a realigned stream channel, including a discussion of survival of plantings during extended drought conditions, a watering program for plantings, proposed monitoring of plantings, and mitigation requirements should plantings fail.

The SEIR should discuss the hydrology of Arroyo del Valle and how existing and future operation of mining pits and proposed water management and diversion will impact surface flows and habitat conditions for native fish and wildlife in Arroyo del Valle, as well as downstream in Arroyo de la Laguna and Alameda Creek. Studies of quarry and gravel pit impacts have shown alterations of groundwater flow paths, significant decline in aquifer water levels due to quarry dewatering and rock removal, changes in hydraulic gradient, and loss of surface stream flow.

The SEIR should discuss whether proposed water diversion and conveyance structures could significantly alter the hydrology, surface flow, water quality and habitat values of Arroyo del Valle in the project area, and further downstream in Arroyo de la Laguna and Alameda Creek. The SEIR should discuss how these structures and their operation would be consistent or inconsistent with Regional Water Quality Control Board policies regarding impairment of natural stream flows. The SEIR should also discuss the water rights (or any lack thereof) regarding proposed water diversions and storage. The SEIR should analyze whether the project could have potentially significant impacts on hydrology and water quality, violate water quality standards and discharge, deplete groundwater supply, substantially alter existing drainage patterns, or create or contribute runoff water that would degrade downstream water quality.

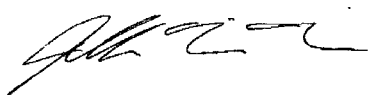
The project notice states that consideration for fish passage has been incorporated into the designs for both the realigned Arroyo del Valle and the diversion structure into Lake A. Construction and operation of the diversion structure has potential to interfere with movement of native fish, even with fish passage provisions. The SEIR should discuss how the diversion structure will be designed to allow for volitional fish passage, and whether there will be an associated fish ladder and fish screens. The SEIR should specify whether minimum water bypass flows will be required at the diversion structure, and whether they will be adequate to prevent fish stranding and to allow adequate fish passage upstream and downstream. The SEIR should evaluate the potential for the diversion structure and its water impoundment to create habitat conditions favorable for invasive predators of native fish and wildlife.

The SEIR should discuss cumulative impacts of the project, along with other nearby projects, on native fish and wildlife, aquatic habitat, hydrology and water quality in Arroyo del Valle and downstream in Arroyo de la Laguna and Alameda Creek.

Proposed Mitigation

The California Department of Fish and Wildlife considers the East Alameda County Conservation Strategy (<http://www.eastalco-conservation.org/>) as a template for all project mitigation in the East County, including the project area. Any impacts from the proposed project should be mitigated, at a minimum, according to the EACCS mitigation standards.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Miller', with a stylized flourish at the end.

Jeff Miller, Director
Alameda Creek Alliance



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

West Coast Region
777 Sonoma Avenue, Room 325
Santa Rosa, California 95404

OCT 18 2016

In response refer to: WCR-2014-1222

Holly Costa
Acting Regulatory Branch Chief
U.S. Department of the Army
San Francisco District, Corps of Engineers
1455 Market Street, 16th Floor
San Francisco, California 94103-1398

Re: Endangered Species Act technical assistance for Lehigh Hanson Arroyo Mocho
Diversion Project in Arroyo Mocho, Alameda County, California (Corps File No.
2002-273850S)

Dear Ms. Costa:

Thank you for your letters of July 16, 2014, and June 14, 2016, regarding consultation pursuant to section 7 of the Endangered Species Act (ESA) to address the potential effects of the Lehigh Hanson Arroyo Mocho Diversion Project in Arroyo Mocho, a creek located in Alameda County, California (Corps File No. 2002-273850S) on federally threatened Central California Coast (CCC) steelhead (*Oncorhynchus mykiss*). The U.S. Army Corps of Engineers, San Francisco District (Corps) proposes to authorize Lehigh Hanson's construction of this project pursuant to Section 404 of the Clean Water Act of 1973 (33 U.S.C. Section 1344). At this time, the Alameda Creek watershed, including the action area of this project, does not support CCC steelhead nor any other listed species or designated critical habitat under the jurisdiction of NOAA's National Marine Fisheries Service (NMFS). However, plans are actively underway to remediate the fish passage barriers in lower Alameda Creek and NMFS anticipates threatened CCC steelhead will return to the upper watershed within the next 5-6 years. Accordingly, this letter transmits NMFS' comments regarding the Arroyo Mocho Diversion Project as technical assistance. Consultation pursuant to section 7 of the ESA is not required until access for CCC steelhead to the upper Alameda Creek watershed has been restored, which is anticipated to be in year 2021.

Lehigh Hanson (Applicant) proposes to construct a 435 square-foot concrete foundation for an inflatable dam, which will span the Arroyo Mocho channel. Immediately upstream of the inflatable dam, the Applicant proposes to construct a 300 square-foot intake structure for the purpose of diverting water at rates up to 100 cubic feet per second (cfs) from the Arroyo Mocho



into a reclaimed gravel extraction pit (Lake H). For a two-year period following construction, the Applicant proposes to operate the water diversion structure. The Applicant will then transfer the facility to the Zone 7 Water Agency (Zone 7) for future operation. Neither the Applicant nor Zone 7 Water Agency have a water right authorizing diversion of Arroyo Mocho streamflow; thus, the project is designed for the purpose of diverting Sacramento Delta sourced water purchased from the State Water Project (SWP) and released from the South Bay Aqueduct (SBA) to the Arroyo Mocho approximately 8.5 miles upstream of the project site.

Provided the construction activities permitted by the Corps are completed prior to the restoration of steelhead passage at the downstream barriers in 2021, no effects to threatened CCC steelhead associated with construction activities are anticipated by this project. If construction activities are not completed prior to the restoration of steelhead passage in lower Alameda Creek, there is the potential for construction to affect threatened steelhead. The most significant potential effects of this project are related to the operation of the new water diversion facility. NMFS offers the following comments and recommendations regarding the future operation of the inflatable dam and water diversion facility.

(1) Fish Passage.

