



April 27, 2015

San Luis Obispo County Department of Planning and Building
976 Osos Street, Room 200
San Luis Obispo, CA 93408-2040

San Luis Obispo County Board of Supervisors
County Government Center Room D-430
San Luis Obispo, CA 93408

RE: Oster/Las Pilitas/Hwy. 58 Quarry Conditional Use Permit and Reclamation Plan (DRC2009-00025) Board of Supervisors May 12, 2015 Appeal Hearing

Margarita Proud is a non-profit community organization that represents a diverse group of San Luis Obispo county residents committed to the safety, livability and character of Santa Margarita, CA and surrounding areas. We support responsible planning principles that result in economic and aesthetic well being for the entire community. Accordingly, we join the planning staff and the Planning Commission in opposing this large scale industrial project because it would significantly impact the surrounding area and unnecessarily disrupt the community of Santa Margarita.

As the hearing date for the applicant's appeal of the Planning Commission's decision to deny this project approaches, we believe our prior submittals, as well as those from other members of the public, pointing out the many deficiencies of the application and justifications for denial remain apposite. Accordingly, we reiterate our counsel's previous request that ALL correspondence received during the Planning Commission hearings be brought forward to the Board of Supervisors and placed into the appeal record.

The Las Pilitas Resources, LLC proposal for a hard rock quarry is not supported by the constraints of the specific site, its surroundings, or adequate public infrastructure. We urge you to support the mission of the Department of Planning and Building to promote the wise use of land

and to build great communities by upholding the well informed decision of the Planning Commission for DENIAL of this poorly planned, poorly located, and unnecessary project. We additionally request that your board not certify the Environmental Impact Report (EIR).

The Project applicant has been dismissive of the significant impacts the Project would create, instead insisting that the project site is “zoned for mining”, and a pre-established entitlement to mine and create impacts off site exists. This letter reviews several flaws in that position.

Process, Conditional Use Permit (CUP), Environmental Impact Report (EIR)

- The purpose of a discretionary CUP is to evaluate site suitability, compatibility with surrounding uses, and consistency with adopted planning principles on a project by project basis.
- A CUP is not a guaranteed entitlement. This was well communicated to the applicant early in the process. [Link](#) to letter from Dept. of Planning and Building to Las Pilitas Resources, LLC.
- Planning staff (research staff to decision makers) oversaw CEQA review and used the Final EIR and adopted planning principles to inform a neutral, objective analysis.
- Staff analysis determined Project is not consistent with the General Plan, the Findings of Fact necessary to approve a CUP cannot be made, and that there are insufficient economic, social, technological, or other benefits of the project to override its significant unavoidable environmental impacts.
- A CUP goes with the land, not individuals. The Planning Commission recognized that extensive testimony on the purported good character of the present applicants was not relevant to the decision that was before them.

Project Proponent Claims: *“Planning Commission erred by not considering the importance of this aggregate resource to the region as a whole as required by state law, as well as other considerations that are specific to mineral resources and which alter the balance of the traditional Conditional Use Permit findings for projects such as this.”*

- In its presentation to the Planning Commission, Staff demonstrated that no critical shortage of aggregate exists when all available information is considered.¹ This component was considered in great detail at the Planning Commission hearings and will be discussed in greater detail below.
- Mining is an “allowable use” within the Rural Lands (RL), Residential Rural (RR), and Agriculture (AG) Land Use Categories subject to a discretionary Conditional Use Permit (CUP), Reclamation Plan, and environmental review as required by CEQA. The fact that mining may be an allowable use, or the presence of a mineral resource on a site, does not

¹ [link to Staff PP slide from Planning Commission Hearing](#) (slide 08 of 16 that were presented)

alter, or diminish the County's responsibility (as suggested by the applicant) to make the Findings of Fact necessary to approve a Conditional Use Permit.

- Additionally, planning staff and the Planning Commission made clear that denial of this project does not constitute approval of any land use that may be incompatible with mineral extraction and does not otherwise threaten the potential for future extraction in any currently classified or future designated area within the County.

Project Proponent Claims: *“The Las Pilitas Resources Quarry is also being proposed within a special combining designation that specifically allows for quarries.”* and argue that it is therefore entitled to special consideration.

EX-1 Combining Designation creates no special privilege or entitlement for a mining project located within the overlay.

