TO: **Planning Commission**

FROM: **Murry Wilson, Senior Planner, (805) 788-2352**

VIA: **Ellen Carroll, Planning Manager/Environmental Coordinator**

DATE: **December 1, 2014**

SUBJECT: **Response to Supplemental Comments on the Draft EIR**

The attached correspondence includes responses to comments on the Draft EIR that were inadvertently left out of the Final EIR. Please include this additional information as a part of the Final EIR for the proposed Las Pilitas Quarry Conditional Use Permit and Reclamation Plan (DRC2009-00025).

These comments and responses have been provided to the following individual commenters as well as the Applicant and will be included in the record for the proposed project:

- Roy Reeves – 6070 Parkhill Road, Santa Margarita, CA 93453
- Lynda Auchinachie – Department of Agriculture / Weights and Measures

Attachments:

- Bracketed letter from Roy Reeves – dated June 4, 2013 (I.164)
- Bracketed letter from Lynda Auchinachie – dated May 31, 2013 (C.02)

Response to Supplemental Comments on the Draft EIR

I.164 Roy Reeves; Letter dated June 4, 2013

1. The reference to the EX1 Extractive Resource Area combining designation was included in the EIR, in order to comply with Section 15125 (d) of the CEQA Guidelines: "*the EIR shall discuss any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans.*" Table 4.14-1 in the EIR presents the conclusion that the project may be found consistent with the EX1 Extractive Resource Area combining designation, as defined by the Land Use Ordinance, Section 22.14.050. No changes have been made to the EIR text, to remove references to the EX1 Extractive Resource Combining designation.

2. The suitability of the proposed use, and how its approval would be allowed and conditioned in compliance with the County Land Use Ordinance, are matters that will be determined by the decision makers—the County Planning Commission and Board of Supervisors. In considering the project, if decision makers act to approve the application they would need to adopt the findings found in Section 22.62.060C.4. and may also need to adopt findings related to community benefits or other considerations. No changes are necessary in the EIR.

3. The EIR does not attempt to dismiss residences in the vicinity of the proposed project and is not required to identify all sensitive receptors; rather the EIR identifies specific residences that would be most affected by the proposed project (e.g. nearby residences effected by noise resulting from operational activities and blasting noise and vibration as shown in Figure 4.8-1). This is a reasonable approach, since effects such as noise and concentrations of air emissions diminish over distance. The significance criteria for these effects are based on identified threshold values, not on the number of residences in the general vicinity. Other residences in the vicinity may also be impacted by the proposed project but CEQA does not require an exhaustive analysis of impacts. Identification of additional residences in the vicinity of the project site would not increase the significance of the impact therefore has not been included in the analysis. Additional detail regarding this issue is also presented in Response O.16-94, 97, and 98. Incompatibility will be an issue considered by the decision makers – the County Planning Commission and Board of Supervisors. In considering the project, if decision makers act to approve the application they would need to adopt the findings found in Section 22.62.060C.4. and may also need to adopt findings related to community benefits or other considerations. No changes are necessary in the EIR.

4. The County placed the combining designation of EX1 over the area of the La Panza Granitics, and incorporated mineral resource management policies within its General Plan, in accordance with the California Public Resources Code (14 PRC 2762(a)), after the State Geologist classified this area as *"an area that contains mineral deposits and is of regional or statewide significance,"* pursuant to 14 PRC 2761(b)). Land Use Ordinance Section 22.14.050 is applicable to the proposed project because the project site

is located with the EX1 combining designation. Section 22.14.050 also makes reference to the permit requirements associated with the proposed project (Conditional Use Permit) as required by Sections 22.14.040 therefore the citation of this section is appropriate. No changes are necessary in the EIR.

5. This comment inquires why the ramifications of a potential *"Designation"* by the State Board of Mining and Geology of the La Panza Granitics Resource Area were not discussed in the Draft EIR, which was published on April 13, 2013.

   For perspective, the County's General Plan (including its Conservation and Open Space Element and certain Overlay Designations) and the County's Land Use Ordinance were adopted in compliance with the state's Surface Mining and Reclamation Act (SMARA).

   The Draft EIR was published in April, 2013; any potential action by the State Mining and Geology Board (SMGB) was not determined at that time. On September 12, 2013, the State Mining and Geology Board approved *"Regulatory Language for Designation of Mineral Lands within the San Luis Obispo-Santa Barbara Production-Consumption Region, California."* The Board also deferred action on a private request to designate *"Sector C"* (which includes the project site) as having *"statewide significance"*. On November 14, 2013, the Board took no action on this private request, which means that Sector C remained designated as having *"regional significance"*, not statewide significance. The SMGB took action in August 2014 to approve the final regulatory language and designated the areas as having "*regional significance"*.