Operation of the inflatable dam is expected to delay and block the movement of both adult and juvenile steelhead in Arroyo Mocho. The majority of suitable steelhead habitat in the northern Alameda Creek watershed is located in Arroyo Mocho Canyon, upstream of the proposed dam. Resident *O. mykiss* are currently present in this reach (Gunther *et al.* 2000) and NMFS estimates approximately 15 kilometers of suitable habitat is available for steelhead recolonization (NMFS 2016). Restricting steelhead passage to and from this reach would drastically reduce the chances of recovery of the CCC steelhead Distinct Population Segment. NMFS recommends a fish passage structure (*e.g.*, fish ladder) be installed at the dam, similar to those being installed downstream in the Alameda Creek Flood Control Channel to ensure steelhead passage is not impaired.

(2) Fish Screen.

The project proposes to install a fish screen on the diversion structure with a design approach velocity of 0.8 feet per second (fps). NMFS' fish screen design criteria allow for an approach velocity of 0.8 fps in situations where fry-sized salmonids (less than 2.36 inches) are not present in the vicinity of the screens, otherwise the approach velocity should not exceed 0.33 fps (NMFS 1997). NMFS recommends the facility be initially constructed to achieve an approach velocity of 0.33 fps because steelhead fry will likely occur in the vicinity of the screens when steelhead passage is restored downstream. Furthermore, NMFS recommends the Applicant install an alarm system to trigger an automatic shutdown if the fish screen is not operating correctly.

(3) Downstream Bypass Flows.

The dam will create a diversion pool of water on the upstream end of the dam for extended periods of time creating a dead-end for steelhead migrating downstream. Post-spawning, adult steelhead migrate downstream to return to the ocean and juvenile steelhead (smolts) migrate

downstream to the ocean in the late winter/spring months. Without streamflow bypassing the dam, steelhead will be trapped in the diversion pool created by the inflatable dam for extended periods of time making them susceptible to stranding when water levels recede, and predation from birds and other fishes. NMFS recommends bypass flows be released from the dam through a fish passage structure (*i.e.*, fish ladder) to enable steelhead to complete their migrations and to support aquatic habitat downstream. A streamflow assessment based on downstream channel conditions and steelhead passage requirements should be performed to determine the appropriate volume and timing of bypass flows.

(4) Comingling of Arroyo Mocho Streamflow with SWP Water.

The Applicant's proposal to build a structure for the sole purpose of conveying SWP water to off-channel facilities via the natural channel will result in unseasonable large volumes of water passing downstream for a distance of 8.5 miles in Arroyo Mocho. This could result in degradation of stream conditions for native fish and wildlife. SWP water is typically warmer than local streamflow and the discharge of imported water is likely to warm the waters of Arroyo Mocho. Non-native aquatic organisms from the Delta are likely to be introduced into Arroyo Mocho with SWP releases. Year-round high flows within the historically intermittent channel will likely create excessive vegetation growth and convert the relatively open native riparian woodland into dense riparian forest conditions that lead to channel incision. Increasing the persistence of perennial flow, especially when the water is warm, can also promote the establishment of non-native warm water fishes, such as bass and sunfish, that place predatory pressure on salmonids.

If SWP water releases are conducted when natural flows exist in Arroyo Mocho, juvenile resident *O. mykiss* and/or steelhead could be swept downstream by the augmented flows. Because the diversion dam and intake are located in a reach that is typically dry or intermittent during the summer and fall months, fish swept downstream into this reach will likely become stranded in downstream areas when water releases ramp down or cease too quickly. To avoid these impacts NMFS recommends the release of imported water to the diversion facility only occur during the period from mid-June through mid-October when the reach between the SBA turnout and the rubber dam is dry. By ensuring there is no streamflow connection, or potential for connection, to natural streamflow in the Arroyo Mocho, native fish are unlikely to be entrained and swept downstream during SBA water releases. Similarly, non-native fish translocated via SWP water would have less opportunity to travel upstream via Arroyo Mocho streamflow and become established in the watershed. Monitoring and removal of non-native aquatic organisms should also be implemented to prevent and control their establishment in Arroyo Mocho. To this end, the reach should be periodically allowed to dry during the natural dry season in order to control non-native fishes.

It is our understanding that neither the Applicant nor the future operator of the facility, Zone 7, have a legal entitlement from the State of California authorizing the diversion of natural streamflow from the Arroyo Mocho, and that the water delivered from the SWP to Zone 7 via Arroyo Mocho is pursuant to contract with the Department of Water Resources (the operator of the SWP). Therefore, all natural streamflow must be bypassed through or around the dam.

NMFS recommends the Applicant and the Corps contact the State Water Resources Control Board to ensure the project will be operated in accordance with California water law.

(5) Anticipated Incidental Take.

As discussed above, the proposed operation and maintenance of an inflatable dam and water diversion on the Arroyo Mocho are anticipated to result in adverse effects to federally-threatened CCC steelhead when anadromous fish passage is restored in lower Alameda Creek. Incidental take of CCC steelhead in the form of impaired fish passage, injury at the fish screen, and fish stranding is likely to occur in the future. Once steelhead are reintroduced to the watershed, this facility should only be operated after an ESA section 10(a)(1)(B) incidental take permit (ITP) has been obtained from NMFS. An ITP will allow the permit-holder to legally proceed with operations and maintenance activities that would otherwise result in the unlawful take of CCC steelhead. To obtain an ITP, the Applicant or Zone 7 must develop a Habitat Conservation Plan (HCP) that contains measures to minimize or mitigate the anticipated effects of the project. NMFS recommends the Applicant or Zone 7 initiate the ITP application process as soon as possible because once fish passage is restored in lower Alameda Creek, the Arroyo Mocho diversion should not be operated in the absence of an ITP. NMFS staff is available to provide technical assistance during the development of the HCP and ITP application.

NMFS appreciates the opportunity to comment on the proposed Arroyo Mocho Diversion Project as its future operation has the potential to significantly impede efforts to recover steelhead in the Alameda Creek watershed. Alameda Creek historically supported a functionally independent population of steelhead (Spence *et al.* 2008; Spence *et al.* 2012) and the recently completed NMFS Multispecies Recovery Plan (Recovery Plan) identifies the restoration of the Alameda Creek population as essential for the recovery of the species (NMFS 2016). The Recovery Plan specifically identifies maintenance of natural hydrological conditions in the Arroyo Mocho (Action Step: AIC-CCCS-3.1.1.4) as a high priority, site-specific threat abatement action needed in the watershed. Furthermore, Arroyo Mocho contains the greatest amount of potential high quality habitat for steelhead in the northern portion of the watershed; and a large portion (approximately 40 percent) of the potential habitat throughout the entire Alameda Creek watershed (NMFS 2016).