The Planning Commission agreed with the Staff's analysis that the Project is incompatible with the neighborhood surrounding the Project site and the community of Santa Margarita. The Project Proponent's response is that the existence of the EX-1 Combining Designation provides a mining applicant special protections that essentially exempt their Project from compatibility between uses. The applicant goes so far as to claim that rather than considering the compatibility of their proposal to the existing surrounding uses, existing surrounding uses should instead be considered incompatible (presumably retroactively) with the proposed project. The applicant's argument must be rejected for the following reasons:

- The sole purpose of the EX-1 Overlay (combining designation) is to identify areas that have been *“classified as containing or being highly likely to contain significant mineral deposits”*.
- Being located within an EX-1 Combining Designation is not a pre-requisite to qualify Mines/Quarries as an “allowable use” within specific land use categories (Table 2-2 LUO).
- A combining designation is applied in addition to a particular land use category, not in place of it.
- Ministerial entitlements allow homes to be built on parcels within the land use category Residential Rural, regardless of the presence of an EX-1 combining designation. The majority of residences the project would impact were already in place prior to a combining designation being in place, but more importantly, decisions that created the ministerial entitlements that exist today were in place long before Classification took place in 1991.
- The presence of a combining designation does not eliminate the need to obtain a CUP and consequently does not express or imply that existing uses are to be ignored, overridden, or discarded.

The Project Proponent argues that the proposed mine is presumptively appropriate at the proposed location because mining is an allowable use and the area contains significant mineral resources. This argument is deeply flawed because:

- The EX-1 overlay incorporated the mapping provided by the California Geological Survey (CGS) identifying the presence of a mineral resource. The CGS did not consider, let alone conclude, that mineral extraction would be appropriate throughout the entire EX-1 combining designation.
- The County’s adoption of the EX-1 Combining Designation by Negative Declaration did not include a determination on the environmental impacts of any specific sites within the area.
- The Negative Declaration only determined that the act of adopting the Combining Designation did not appear to create significant impacts. This is understandable because the adoption of the EX-1 overlay did not include consideration of the impacts of a mine or quarry at any particular location. The County reasonably assumed that any particular mining project would be subject to environmental review and adequately reviewed for any future Project. At the time of the adoption of the EX-1 overlay, no specific Project existed as no CUP application was pending.
- For this specific Project, it has been objectively determined that land use incompatibilities exist and the required findings to approve or conditionally approve a Conditional Use Permit (CUP) cannot be made. The presence of a mineral resource does not alter that determination.

San Luis Obispo County Ordinance 2498, adopted by Board of Supervisors Resolution 98-218 (April 16, 1991) does not support placing industrial land uses so close to the many existing residential uses surrounding this proposal or the request for a waiver to eliminate screening material stockpiles from view.

- The Ordinance, by its own terms, was intended to promote the development of mineral deposits “*provided that a high level of environmental quality is also preserved and protected through the discretionary approval process.*” The Ordinance therefore does not support the development of a mine that substantially degrades environmental quality.
- Further, the Ordinance identifies the following General Objectives:

3. Extraction operations may be established in areas designated as Scenic and Sensitive lands in the adopted Open Space Plan only when the need for a particular resource or facility location is determined by the Board of Supervisors to outweigh the value of the scenic and sensitive land resource. Scenic and Sensitive lands may be subject to extraction operations or energy facility development only when no feasible alternative sites are available.

4. Evaluation of proposed extraction operations in areas having open space, scenic, habitat, recreational, or agricultural value shall balance those values against the need for extracting mineral resources from such sites.

5. Extraction operations shall provide and be provided with adequate buffering and screening from adjacent land uses.

7. Extraction site access routes shall not create nuisances, hazards or road maintenance problems for adjacent properties.

The Ordinance therefore does not establish an unqualified overriding right to extract mineral resources. Even where mineral extraction is an allowable use, and the presence of mineral resources has been established, the need for minerals must be balanced against the harm to the environment and open space resources. Accordingly, denial of the proposed Project would be appropriate because there is no demonstrable need for the proposed minerals and the Project will adversely affect scenic resources and an established residential community.²

The State Mining and Geology Board’s (SMGB)’s process for Classification-Designation of Mineral Resources does not trump CEQA or diminish the County’s planning authority.

In an effort to address mineral resource conservation, the State Mining and Reclamation Act (SMARA) mandates a two-phase process known as classification-designation. A comprehensive overview of the classification-designation process is outlined within the State Mining and Geology Board’s (SMGB) document titled Classification-Designation Guidelines.³

- Classification identifies and maps lands containing mineral resources. The existence of the EX-1 combining designation is the County of San Luis Obispo’s incorporation of Classification into its General Plan, a non-discretionary action mandated by state law.
- Designation follows Classification. Designation is the formal recognition by the SMGB of areas containing mineral deposits of regional significance.
- Designation has recently been approved and is in the process of being finalized for the San Luis Obispo-Santa Barbara Production-Consumption(PC) Region.