   Whether the sector of the La Panza Granitics containing the project site is *"designated"* by the California Mining and Geology Board (pursuant to PRC 2790) or is *"classified"* by the State Geologist (pursuant to PRC 2761), has no effect on the CUP requirement and Reclamation Plan requirement for the project. The SMGB has to submit revised regulations to the Office of Administrative Law (OAL) and that office has to determine if the language is acceptable or needs additional hearings and / or noticing or supporting information. As Lead Agency, the County has concluded that no changes to the EIR are necessary as a result of this Comment.

6. Statements in the EIR regarding the aggregate products to be sold as part of this project have been clarified: the project will not sell washed aggregate for use in PCC or AC pavement, but will sell a variety of other aggregate products. Furthermore, in the event that a future proposal is made that may involve washing of aggregate and sale of PCC or AC pavement grade aggregate material, that future proposal would require a CUP amendment and would be subject to CEQA review at that time. These clarifications are presented as EIR Text Revision #8. The requested quarry, along with the description of materials proposed to be produced (as identified within this comment and summarized above), are subject to discretionary approval by the decision makers – the County Planning Commission and Board of Supervisors. The comment implies that non-PCC grade aggregate is available from another location, and therefore is not an appropriate product to be considered at this project site. Non-PCC grade aggregate is a substantial proportion of the estimated 50-year demand for the San Luis Obispo-Santa Barbara

region. The designation of the area as MRZ-2 (PCC) area identifies the potential of the resource to be used for various applications including but not limited to concrete or PCC-grade products. This designation is made for local planning purposes. If the decision makers determine the proposed project is not consistent with the designation of the area, then the project may be denied. For these reasons, the County as Lead Agency believes that the project as proposed is consistent with adopted State and County policies regarding the identification and management of aggregate resources. No changes are necessary in the EIR.

7. The requested quarry along with the description of materials proposed to be produced (as identified within this comment) are subject to discretionary approval by the decision makers – the County Planning Commission and Board of Supervisors. The designation of the area as MRZ-2 (PCC) area identifies the potential of the resource to be used for various applications including but not limited to concrete or PCC-grade products. This designation is made for local planning purposes. This comment argues that because the proposed surface mine would not sell PCC grade aggregate, but would instead sell other aggregate products used in road construction and for other uses, the project is incompatible with the intent of the State and County policies to identify and protect aggregate resource areas. The County disagrees with this interpretation. The project as proposed will serve a portion of the aggregate market in San Luis Obispo County, and is consistent with applicable State and County policies. If the decision makers determine the proposed project is not consistent with the designation of the area, then the project may be denied. The comments expressed herein will be forwarded to the decision makers through the Final EIR for their consideration during the decision making process. No changes are necessary in the EIR.

8. The comment quotes the CalRecycle NOP response letter (August 3, 2010), and states that CalRecycle was in error when they said that the project might qualify to be considered as an *"Inert Debris Type A Recycling Center."* The next paragraph of the same letter, however, notes that the project might be *"…deemed to be an Inert Debris Type A Processing operation and subject to an EA Notification and quarterly inspections by the Enforcement Agency."* The project description regarding recycled materials contained in Section 2.3.1 of the Final EIR states, *"The material would be processed by the same portable crushing and screening equipment that is used in the processing of the mined materials. The recycled material would be stockpiled for public sale and reuse."* Based on the description of the proposed activities, the proposed use would be classified as either an *"Inert Debris Type A Processing Operation"* or a *"CDI Recycling Center"* depending on the configuration of the operational activities. Since the recycled materials would use the same processing equipment that would be used for the mining operation and would be located within the portion of the site where stockpiling of the mined material is located, the EIR has identified the regulations associated with a *"CDI Recycling Facility"*. Therefore the project description accurately characterizes the proposed use and would be in compliance with the regulation governing the proposed use. As set forth in Section 17381.2 an *"Inert Debris Type A Processing Operation"* is subject to the EA Notification Tier requirements. No changes are necessary in the EIR.