We look forward to working the Corps, Leigh Hanson, and Zone 7 regarding permitting and implementation as it relates to the restoration of CCC steelhead to the Alameda Creek watershed. If you have any questions regarding these comments, please contact Amanda Morrison at 707-575-6083 or by email at Amanda.Morrison@noaa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Alecia', with a long horizontal flourish extending to the right.

Alecia Van Atta
Assistant Regional Administrator
California Coastal Office

cc: Terry Marshall, Lehigh Hanson, Fresno, CA
 Brandon Woods, Zone 7, Livermore, CA
 Keith Hess, Corps, Regulatory Division, San Francisco, CA
 Brian Wines, RWQCB, San Francisco Bay Region, Oakland, CA
 Amanda Montgomery, SWRCB, Division of Water Rights, Sacramento, CA
 Marcia Grefsrud, CDFW, Yountville, CA
 Corrine Gray, CDFW, Yountville, CA
 Copy to ARN file #151422WCR2014SR00180
 Copy to Chron File

Literature Cited

- Gunther, A. J., J. Hagar, and P. Salop. 2000. An assessment of the potential for restoring a viable steelhead trout population in the Alameda Creek Watershed. Prepared for the Alameda Creek Fisheries Restoration Workgroup. Applied Marine Sciences Inc. and Hagar Environmental Science.
- National Marine Fisheries Service. 1997. Fish screen criteria for anadromous salmonids. Southwest Region. January 1997.
- National Marine Fisheries Service. 2016. Coastal Multispecies Recovery Plan. National Marine Fisheries Service, West Coast Region, Santa Rosa, California.
- Spence, B. C., E. P. Bjorkstedt, J. C. Garza, J. J. Smith, D. G. Hankin, D. Fuller, W. E. Jones, R. Macedo, T. H. Williams, and E. Mora. 2008. A Framework for Assessing the Viability of Threatened and Endangered Salmon and Steelhead in the North-Central California Coast Recovery Domain. U.S. Department of Commerce. NOAA Technical Memorandum. NOAA-TM-NMFS-SWFSC-423.
- Spence, B. C., E. P. Bjorkstedt, S. Paddock, and L. Nanus. 2012. Updates to biological viability criteria for threatened steelhead populations in the North-Central California Coast Recovery Domain. National Marine Fisheries Service, Southwest Fisheries Science Center, Fisheries Ecology Division, Santa Cruz, California.

From: Bruce Steubing
Sent: Monday, July 29, 2019 1:29 PM
To: Christy Seifert
Subject: FW: SMP-23 Reclamation Plan Amendment SEIR2

-----Original Message-----

From: Jensen, Bruce, CDA [<mailto:bruce.jensen@acgov.org>]
Sent: Monday, July 29, 2019 10:30 AM
To: Bruce Steubing
Subject: FW: SMP-23 Reclamation Plan Amendment SEIR

Another very negative comment.

Bruce Jensen
Alameda County Planning Department
224 West Winton Avenue, Room 111
Hayward, CA 94544
(510) 670-5400

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-----Original Message-----

From: Eric Helmgren <ehelmgren@me.com>
Sent: Tuesday, July 9, 2019 9:02 AM
To: Jensen, Bruce, CDA <bruce.jensen@acgov.org>
Subject: SMP-23 Reclamation Plan Amendment SEIR

Hi Bruce,

My family and I do not want an arroyo "re-routed". We do not want deeper digging. Eliot Quarry is just trying to change their previous agreement because they want to exploit more land. They made their deal, I can't blame them for trying to change it but that is just driven by greed.

Our water in Pleasanton from Zone 7 is not good. Gravel is a great water filter and necessary for a healthy aquifer. If Eliot has exhausted the deposit then it's time for them to walk away not figure out another way to take more. We need to heal the scar for nature and our future.

Eric Helmgren
Pleasanton, Ca
94566

Mr. Bruce Jensen, Senior Planner

Alameda County Community Development Agency Planning Department

224 W. Winton Avenue, Suite 111

Hayward, CA 94544

July 10, 2019

Regarding SMP-23 Reclamation Plan Amendment SEIR:

There are a couple of points I wish to add to the discussion:

1. Continue Zone 7 monitoring of additional digging since keeping our groundwater clean is of paramount importance.
2. Allow RMC Pacific Materials to modify the current agreement to:
 - a. Allow additional digging in Lake B to recover as much of the gravel and sand as is economically feasible – we need the business in this area and there is too little affordable sand and gravel in the Western US usable for buildings and concrete work.
 - b. Allow Arroyo Del Valle to be rerouted south during this additional digging – Arroyos typically reroute themselves during flood season, this is not going to significantly impact any existing native flora and fauna, as long as the Arroyo is relocated close to its current path at the conclusion of the digging. This may take longer than 20 years or so to accomplish because technology changes and the ability to harvest sand and gravel is key to keeping our local economy and therefore California's business economy growing.
 - c. Add an additional rider to the Chain of Lakes agreement:
 - i. Restore a cleaned up Arroyo to native plant status during and at the conclusion of the project.
 - ii. Involve native plant experts and ecologists to the discussion on what the cleaned up Arroyo should look like for the intermediary cleanup and final look of the project. The area should be made into a showcase for native plants and fauna.
 - iii. Include local business developers into the cleanup of the Arroyo discussion since the Vineyard Ave corridor is ripe for a San Antonio River walk type of development. The location next to the Arroyo can be a big boon for developers and can assist in paying for the cleanup and construction of the Chain of Lakes recreational area.

I am agriculture and business and ecologically trained. I live in the area and drive through the Arroyo area at least once a week or so. The Arroyo is so overgrown with non-native species such as various species of Bamboo, Fruit trees, Almond Trees, Palm trees, and weedy shrubs like Tumbleweeds and other noxious plants that the native plants and fauna have been almost completely eliminated. Rather than see the native areas completely eliminated or plowed under, I would rather have an ecologically

responsible relocation of the Arroyo done, with business buy-in and contribution in return for logical development along Vineyard Avenue to pay for the work.