The Applicant continues to argue that because the project site is within the area of SMGB’s designation of mineral lands, the County’s authority has limited or diminished authority to deny the Project. But as the following SMGB’s response to comments submitted to SMGB regarding classification-designation explains, even if the designation process was final, designation does not override the local lead agency’s duty or authority to evaluate individual mining applications on a project by project basis, and deny any particular project when it deems that action appropriate:

“The designation of mineral lands by the SMGB pursuant to SMARA is based on the location of mineral resources determined to be of regional significance, and once designated will be

² Margarita Proud DEIR Comments, Figure MP4.14-2. pg. 4.8-12 http://margaritaproud.com/documents_86_2813293194.pdf

³ <http://www.consrv.ca.gov/smgb/Guidelines/Documents/ClassDesig.pdf>

incorporated in the lead agency's General Plan. The lead agency ultimately determines whether it will grant a permit for mining or other proposed end use. Pursuant to Public Resources Code Section 2774.2(A), the SMGB cannot exercise permitting authority on behalf of a lead agency. Designation does not prevent subsequent conservation of these areas, or consideration of some other land use incompatible with mining, including residential. These considerations are addressed by the lead agency as part of future land use decision considerations.”⁴

The classification-designation process is but one of the many long range planning tools intended to be considered; it provides no exemption from the requirements of a CUP. While the applicant may disingenuously assert that the SMGB's currently incomplete designation process limits the County's land use decision-making authority currently being considered, the SMGB clearly states otherwise;

“The Lead Agency (i.e. County) ultimately determines whether it will grant a permit for mining or other proposed land use within designated areas. Pursuant to §2774.2(A), the SMGB cannot exercise permitting authority on issues pertaining to air, traffic, noise, and buffer zones or setbacks; such authority resides with the County.”⁵

It is instructive to note that the SMGB clearly recognizes that not all sites within a designated area will be appropriate for siting a mine:

“To avoid dictating to local communities where future aggregate mines should be located, mineral designated areas generally contain resources (un-permitted deposits) that are far in excess of the regions 50-year demand”. This attempts to provide maximum flexibility to local governments in making land use decisions, while still conserving an adequate amount of construction aggregate for the future.”⁶

Denial of a quarry proposal, even within Classified or Designated area, or any other, is an appropriate decision if the Project is inconsistent with the general plan or other local land use regulations, when the project's adverse environmental impacts outweigh its benefits, or where the Project is incompatible with existing surroundings.

The applicants claims that; *“the need for these mineral resources far outweighs the other values that the site might possess”* and that *“the need for the Las Pilitas Resources project is critical, from a supply and demand standpoint”* are not supported by the evidence in the record.

⁴ Executive Officer's Report , August 8, 2014 Agenda Item 8, State Mining and Geology Board (pgs 24, 27, 29, and 37 of 43)

⁵ State Mining and Geology Board (SMBG) Responses to Submitted Comments

⁶ Reports of the State Mining and Geology Board (SMGB), Designation Reports

Aggregate Supply and Demand

Despite the presence of two large sand and gravel mines in Northern San Luis Obispo County, the Project Applicant disingenuously claims there is a “critical” need for additional local aggregate. As justification for this false claim, the Applicant selectively quotes from a 2011 Report entitled California Geological Survey’s Update of Mineral Land Classification: Concrete Aggregate in the San Luis Obispo-Santa Barbara (SLO-SB) Production-Consumption (P-C) Region, California, Special Report-215 (SR-215). SR-215, which updated its 1989 predecessor, SR-162. SR-215 projects the need for additional aggregate for the entire P-C region for the next 50 years by identifying only the amount of existing **permitted** aggregate reserves. Margarita Proud has addressed this subject in a white paper entitled Supply and Demand-Aggregate Resources SLO-SB Counties that has been entered into the record.⁷ The following is a brief summary of the contents of that document:

- The amount of available aggregate is not accurately represented by considering ONLY permitted “reserves”. Both currently permitted “reserves” and proven resources, especially those already earmarked within an approved Specific Plan, would need to be considered in tandem to accurately represent the total reservoir of available aggregate resources that exist in the region.
- Resources identified within approved Specific Plans are similar to what some other counties refer to as Aggregate or Mineral Management Plans. Accurately accounting for resources identified through prior planning actions is fundamental to achieving the stated goal of SR-215 to fulfill future aggregate needs while minimizing the substantial impacts open pit mining creates.
- The focus of SR-215 is on the need for Portland Cement Concrete-Grade Aggregate yet the proposed Project will not produce concrete grade aggregate due to no wet processing of aggregate.⁸ Consequently, the Project would make no contribution toward meeting the projected need for concrete grade aggregate over the next 50 years identified by SR-215.
- Lower than projected aggregate production during the economic downturn has extended the lifespan of all currently permitted aggregate resources, further diminishing the need for low-grade aggregate in the foreseeable future.
- Likewise, the Project applicants’ statement to the Planning Commission that “*the industry average for quarries is extraction rates of 40-60%*” and “*our project will simply redistribute the traffic pattern of trucks in our community*” further undermines their argument that there is an urgent need for additional local sources of aggregate.
- Aggregate resources in the San Luis Obispo and Santa Barbara Production/Consumption Region are plentiful and are recognized by the respective lead agencies. Given the proximity of two established mining operations in close proximity to the proposed Project (Hanson and Rocky Canyon), there is no demonstrable need for a new aggregate mine. Differentiating

⁷ http://www.margaritaproud.com/documents_131_122985755.pdf

⁸ Oster/Las Pilitas FEIR, Project Description and Project Objectives

between resources that have only been classified and proven resources already earmarked for future mining within existing quarries and Specific Plans helps better inform wise, facts-based planning decisions.

- Fortunately, our region is blessed with rich aggregate resources that are already actively mined and the County is in no crisis and approval of Projects that are incompatible with, and detrimental to, existing communities is unnecessary.⁹

- Citing a serious aggregate shortfall, when none actually exists, does not constitute a valid justification of an overriding consideration that the overreaching societal value might outweigh the significant impacts associated with this specific project proposal.

The applicant points out that SMARA requires that “*local governments must notify the CGS and SMGB prior to approving any land uses that would threaten the potential to extract mineral resources in a classified area*”.

This argument is irrelevant to the circumstances of this proposal because the County is not evaluating any project that would threaten the potential to extract mineral resources. The proposed Project does not threaten the potential for extracting resources. The existing community, including the community of Santa Margarita, is not a proposed use; it is an existing use.

Specific Plans

SR-215 is misleading because it does not acknowledge the significant amounts of proven aggregate resources already identified within approved Specific Plans, despite generally acknowledging the significant role of Specific Plans in predicting any unmet future needs for aggregate:

SPECIFIC PLANS IN THE SAN LUIS OBISPO-SANTA BARBARA P-C REGION

San Luis Obispo and Santa Barbara counties have taken an important step in their planning process that is intended to ensure future access to a large part of their concrete-grade aggregate resources. Both counties have adopted Specific Plans designed to serve as the primary land use and regulatory guides for mining and reclamation in the Plan areas. The overall goals these plans are to provide for the long term production and conservation of aggregate resources in a manner compatible with existing surrounding land use, while minimizing adverse impacts to the environment. A 12 mile section of the Santa Maria and Sisquoc rivers is covered by a Specific Plan (Santa Barbara County, 1997; and San Luis Obispo County, 1998) adopted by both counties, and the Rocky Canyon Quarry area is included in a Specific Plan (San Luis Obispo County, 1998) adopted by San Luis Obispo County.

The plans set forth goals, objectives, and policies for resource utilization and protection, and environmental protection, as well as operation, reclamation, and monitoring criteria. All actions taken by the regulatory agencies involving plan review and approval for mining and reclamation within the

⁹ [Planning Dept slide](#) (Aggregate resources) presented at Planning Commission Hearing

Plan area must be consistent with these Plans. These Specific Plans represent significant additions to the mineral management policies of the two counties, as they include parts of the two largest PCC-grade aggregate resource areas in the P-C Region.¹⁰

Importation of Aggregate into the San Luis Obispo-Santa Barbara Production-Consumption Region.

Given that existing nearby local sources of aggregate (Hanson Santa Margarita and Rocky Canyon) are operating at far less than capacity, the need for low grade aggregate is not the market force driving the small amount of material being imported into the P-C Region. Instead, evidence suggests that importation is due to reasons that are not related, or able to be solved by the proposed Project:

- The Project would not remedy this situation. As previously stated, a third quarry within the same mineral deposit will not produce any product not already able to be produced locally and, in this case, due to the absence of washing (wet processing), the production capabilities are much more limited and would not contribute to any future need for concrete-grade aggregate.
- A small volume of aggregate to meet chip seal specifications appears to be imported from outside of the P-C Region (Coalinga, Aromas). Demand for specialty material that meets contract specifications may not provide an economic benefit great enough to produce in large quantities. Material needed to meet chip seal specifications could be produced at the two already existing quarries in the La Panza Granitic area if sufficient market demand to ensure profitability existed. Additionally, this product appears to be most efficiently manufactured utilizing wet processing. The proposed Project would therefore be unable to efficiently produce this product because the application does not include the washing of aggregate.
- In some cases, aggregate is imported into the region from sources that are geographically closer to where the aggregate is needed. Because the boundaries of the production-consumption region are artificial, sourcing aggregate from outside the artificial P-C region is, in certain locations, geographically closer and therefore less costly and most sensible. For example, as was cited in SR-162 (the predecessor to SR-215), aggregate from Ventura P-C Region is imported into Santa Barbara and Carpinteria because it's closer than sources within the boundaries, such as Santa Maria.
- Also, some quarries located outside of our P-C Region have affiliations with sub-contractors that do municipal and other work in San Luis Obispo County or are associated with vertically integrated corporations.