As to the comments regarding the fact that a promise was made 20 years ago for the recreation area, while I agree with many of the folks about the dearth of recreational areas close to all the housing in the Tri-Valley area, I am aware we need to be able to pay for what we want. The technological changes are what has put a blip on the completion of the plan, not the change in desire for the lakes.

I would include a tie-in with East Bay Regional Parks district to do something water park like and water sports accessible in the Eastern part of the dig – replacing Shadow Cliffs to afford better access from Highway 84. This would stop many of the complaints about traffic on Stanley if another park entrance is left for local access.

Of note is the increased spending done on solar panels over the parking lot at Shadow Cliffs to help the Park District pay for the district's parks since fees alone are not sufficient for the parks maintenance. We need to do many of these improvements during the off season for the parks to be available from Memorial Day through Labor Day without construction. We need to keep as much of these improvements as possible for as long as possible. They will not be able to remove all the gravel at once, so we have time to plan the Shadow Cliff's obsolescence as a single lake on the western part of the chain of lakes and turn it into the larger Chain of Lakes Recreation area.

Shadow Cliffs was a stopgap park set up to get community buy-in for the development to occur. As frequently happens, the teen play area wore out first and was eliminated without replacement due to lack of funding available. Money needs to be spent to get more work and play opportunities for our children. I would hate to completely scrap the park, but would support relocating the lake to the Eastern part of the Chain of Lakes area to keep moving forward economically, if better amenities are made available on the Eastern end of the property.

Good luck with the negotiations,

Victoria Shore

2352 Redberry Ct.

Pleasanton, CA 94566



ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7

100 NORTH CANYONS PARKWAY, LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

July 10, 2019

VIA ELECTRONIC AND U.S. MAIL

bruce.jensen@acgov.org

Bruce Jensen, Senior Planner
Alameda County Planning Department
224 W. Winton Avenue, Suite 111
Hayward, California 94544

Re: Request for Extension of Time – Revised Notice of Preparation of a Draft Subsequent
Environmental Impact Report for the Eliot Quarry SMP-23 Reclamation Plan
Amendment Project

Dear Mr. Jensen:

On June 17, 2019, the County of Alameda (County) issued the above-referenced Revised Notice of Preparation and requested that comments be provided to the County no later than thirty days after the receipt of the notice, or on or about July 17, 2019. As you know, the Alameda County Flood Control and Water Conservation District, Zone 7 (Zone 7) is keenly interested in the proposed project and, by letter dated June 6, 2019, provided preliminary thoughts on the scope of the proposed environmental analysis. That letter is incorporated herein by reference.

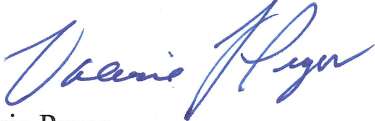
In the interests of better understanding the proposed project so as to assist the County and CEMEX with the analysis required by the California Environmental Quality Act, Zone 7 invited CEMEX to attend our Board of Directors' meeting on July 17, 2019. Zone 7 hoped that a presentation by CEMEX would not only provide an additional public forum for the discussion of the proposed project but would also better inform our comments on the Revised Notice of Preparation. Unfortunately, due to scheduling conflicts, CEMEX was not able to attend our meeting on July 17. CEMEX has, however, agreed to attend our meeting on August 21, 2019 to discuss the proposed project. During that meeting, CEMEX will be making a presentation about the proposed project during that meeting and we will invite public discussion of the proposed project.

Because of the delay in scheduling this presentation at a Board meeting, Zone 7 respectfully requests an extension of time to August 30, 2019 to provide comments to the County on the Revised Notice of Preparation. This extension of time will allow time for Zone 7 to hold the

August 17 meeting and for staff to then prepare comments on the Revised Notice based on the public discussion of the proposed project during that meeting.

Please let me know at your earliest convenience whether the County is willing to grant this extension. Zone 7 understands that the Draft Environmental Impact Report on the proposed project is not scheduled to be released until mid-2020 and so we do not believe that granting this extension will delay the schedule for the County to consider the proposed project.

Very truly yours,



Valerie Pryor
General Manager

cc: Board of Directors



July 11, 2019

Mr. Bruce Jensen, Senior Planner
Alameda County Planning Department
224 West Winton Avenue, Suite 111
Hayward, CA 94544

Subject: Comments on Notice of Preparation of a Subsequent Environmental Impact Report for the Eliot Quarry SMP-23 Reclamation Plan Amendment Project

Dear Mr. Jensen:

Thank you for the opportunity to comment on the Notice of Preparation (NOP) of a Subsequent Environmental Impact Report (SEIR) for the Eliot Quarry SMP-23 Reclamation Plan Amendment Project. The City of Pleasanton requests that the scope and content of the SEIR address the following items:

1. An explanation of what can and cannot be regulated with the reclamation plan, such as: where and how long mining could occur; where and how long the materials processing facilities could occur; the hours of operation (for mining operations and the material processing facilities), vehicular access and truck haul routes, the size/shape/depth of lakes, landscaping, etc.
2. An explanation of the differences between the approved reclamation plan and the proposed reclamation plan amendment including: the amount, locations, and ending dates of mining activities; the locations and ending dates of the material processing facilities including the asphalt plant; the shape, size, and depth of the lakes; the changes in topography; distances from nearby residential neighborhoods in Pleasanton; vehicle access points and truck haul routes; and the end uses. Please provide plans/exhibits to help clarify the changes.
3. A discussion of when the materials processing facilities would cease operation, such as the asphalt plant.
4. The City of Pleasanton is particularly interested in the following potential impacts to the City of Pleasanton and requests that they be thoroughly analyzed in the SEIR:
 - Noise
 - Vibration
 - Air quality including dust and odors
 - Aesthetics/Visual including changes in topography, changes in vegetation/screening, new or relocated utility poles/lines, new or relocated structures, etc.