¹⁰ CGS, SR-215 (2011), pg. 22

The Project proponent's claim that "*The Las Pilitas Resources Quarry is also needed to foster local price competition and product diversity*" is misleading and unsubstantiated:

- When regional costs of aggregate are compared, prices within San Luis Obispo County are placed into perspective.¹¹ According to the data compiled by planning staff, the price of aggregate in San Luis Obispo County is comparable to that of other areas. It is therefore not reasonable to conclude that the price of aggregate is currently high in San Luis Obispo County or that an additional source of low grade aggregate would further reduce the price of aggregate.
- There is no evidence to support the Applicant's implicit argument that the purported lack of competition has artificially increased the price of aggregate in our region. No specific Project guarantees, or for that matter preliminary estimates, exist suggesting this Project would affect the already fairly low market price of aggregate locally.
- The project Proponent's claim of market inelasticity contradicts their claims of a critical supply shortage.
- Because this Project proposes no washing of aggregate, product diversity would be much more limited than what is currently produced within the same granitic deposit in the much more suitably located existing quarry operations (Hanson Santa Margarita and Rocky Canyon).

Visual/Aesthetic Impacts

The Project proponent downplays visual impacts. New evidence, however, reveals that if anything, the visual impacts have been understated.

- In December of 2014, the Fire Safe Council completed large scale mastication work on the two parcels associated with this project proposal (070-141-070 and 070-141-071).
- In early 2015, significant grading NOT associated with the Fire Safe Council mastication work occurred.
- This recent grading outlines the boundaries of the proposed project. (see image below)

¹¹ [Planning Dept. slide \(Average Cost of Aggregate\)](#) presented @ Planning Commission Hearing



- The recently graded lines demonstrate that because the mountaintop proposed for removal is 200 feet higher than the mountaintop at the existing Santa Margarita Quarry, the visual impacts are substantially greater than Hanson’s existing operation.
- Whereas operations at the existing Santa Margarita Quarry are visible from one small section on Hwy. 58, , the recent grading on the site of this proposed project is visible not only from Hwy. 58 but from El Camino Real and Hwy. 101 as well. From Hwy. 58, a rural “arterial” route, all eastbound travelers point directly towards it and are additionally impacted by the constrained entrance where they would directly interact with ingress and egress of quarry related traffic.
- It is important to note that the significant visual impacts caused by this Project are impossible to screen from public view due to the elevation of the Project in relationship to its surroundings.
- Additionally, the visual analysis does not consider the industrialization associated with creating a new and entirely different haul route as the rendering below illustrates. This is a separate grounds for denial because it impacts a visually sensitive open space resource.
- Finally, aerial views and site visits to other quarries in and out of the area reveal an additional visual impact. A grey cloud like blanket of granite dust that tends to hover over open-pit mining operations, in addition to the air quality considerations, imparts decidedly industrial imagery.



Figure MP 4.1-8 (Margarita Proud June 5, 2013 DEIR Visual Resources Comments, pg. 4.1-5)

Location

The Project Proponent's argument that the Project will result in comparably similar impacts to the other area mines must be rejected. Some of the key differences between the proposed Project and Hanson Santa Margarita and Rocky Canyon are listed below:

- Site size
- Access and Project truck staging
- Visibility from public roadways
- Adequate public and private infrastructure
- Safety of associated haul routes for all users
- Surrounding existing land uses

A comparison of surrounding land uses at the other quarries existing in the region was submitted into the record at the Planning Commission hearing. This comparison helps illustrate differences and the incompatibilities with existing surrounding uses at the proposed Oster/Las Pilitas site.¹²

The project Proponent's claim that; *"It is worth noting that the nearby Santa Margarita Quarry has been utilizing blasting for years without any harmful effects on nearby land uses or*

¹² http://margaritaproud.com/documents_145_1952284144.pdf

residents” is unsubstantiated and intended to direct focus away from the deficiencies of this specific proposal:

- No evidence has been provided that blasting from Hanson’s operations does not create harmful effects.
- As discussed above, the Hanson Santa Margarita plant is not similar to this proposal in that it is not closely surrounded by residences.
- Evidence in the record shows the nearest residence to the proposed Project is only a few hundred yards away and that impacts associated with blasting are not negligible at numerous homes within the surrounding Residential Rural areas as the applicant suggests.
- The coastal branch of the California Aqueduct is also within very close proximity to areas where blasting proposed by this Project would occur.

Each potential mining proposal has specific characteristics unique to that location. In large part, it is for this reason the discretionary Conditional Use Permit process evaluates proposals on an individual Project by Project basis. The applicant instead is suggesting that their mining proposal should be considered not on it’s own merits, but on those of another well established existing operation in a superior location.

Project Trucks

The FEIR states the Project would average 273 truck trips per day. The applicant believes this number is overstated. As we have explained in previous comments and set forth below, the FEIR analysis may understate the full extent of the Project.

- The reasonable worst case scenario defined by CEQA is understated by applying a simple average daily truck trip count over the entire year. A straight line average derived from annual extraction volume divided by 250 working days fails to accurately portray the seasonal nature of mining or the reasonably foreseeable circumstance that during certain periods of the year, at the peak of construction season when demand for aggregate is at its highest, truck counts will be significantly higher.
- The FEIR calculates an average of 198 heavy truck trips per day for the delivery of aggregate, and estimates an additional 75 for delivery of concrete and asphalt material to the site.¹³ The applicant asserts that the 75 trips attributed to “recycling” (a project component sought through a Land Use Ordinance waiver request) is excessive based on the overall project description¹⁴ because the trips will be a portion of the maximum annual production of 500,000 annual tons. If the applicant’s argument is found to be an accurate representation, then $273 - 75 = 198$

¹³ Final EIR Oster/Las Pilitas Quarry Project Description - 2.3.3 Trip Generation and Truck Traffic

¹⁴ Final EIR Oster/Las Pilitas Quarry Project Description - 2.3.1 Overall Description (pg. 2-3)

The Project Proponent additionally claims that trucks will carry 25 tons every trip. The FEIR utilizes a 20.2 ton average per trip, a difference that would amount to 20% fewer trucks. The FEIR's use of a 20.2 average is reasonable as explained here:

- 25 tons assumes a double that is loaded to maximum capacity for each and every trip cycle. The reality is that many of the trucks would be only partially filled because not every order would require maximum load. Some trucks would only utilize single dump trucks. Moreover, most if not all trucks would not fill to the top because to do so would require trucks to be covered to avoid spillage of aggregate on the road. Covering truck beds takes time, slows production, and is not typical. Accordingly, especially during peak production, it is much more likely that full capacity would not be routinely achieved. The 20.2 ton average assumed in the FEIR is the more reasonably foreseeable scenario.
- Even if, for the sake of argument, we were to accept 25 tons as the average carrying capacity and 198 (reduced number from FEIR) as a daily average - $198 \times .80$ (20% reduction) equates to an average daily truck trip count of 158, a number still far too large, and vastly out of scale for the specific site and haul route.

The Project Proponent has also argued that the recently released EIR for the Hanson Santa Margarita Quarry Expansion provides proof that truck numbers are overstated for this Project. This data does not amount to a reasonable worst case scenario as required by CEQA.

- It is not reasonable to accept the proponent's assertion that Hanson's operations render a meaningful conclusion about the impacts of this Project given the absence of similarities between the respective locations, the characteristics of the respective haul routes, and the completely different truck trip distribution patterns.
- The FEIR for the Hanson Santa Margarita Quarry Expansion (DRC2011-00098/00099, ED12-008) used data from a ten year (2003-2012) period of a long existing operation to conclude that average daily round-trip truck trips is 89. 89×2 (1 round trip = 2 truck trips) = 178 average daily truck trips. This time period includes a substantial period during the post 2008 economic downturn when little construction activity was taking place. It is entirely likely that overall construction activity in San Luis Obispo county would increase substantially during the decades long life of the Project.
- The maximum daily truck trips conditioned at the Hanson facility is 294. $294 \text{ daily round trips} \times 2$ (1 round trip = 2 truck trips) = 588 daily truck trips, 35-40% of which would route through the town of Santa Margarita. This condition of approval does, however, reinforce the ongoing point that far more than the calculated daily average will be seen during seasonal periods of high demand.
- It is important to consider the relatively small percentage of the total number of Hanson trucks that route through Santa Margarita in any comparison.
- This Project proposal significantly increases truck traffic through the town of Santa Margarita (by as much as 300%) when all the factors are considered.

Attempting to cite an exact number is a futile exercise that only distracts focus away from the simple and real point - Reducing a large number of heavy truck trips to one that is slightly less large does nothing to address the underlying problem that the number of truck trips generated by this Project is incompatible with the community of Santa Margarita and would significantly affect the health, welfare and safety of its residents.

Putting Truck Trips into Perspective

One recent event illustrating the glaring unsuitability of the proposed haul route can be found in a revision to the Traffic Control Management Plan (TCMP) for the California Valley Solar Ranch (CVSR):

- As copied from the Plan below, a total of 116 truck trips on five separate days triggered suspending gravel hauling operations out of Santa Margarita Quarry due to the Santa Margarita Elementary School and traffic volume in Santa Margarita.
- Your board is being asked to to approve a project that proposes to place 49,500 - 68,250 truck trips annually¹⁵ for the next 28-58 years onto a haul route specifically flagged as problematic at less than 1% of that amount.

Aggregate Deliveries: Aggregate will be delivered to the jobsite on an “as needed” basis to support construction activities and the phased construction of the project. The number of trucks per day may vary according to the volume of aggregate needed.