COMMUNITY DEVELOPMENT
www.cityofpleasantonca.gov

P. O. BOX 520 • 200 Old Bernal Avenue
Pleasanton, CA 94566-0802

Planning
(925) 931-5600
Fax: 931-5483

Building & Safety
(925) 931-5300
Fax: 931-5478

Code Enforcement
(925) 931-5620
Fax: 931-5478

Permit Center
(925) 931-5630
Fax: 931-5478

Traffic Engineering
(925) 931-5677
Fax: 931-5487

Mr. Bruce Jensen

Page 2

July 11, 2019

- Lighting/Glare including new or relocated lights, changes in lighting hours, etc.
 - Transportation/Circulation including vehicular access points and truck haul routes
 - Biological Resources
 - Geologic/Geotechnical impacts including slope stability
 - Water Supply and Flood Control
5. The project proposes increased mining depths at Lake B. The City of Pleasanton requests that SEIR analyze alternatives that would reduce impacts to nearby Pleasanton residents such as a reduction in mining and/or mining depths at Lake B or mining in other areas of the site that are farther away from Pleasanton residents.
6. We appreciate the proposed project includes a new paved trail along the project site's Vineyard Avenue frontage. The City of Pleasanton's Trails Master Plan shows additional planned trails on the project site and we request that there be a discussion on the feasibility of including these additional trails at some point in the future.

We request that we be kept informed of all project updates and public meetings. Correspondence on this project should be sent to:

Ellen Clark
Planning Manager, Community Development Department
City of Pleasanton
P.O. Box 520
Pleasanton CA 94566

Your consideration of our comments is appreciated. Please contact me or Steve Otto, Senior Planner at 925-931-5608 or sotto@cityofpleasantonca.gov if you have any questions.

Sincerely,



Gerry Beaudin
Director, Community Development Department

c: Nelson Fialho, City Manager

Ellen Clark, Planning Manager
Pamela Ott, Director of Economic Development and Community Engagement
Steve Otto, Senior Planner



Mr. Bruce Jensen, Senior Planner
Alameda County Community Development Agency
Planning Department
224 W. Winton Ave., Suite 111
Hayward, CA 94544

July 14th, 2019

Re.: Proposed Reclamation Plan Amendment for the Eliot Quarry Surface Mining Permit-23 (SMP-23)

Dear Bruce:

The Sierra Club supports the request of Friends of Open Space and Vineyards (FOV) that an approximately 200-yard trail connection be part of the Cemex Reclamation Plan for Lake A. The reasons for the trail connection are provided in detail in FOV's letter to the County dated July 8, 2019. We agree with those reasons, which we won't repeat here but are attaching a copy of FOV's letter to this letter.

FOV states that Cemex indicated a willingness to grade a path of approximately 200 yards to connect the Lake A Trail with the South Livermore Trail as part of the Reclamation Plan. All that Cemex required was a request from Zone 7, City of Livermore, Alameda County or LARPD. If none of the others has made that request, we ask that the County do so in a timely manner.

The Sierra Club has not reviewed the EIR for the Proposed Reclamation Plan Amendment for the Eliot Quarry Surface Mining Permit-23 (SMP-23) and therefore takes no position on the adequacy of that environmental document.

Thank you for your attention to this matter.

Sincerely,

Donna Cabanne

Donna Cabanne, Sierra Club Tri-Valley Group Executive Committee

cc. Mark Palagac, Friends of Open Space and Vineyards

**Mayor Marchand,
City Council Members**

**Mark Palajac
Representing Friends of Open Space and Vineyards**

**My message is about Trails in Livermore and an Opportunity
Cemex is the company operating the quarry mine north of Vineyard
and east of Isabelle. They are ceasing mining operations and have a
reclamation plan for this property known as Lake A.**

**It is a good plan. It can be a better plan. The South Livermore Trail
which extends from Mines road, presently ends just a few hundred
yards to the east of the Lake A property. A trail exists today on the
north side of the Lake A Property, owned by LARPD. Both the
Livermore Active Transportation Plan, and the LARPD Master Plan
shows these two trails being connected.**

**Cemex has indicated a willingness to grade the area between these
two trails which would effectively connect them before handing over
the property to Zone 7. Doing this now would save time, bureaucracy
and an additional EIR for building a trail connection after the property
is transferred. Cemex has indicated all they need is a request from
the City of Livermore, or LARPD or Alameda County. I encourage you
to make the request of Cemex. The time is short since the comment
period for the present EIR concludes on July 18.**

**I would be happy to share the letter from Friends of Open Space and
Vineyards to the Alameda County Planning Department, explaining
this perspective.**

Christy Seifert

From: Bruce Steubing
Sent: Wednesday, July 17, 2019 8:01 AM
To: Christy Seifert
Subject: Fwd: Personal Comments on: Eliot Quarry SMP-23 Reclamation Plan Amendment Project

Sent from my iPad

Begin forwarded message:

From: Dick Quigley <rlquig1@comcast.net>
Date: July 16, 2019 at 4:20:21 PM PDT
To: <bsteubing@benchmarkresources.com>
Subject: Fwd: Personal Comments on: Eliot Quarry SMP-23 Reclamation Plan Amendment Project

Begin forwarded message:

From: Dick Quigley <rlquig1@comcast.net>
Subject: Personal Comments on: Eliot Quarry SMP-23 Reclamation Plan Amendment Project
Date: July 16, 2019 at 4:15:56 PM PDT
To: CDA Jensen Bruce <bruce.jensen@acgov.org>

Dear Mr Jensen

I have lived within walking distance from the Quarries in the Livermore Valley since 1965 and in Alameda County 76 Years!

I have followed the history of brick yards predating quarries in the late 1800's to Henry Kaiser building the Lincoln Highway from the early Livermore pits which have become the Livermore rodeo Grounds and Shadow Cliffs Regional Park.

I have read many times, and asked many questions about the Surface Mining Ordinance, 1956,1976,1977, and LAVQAR adopted Nov 5,1981.

I have been a board member for Zone 7 since 2004, and active in the Tri Valley Business Council and as a park trail and open space advocate for decades.

I am speaking for myself and not Zone 7 as a SME of Chain Of Lakes amendment project.

I have attended meetings held in 2014 and 2015 and thank Cemex for answering one of my

asked questions in writing on the projected volume of water storage capacity of lake B.

The answer given: Per Rec Plan AppH Hydro, at pp. 30-31

Existing: 7,460 AF

1987: 3,300 AF at build out

2013: 7,950 AF at build out
(permit amendment)

2019: 28,660 AF at Build out
(proposed Project)

My current understanding of the Build Out time line is 2058 to 2060 which I take strong exception to and ask the County find unjust and unreasonable and not in the public interest. The public has a need for water, open space, trails and I fear private contractors may want to rape and pillage our resource in perpetuity.

Why: LAVQAR adopted Nov 5, 1981 states under point 4 Specific Plan Water Areas states “the key concept in the master reclamation plan is the shaping of pit areas, which would eventually contain water, into a “chain of lakes” during the course of mining over the 50-60 year period that sand and gravel reserves are expected to last in the Quarry area. The section goes on to say; “Diversion from the Arroyo Mocho into the lower portion of the chain of lakes would be made available earlier (about 2000-2010) to Zone 7 by Kaiser Sand and Gravel and Roses & Jamieson.” The quarry operators have changed since 1981 and it seems to me the new operators want to dig deeper and longer. At the recent meeting a question was raised on the possibility of the county putting together a time line of events and contractor changes. I believe ownership and management would be helpful. The population demographics along the time line would also be insightful as we import expensive water and during significant rain events due to lack of capture and retention facilities send significant local water to the SF Bay.

We have had a number of droughts recently and have a strong chance of having more with increased frequency due to the effects of global warming and climate change. I believe the framers of the LAVQAR adopted Nov 5, 1981 had visions of utilizing the chain of lakes as a capture, detention, storage and flood control water management tool set, including recycled water.

I asked two questions at the meeting that remain unanswered:

- 1) by year how many tons have been removed by the operators?
- 2) would the County consider combining and consolidating the current master mining agreement?

Recycling of concrete and road base is a recent and visually large part of the CEMEX side activity not listed. How is it measured and managed by the county and is there any hazardous material considerations? I believe the activity has been going on for a decade or more. I also suggested a facility show and tell tour for community leaders interested. Is this possible?

As I read and interpret the Master mining specific plans, they are reviewed and approved or denied by the County every five years, is the correct?

In conclusion, I thank you for considering my questions and comments. Again they are mine personally. Because of the community importance of this Reclamation Plan Amendment Project I respectfully request you extend the comment period by 30 to 90 days.

Thank You
Please confirm receipt
Dick Quigley
4613 Cope Ct
Pleasanton 94566
925 989 9218



Livermore Area
Recreation and Park District
An independent special district

4444 East Avenue, Livermore, CA 94550-5053
(925) 373-5700 www.larpd.org

General Manager
Mathew L. Fuzie

July 16, 2019

Bruce Jensen, Senior Planner
Alameda County Community Development Agency
Planning Department
224 W. Winton Avenue, Suite 111
Hayward, CA 94544

Re: Eliot Facility (SMP-23) Reclamation Plan Amendment

Dear Mr. Jensen,

On behalf of Livermore Area Recreation and Park Department, this letter is intended as our public comment to the above plan amendment. We have an interest in the continuing effort to connect trails from the community to Sycamore Grove and the rest of the trails system in the Livermore Valley. A potential trail on the north side of Lake A, separated from the service road but below the visible grade of the neighbors to the north, would be a huge positive connector trail. We believe this would best be accomplished prior to any transfer of land as part of the mitigation for the transfer and recreational considerations. The trail connector in question is known as T-10 Trail North of Lake A. There is currently a gap in the trail due to concerns of the neighbors and the visual impact the trail would have if it were connected at the current grade. We understand the neighbors' concerns and would support a connection if it were possible without the visual impacts.

In making this request we understand that there is a proposal to build the connector below the current grade at the service road level.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mathew L. Fuzie', is written over a light blue horizontal line.

Mathew L. Fuzie

cc: LARPD Board of Directors

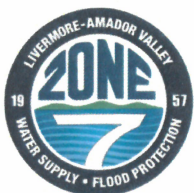
Board of Directors
Maryalice Faltings

David Furst

Jan Palajac

Philip Pierpont

Beth Wilson



ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7

100 NORTH CANYONS PARKWAY, LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

July 16, 2019

VIA ELECTRONIC AND U.S. MAIL

bruce.jensen@acgov.org

Bruce Jensen, Senior Planner
Alameda County Planning Department
224 W. Winton Avenue, Suite 111
Hayward, California 94544

Re: Comments on Revised Notice of Preparation of a Draft Subsequent Environmental Impact Report for the Eliot Quarry SMP-23 Reclamation Plan Amendment Project

Dear Mr. Jensen:

On June 17, 2019, the County of Alameda (County) issued the above-referenced Revised Notice of Preparation and requested that comments be provided to the County no later than thirty days after the receipt of the notice, or on or about July 17, 2019. As you know, the Alameda County Flood Control and Water Conservation District, Zone 7 (Zone 7) is keenly interested in the proposed project. Zone 7 has reviewed the Revised Notice of Preparation and has the following comments:

1. *Comments on the Project's Potential Impacts on the Environment.*
 - a. *Reliance on LAVQAR.*

As a general matter, Zone 7 agrees with the County's conclusion that all elements of the proposed Project must be consistent with the provisions of the Livermore-Amador Valley Quarry Area Reclamation (LAVQAR) Specific Plan. There are a number of provisions in LAVQAR indicating that mining operations must be consistent with the long-term use of the Chain of Lakes for water management purposes. Zone 7 is pleased that these provisions of LAVQAR are incorporated in the proposed Project. Zone 7 notes that the provisions of the agreements between Zone 7 and the quarry operators, which implement the directives in LAVQAR, should also be used to define the proposed Project, for all mining and reclamation activities must be consistent with those agreements.

b. *Peer Review Process.*

The Revised Notice of Preparation refers, in a number of locations, to the fact that the County is engaged in an ongoing peer-review process wherein the County is independently reviewing and evaluating studies that have been prepared by CEMEX or its consultants. Zone 7 agrees with that approach to the many very complicated and difficult technical questions associated with the proposed Project. Because Zone 7 will, at the completion of mining and reclamation, receive the lands being mined, Zone 7 respectfully requests to be a part of the peer review process so that our staff and consultants can fully understand the proposed Project and contribute comments on the technical analysis as it proceeds.

c. *Depth of Mining in Lake B.*

The Revised Notice of Preparation indicates that the proposed Project will involve the mining of Lake B down to an elevation of 150 feet MSL. The approved depth for Lake B in the 1987 reclamation plan was 340 feet MSL. In 2013, the County approved CEMEX's request to mine to a depth of 250 feet MSL, which essentially approved mining that had already been completed at that time. Thus, the proposed Project involves mining that is significantly deeper than the depth that has been approved by the County.