Hanson Mine, Santa Margarita, CA (SUSPENDED)

*Aggregate was initially being supplied from the Hanson Mine in Santa Margarita. Deliveries began in September, 2011. Empty trucks would originate from Highway 58 East, or other trucks would travel from Volpi Ysabel West (Paso Robles) to Ramada Drive North to Highway 101, south to Highway 58 East, to El Camino Real North to the Hanson Mine. All trucks leaving the Hanson Mine would travel south on El Camino Real to Highway 58 East, to the CVSR jobsite. On five (5) separate dates, a total of 42 trucks delivered aggregate from the Hanson Mine to the CVSR jobsite, making a total of 116 trips (about 3 round trips per truck). **Because of the travel in the vicinity of the school located on H Street in Santa Margarita, and the overall increase to traffic volume in Santa Margarita, use of the Hanson Mine was suspended** in favor of the originally planned Navajo Mine.¹⁶*

¹⁵ 198-273 average daily truck trips x 250 annual working days

¹⁶ pg. 10, TCMP-R004, CVSR TCMP, April 20, 2012 <http://www.slocounty.ca.gov/Assets/PL/SunPower+-+High+Plains+Solar+Ranch/traffic.pdf>

Redistribution of Existing Truck Trips

The Project proponent claims that a new source of aggregate in a market does not create additional demand for aggregate and that a new source of aggregate would only create a redistribution of existing truck traffic. This is dismissive of the increased impacts because it fails to take into account the following factors:



- This Project would create a new and completely different haul route, introducing impacts into areas not currently impacted by heavy trucks associated with existing mining operations in the area. This Project relies on a Ca.Legal Yellow Advisory Route¹⁷ for its primary haul route. The FEIR estimates that 80% of loaded trucks from the proposed project would travel through Santa Margarita and 90% of loaded trucks would travel through the school zone and RR crossing.¹⁸ Except for occasional delivery to residences east of Santa Margarita, Hanson's trucks do not utilize Hwy. 58,

and only about a third of Hanson trucks travel through Santa Margarita.

- The Project Proponent's discussion regarding redistribution of market share only considers trucks associated with Hanson.
- Rocky Canyon would also be part of any redistribution of market share. None of these trucks currently route through Santa Margarita.
- Finally, it should be noted that at some point in the future, be it by the current applicant or a future owner, the Project could produce aggregate at or near the maximum capacity. Under this circumstance, the total volume of traffic would far exceed the numbers being predicted by the Applicant at this time.
- If the Applicant is confident that its production will always be limited, it should reduce its requested maximum capacity to reflect this expectation. A reduction of truck trips can only be reliably achieved by a greatly reduced maximum capacity.

It is reasonable to conclude that:

- The Project Proponent's redistribution argument contradicts their own claim that a critical shortage of aggregate requiring immediate additional sources of supply exists in the area.
- The inability for the specific site to manage ingress and egress of large trucks cannot be mitigated. The steep and winding entrance road directly adjacent to Hwy. 58 cannot

¹⁷ <http://www.dot.ca.gov/hq/traffops/trucks/truckmap/truckmap-d05.pdf> District 5 truck maps

¹⁸ Realistically, all trucks accessing the proposed Project travel through the school zone and RR crossing. There is no other means of ingress and egress to access this "arterial" route.

adequately accommodate the queueing of 26 trucks as stated in the FEIR and would directly cause random staging events along the haul route and other yet to be disclosed locations.

- Even, if only for the sake of argument, the claim of no net increase in mining related truck traffic (market remains static/no additional demand for aggregate) were to be accepted, this Project would unequivocally, and dramatically, increase the number of truck trips through Santa Margarita associated with mining activity in the area.

Existing Trucking Facility

The applicant writes that “*Mike Cole, one of the Project partners, lives across the street from the Oster property, and for 19 years (until 2011) he had his trucking company based at this house, with a fleet of up to 17 trucks. Accordingly, Mr. Cole knew from firsthand experience that large trucks could safely navigate that stretch of Highway 58 without issue.*” The personal opinion of the applicant is as irrelevant as it is unreliable:

- Truck numbers claimed to be associated with this location have not been substantiated with verifiable evidence and are very likely to be drastically overstated due to the gradual growth of this trucking operation (code enforcement case COD2010-00095 - use not allowed or established without a permit) over a period of many years.
- Mr. Cole’s experiential assessment cannot be considered an impartial perspective given his interest in the outcome of this Project proposal.
- The event outlined above (Hanson Mine Santa Margarita Suspended) suggests the project proponent’s personal assessment likely did not take into account the health, safety and welfare of the surrounding community.
- An unbiased determination of the scale of this former use and objective assessment of the associated impacts does not appear to have been part of any evaluation at this time.
- This property’s driveway is located on a section of the road with minimal incline that has a far better line of sight than the proposed Oster site. Even so, no evidence exists to show that the ingress and egress of this, relatively to the Project, small number of unloaded trucks was not without impacts to travelers in both directions on Hwy. 58.
- Fueling, washing of trucks, sandblasting, painting, and other facility infrastructure remain in place at this location and are still in use, albeit at a lesser total volume than previously.
- Given the absence of any planned infrastructure of this nature at the proposed facility, a valid concern is that this yard could become the de-facto truck staging and maintenance facility for the proposed Project.