The increased depth of mining gives rise to a concern on the part of Zone 7 that the deeper mining could have an impact on groundwater resources in the area of the proposed Project. Page 7 of the Revised Notice of Preparation states that CEMEX believes that "all modeled clay beds across the study area are discontinuous" and suggests that the proposed Project "would have less impacts on groundwater resources than previously anticipated." Because these aquifers provide the chief source of groundwater that is supplied for drinking water by Zone 7's retail water suppliers, it is very important for the EIR to evaluate whether the proposed mining could have adverse water quality impacts. As noted above, Zone 7 respectfully requests to be included in the peer review process for groundwater impacts.

Moreover, because of the importance of groundwater to the residents of the Livermore and Amador Valleys, Zone 7 believes that the County should retain a national expert on this type of complicated hydrogeology to advise all parties and the public on what mining can be performed in a manner consistent with the County's longstanding protection of the groundwater basin of the Livermore-Amador Valley. Again, Zone 7 welcomes the opportunity to work with the County on this review.

Specific areas to study include:

Loss of Native Groundwater. The deeper excavation of Lake B has the potential to increase the loss of native groundwater from the Chain of Lakes. Under current conditions, under low groundwater conditions the current Lake B is dry and there is no evaporation. If Lake B is deepened, groundwater that is not currently exposed could be exposed to evaporation. Further, additional mining could lead to additional groundwater

being discharged to the Arroyo Valle and exported from the basin. These issues should be thoroughly studied and any loss of native groundwater should be quantified.

Impact of Losing Aggregate. Coarser-grained aggregate and gravel serve as filtering media and filter water as it travels through the groundwater basin. Zone 7 requests a study on the impact of removing coarser-grained aggregate and other filtering media on water quality and the movement of groundwater through the groundwater basin.

d. Silt Placement

The Revised Notice of Preparation includes significant changes to the reclamation plan in many aspects, including configuration of ponds and lakes, placement of silt during and after mining. Zone 7 requests that the impacts of silt operations on water quality and future groundwater recharge capability be thoroughly discussed in the EIR.

e. Slope Strength and Stability

Zone 7 has concerns regarding the slope strength and stability throughout the study area, for the various lakes and particularly for the proposed Arroyo de Valle realignment. All slope design factors should be thoroughly evaluated in the EIR. This question is particularly important due to the presence of homes near Lake A. Zone 7 requests a more complete assessment of slope stability that takes into account soil and geologic conditions specific to Eastern Alameda County.

f. Climate Change

The long-term effects of climate change should be incorporated into the planning and evaluation efforts. Flood control structures are currently based on a 100-year flood event. Climate changes suggests that in the future, rainy years will become fewer but more intense. Flood engineering structures and projected water levels should be based on a larger flood event standard.

g. Hydraulic Modeling

It is our understanding that the hydraulic design study is based on a static hydraulic model run under a number of situations. Zone 7 requests the use of a dynamic hydraulic model that incorporates potential results of climate change.

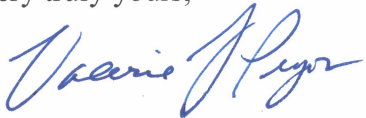
h. Potential for Subsidence

Zone 7 requests a study on the potential for subsidence that could result from the proposed Project. The historical low groundwater level represents the maximum pre-consolidation stress that the aquifer has undergone thus far, and can therefore be considered as a safe minimum threshold since there was no report of significant subsidence at the last time water levels were drawn to the historic low level. However, there is no guarantee that if the water tables were to be drawn below the "historic low" for an appreciable amount of time that significant subsidence and damage to personal property and infrastructure would not occur.

2. *Compliance with SGMA.*

Zone 7 has been designated as the Groundwater Sustainability Agency (GSA) for the Livermore Valley Groundwater Basin by the 2014 Sustainable Groundwater Management Act (SGMA). In accordance with this State law, Zone 7 is responsible for maintaining the long-term sustainability of the groundwater basin. The groundwater basin is to be managed in such a manner as to avoid six undesirable results, which are to avoid impacts that significantly and unreasonably degrade: (1) groundwater storage, (2) chronic lowering of groundwater levels, (3) surface water depletion, (4) seawater intrusion, (5) water quality and (6) land subsidence. As the GSA, Zone 7 looks forward to working with the County and with CEMEX on the proposed Project and protecting the groundwater basin from any of these undesirable results.

Very truly yours,



Valerie Pryor
General Manager

cc: Board of Directors, Zone 7
Supervisor Scott Haggerty
Supervisor Nate Miley

Christy Seifert

Subject: FW: Cemex Reclamation Plan for Lake A

From: BERNARD CABANNE [<mailto:bcabanne@comcast.net>]

Sent: Wednesday, July 17, 2019 9:25 PM

To: Bruce Steubing; bcabanne@comcast.net

Subject: Fwd: Cemex Reclamation Plan for Lake A

Dear Mr. Steubing;

Please make sure the following letter is included before July 18th deadline for comments..

Mr. Bruce Jensen, Senior Planner

Alameda County Community Development Agency

Planning Department

224 W. Winton Ave., Suite 111

Hayward, CA 94544

July 16,2019

Re.: Proposed Reclamation Plan Amendment for the Eliot Quarry Surface Mining Permit-23 (SMP-23)

Dear Mr. Jensen

The Sierra Club supports the request of Friends of Open Space and Vineyards (FOV) that an approximately 200-yard trail connection be part of the Cemex Reclamation Plan for Lake A. The reasons for the trail connection are provided in detail in FOV's letter to the County dated July 8, 2019. We agree with those reasons, which we won't repeat here but have sent a copy of FOV's letter.

FOV states that Cemex indicated a willingness to grade a path of approximately 200 yards to connect the Lake A Trail with the South Livermore Trail as part of the Reclamation Plan. All that Cemex required was a request from Zone 7, City of Livermore, Alameda County or LARPD.

If none of the others has made that request, we ask that the County do so in a timely manner.

The Sierra Club has not reviewed the EIR for the Proposed Reclamation Plan Amendment for the Eliot Quarry Surface Mining Permit-23 (SMP-23) and therefore takes no position on the adequacy of that environmental document.

Thank you for your attention to this matter.

Sincerely,

Donna Cabanne,

Sierra Club Tri-Valley Group Executive Committee



July 18, 2019

Bruce Jensen
Alameda County Planning Department
224 West Winton Avenue, Room 111
Hayward, CA 94544

RE: SMP-23 Reclamation Plan Amendment

Dear Mr. Jensen:

Thank you for allowing the City of Livermore to provide comments regarding the Notice of Preparation (NOP) for the proposed Reclamation Plan Amendment for SMP-23, Eliot Quarry Project. The City understands Alameda County will be the Lead Agency in preparation of a Subsequent Environmental Impact Report (SEIR) for the proposed project. We are providing the following comments based on our review of the NOP sent by your office as well as the information provided by County staff at a public meeting held on June 26, 2019.

The City's interest is primarily focused on Lake A. (However, the City is interested in and supports the completion of the chain of lakes as part of the Tri-Valley water storage and conveyance system.) It is our understanding the project proponent, CEMEX, will no longer continue mining operations at Lake A and is updating the Reclamation Plan in advance of turning control of the lake over to the Zone 7 Water Agency. It is also our understating that CEMEX is applying to amend the current SMP Reclamation Plan in response to the changed environmental and regulatory conditions and to reflect their intentions to commence reclamation activities.

At this time, City staff has general comments and will conduct further research and analysis into the technical documents provided by the County as part of the normal referral process. Generally, the City's comments are limited to Lake A regarding the following topics:

1. Slope Stability and Safety of Nearby Residents,
2. Impacts Resulting from Reclamation Activities,
3. Environmental Setting and Conditions, and
4. Community Amenities.

1. Slope Stability and Safety of Nearby Residents

As you are aware, several parties previously filed complaints due to slope instability on the northern side of Lake A in the proximity of Lakeside Circle. It is assumed the slope instability was a result of mining activities at Lake A. This slope instability caused damage to private residences and public infrastructure. The complaints were settled by the parties and affirmed by the court. As a result of this incident, CEMEX took corrective action, reinforcing the slide area, to prevent future sliding and damage to private property and public infrastructure. The City would like to ensure reclamation activities do not undermine this corrective action. Technical studies, including geotechnical and soils reports, should evaluate the impact of reclamation activities and the natural conditions of the future lake on this corrective action and the surrounding neighborhoods.

2. Impacts Resulting from Reclamation Activities

The City understands that Alameda County and CEMEX proactively identified and addressed typical reclamation issues including dust control, noise mitigation, and lighting. The City requests CEMEX incorporate and document best practices and mitigation measures necessary to avoid impact and disturbances to the nearby residences as part of the environmental evaluation.

3. Environmental Setting and Conditions

A SEIR is necessary if there is a change in the project or circumstances, or new information not previously known indicates the project may have a significant effect on the environment that wasn't covered in the previous EIR. In 1987, Alameda County evaluated the environmental impacts associated with reclaiming Lake A. Since 1987 (over 30 years ago), the surrounding conditions have changed dramatically. The City maintains the SEIR baseline should be updated to reflect the current circumstances including surrounding residential land uses, adjacent public roadways, and the corrective action. Each of these elements should be acknowledged and identified the Reclamation Amendment application. Further, the SEIR should evaluate the impact of reclamation activities and future lake conditions on present-day, existing conditions and not merely against the change in the regulatory setting or prior reclamation plan approvals.

4. Community Amenities

The construction of a segment of the Shadow Cliffs to Del Valle Regional Trail (referred to as the "Lake A Trail" in the Reclamation Plan) was recently completed by CEMEX in coordination with EBRPD. The Lake A Trail is identified in the Livermore Active Transportation Plan, South Livermore Valley Specific Plan, and LARPD Master Plan. The City supports the extension of this trail along the southern portions of Lake B to Shadow Cliffs Regional Park.

In addition to the Lake A Trail, the Livermore Active Transportation Plan, South Livermore Valley Specific Plan, and LARPD Master Plan identify the South Livermore Valley Wine Trail alignment (Wine Trail) on the north side of Lake A. A portion of the Wine Trail exists between Isabel Avenue (SR 84) and private property. There is a trail gap from this point eastward, approximately 2,400 linear feet, to Vallecitos Road. From Vallecitos Road, the existing trail follows Wetmore Road through the South Livermore Valley. The Wine Trail, when completed, will extend eight miles and provide numerous connections within the trail network. The Reclamation Plan Amendment process provides an opportunity to complete a significant gap in the existing trail network, provide a substantial community benefit, and increase connectivity within the Tri-Valley consistent with the proposed post-reclamation land use.

Staff continues to communicate extensively with CEMEX about the inclusion of the Wine Trail as part of reclamation of Lake A. The City requests Alameda County include the construction and public use of the Wine Trail gap from the trail's current terminus southeast to Vallecitos Road and along portions of CEMEX property in the Reclamation Plan Amendment project description and evaluate it as part of the SEIR in the Recreation, Transportation, and other relevant sections.

In addition, earthen berms were constructed on the north side of Lake A along Siena Drive to mitigate the impacts from quarry operations on the adjacent neighborhood. The Wine Trail alignment is approximately located in the area of these berms. Since CEMEX plans to conclude quarry operations at Lake A, the City requests that the County include the possibility of reducing or eliminating these earthen berms in the project description, in combination with the anticipated trail improvements, and as part of the SEIR evaluation process. Plans to modify the berms should incorporate input from the surrounding residential neighborhood.

The City of Livermore appreciates your coordination efforts and looks forward to continuing to work with Alameda County as the Reclamation Plan Amendment process moves forward. Please continue to inform Livermore regarding the status of this project, the EIR process, and by forwarding any other CEQA related notices and related technical documents. If you have any questions, please call me at (925) 960-4475 or contact me via email at aaross@cityoflivermore.net.

Respectfully,



Andy Ross
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Community and Economic Development Department
City of Livermore