Noise

The EIR did not adequately address all Project operation related noise sources. The Project Proponent states that the County grants exemptions from the Noise Ordinance for the “*construction*” phases of projects and is puzzled why staff did not disclose that here.

- The early phases of the Project would actually be part of the operation as much of this material will be sold and will last for a number of years. The intent of the exemptions is for “*construction*” (intermittent and short term in nature), not for operations.
- The majority of the long range operational noise sources (i.e. aggregate crushing, processing, stockpiling, truck loading and unloading) will NOT move away from the quarry’s central operational areas and will not be shielded by ridge lines.

Regarding blasting, the applicant states that it is unlikely that the noise or vibration might travel as far as the nearby residences. This is an unsubstantiated statement dismissive of the real world data collected at a Hanson blasting event.

Noise impacts at the project site are understated due to the failure to analyze ingress and egress along the steeply inclined 10% Entrance Road, including the following:

- Jake brakes would be a routine occurrence for a fully loaded double traversing down the steep and winding driveway.
- Fully loaded trucks with incoming asphalt and concrete debris will be climbing the Entrance Road from a full stop.

The Project Applicant’s assertion that the Noise Ordinance exempts traffic on public roadways fails to acknowledge the purpose of the Noise Element. This Project proposal is not an existing use.

The Noise Element is directed at minimizing future noise conflicts, whereas a noise ordinance focuses on resolving existing noise conflicts. A noise ordinance may be used to address noise levels generated by existing industrial, commercial and residential uses which are not regulated by federal or state noise level standards. The regulation of noise sources such as traffic on public roadways, railroad line operations and aircraft in flight is preempted by existing federal and/or state regulations, meaning that such sources generally may not be addressed by a noise ordinance. The Noise Element addresses the prevention of noise conflicts from all of these sources.

County's Authority to Regulate Land Use

The Applicant's claim as **Fact** that “ *the County has no authority to limit truck trips on this route*” (Hwy. 58) fails to address the fact that a request has been made for a discretionary permit. The County's authority and duty is to determine ALL impacts associated with such a request.

- Conditional Use Permit Findings must be made. Land Use Ordinance (Title 22.62.060(C) (4) (e) states the Review Authority shall not approve or conditionally approve a CUP unless it first finds; “*that the proposed use or project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project*”. This language does not provide a modifier to the word ALL, or suggest that only certain roads are to receive consideration.
- Hwy. 58, while technically a “state highway”, is a narrow, windy, sloping road without adequate shoulders that functions as a local rural arterial route never designed for use as an industrial transportation corridor.

As part of the County's authority and responsibility to regulate land use, the discretionary CUPs for both the California Valley Solar Ranch and the Topaz Solar Farm solar projects included COA and Traffic Control and Management Plans that took into account the hazards of project related trucks on Hwy. 58, a Ca. Legal Yellow Advisory Route beginning at J Street in Santa Margarita (PostMile 1.9).¹⁹ The Applicant's claim of “*no authority*” is telling of an overall attitude that remains dismissive of Project impacts, including well proven hazards that exist on Hwy. 58.

- Truck traffic through Santa Margarita was severely restricted as well as on Hwy. 58. This Project would use the same portions of the roadway that were determined to be problematic.
- Conditions were in place during the more than two years²⁰ of construction activity at those facilities.
- Alternate routes were specifically identified along with scheduled convoys and other safety precautions that minimized the traffic and safety related impacts on this “state highway”.²¹

¹⁹ <http://www.dot.ca.gov/hq/traffops/trucks/truckmap/truckmap-d05.pdf> District 5 truck maps

²⁰ If approved, the permit sought by Las Pilitas Resources, LLC would last for up to 58 years.

²¹ California Valley Solar Ranch TCMP <http://www.slocounty.ca.gov/Assets/PL/SunPower+-+High+Plains+Solar+Ranch/traffic.pdf> and Topaz Solar Farm TCMP, Aug. 31, 2012

We encourage your Board to support the continued good work of your planning staff and your Planning Commissioners by upholding the recommendation and decision to deny this poorly located and unnecessary project. Please do not allow the delicate balance to tip away from that of a community with character to one that has irreversibly lost that which makes it unique.

Thank You for the opportunity to provide comments on this important land use decision that will directly have effect on the future livability, safety, and character of our entire community.

Respectfully Submitted,
Margarita Proud Board of Directors



Roy Reeves, President

Attachments: Table of Contents

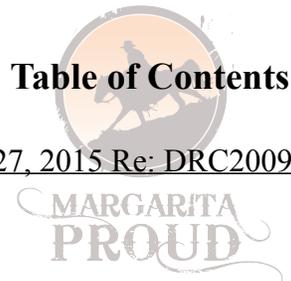


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