9. As discussed in response #8 above, the proposed use would be defined as either an *"Inert Debris Type A Processing Operation"* or a *"CDI Recycling Center"* depending on the configuration of the operational activities. The proposed use would receive less than 1500 tons per operating day. The Applicant would be subject to the EA Notification Tier requirements. If CalRecycle determines that the proposed use is a *"Inert Debris Type A Processing Operation"* then the activities would be subject to Article 17383.7 and would be required to comply with the EA Notification requirements set forth in CCR, Title 14, Division 7, Chapter 5.0, Article 3.0 and commencing with section 18100. The standards associated with this section include:

    - Inert debris stored for more than 6 months that has not been processed and sorted for resale or reuse shall be deemed to have been unlawfully disposed;
    - Inert debris that has been processed and sorted for resale or reuse, but remains stored on site for more than 18 months, shall be deemed to have been unlawfully disposed;
    - The maximum amount of material that may be stored on the site, including unprocessed material, material that is being processed, and material that has been processed, is that amount which is the product of 30 days multiplied by the maximum amount of incoming material permitted per day;
    - Storage time limits may be extended in accordance with sections 17384(a) (Land Use Entitlements), 17384(b) (Storage Plan), and 17384(c) (Financial Assurances) of this Article;
    - Residual material shall be removed from the site within 48 hours or at an alternate frequency approved by the EA;
    - The operator shall specify the operation's boundary area in the operating record;
    - Each operator of an inert debris Type A processing operation shall file with the EA, together with its application for an EA Notification, an Inert Debris Type A Processing Operation Plan (as more fully described in Article 3.2, section 17386 of this Article);
    - Where the public may have access to them, the debris piles and other piles of materials on site must be stable and otherwise configured so as to protect the public health and safety; and
    - Each operator shall determine the weight of all material received at the operation for handling and shall maintain records of the weight of materials in accord with State Minimum Standards. Weight shall be determined by the use of scales which may be located at the operation or off-site.

    The comment does not affect the conclusions in the EIR and no changes are necessary in the EIR.

10. On March 22, 2010, Las Pilitas Resources LLC applied for a Conditional Use Permit / Reclamation Plan to allow for an Aggregate Quarry and Asphalt and Concrete Recycling facility. The project case number is DRC2009-00025. As noted in the EIR in Section 1.4.1, other requirements related to recycling and storage yards (in Section 22.30.560 of the Land Use Ordinance) can be applied as appropriate through the Conditional Use Permit. The suitability of the proposed use, and how its approval would be allowed and

conditioned in compliance with the County Land Use Ordinance, is a matter that will be determined by the decision makers – the County Planning Commission and Board of Supervisors. The Staff Report for the proposed project will include a discussion about the requested waiver for the proposed recycling use in the Rural Lands land use category. No changes are necessary in the EIR.

11. The maximum amount of material that could be recycled at the facility as proposed would be 1,500 tons per day – a limitation imposed by the type of permit anticipated by the applicant, and included in the EIR as part of the reasonable estimate of maximum trip generation. Based on projections of the market for such recycled material, however, the actual amount would be less. Information provided in Comment O.23-13 indicates that the amount of recycled material that might be expected at this project is likely to be less than 100 tons per day. If the project receives an approval, the Conditional Use Permit may include a condition of approval that would limit the maximum amount of recycled material that could be received per day. No changes are necessary in the EIR.

12. As explained in the Project Description, pavement material to be processed through the project would be limited to "Type A" inert debris, as defined in 14 CCR 17381(k)(1). This material may not contain oil, plastics, and other wastes, and may not contain soluble pollutants in excess of water quality objectives. As such, this material is not considered to be hazardous waste, as implied by the comment. The project does not include fine milling of asphalt. The State of California Department of Conservation, the Regional Water Quality Control Board, and other agencies have experience in regulating the re-use of pavement as a useful material in the construction of roads. The regulations applicable to the project are established based on this experience. As a general rule, pavement removed from roadways is not classified as a hazardous waste. Regulations allow for the re-use of pavement material in reconstructing roads without requiring separate discharge or other permits. If CalRecycle determines that the project is an *"Inert Debris Type A Processing Operation"* (refer to response #8 and 9) then the activity would be subject to the standards discussed in response #9 above. No changes are necessary in the EIR.

13. The result of the noise analysis concluded that the operation noise would be a significant and unavoidable impact. However, it should be noted that the noise associated with both on and off-road trucks operating at the project site were included in the analysis of the operational activities at the project site. Truck traffic on the entrance driveway will be traveling at a very slow speed (less than 10 mph) and will include a small volume (up to 273 trips per day) compared to traffic on SR 58 (approximately 2,000 ADT) traveling at much higher speeds (45-50 mph). Because of the logarithmic way in which noise levels depend on number of vehicles and speed, the contribution of driveway traffic to overall noise levels in the vicinity will be very small. No changes are necessary in the EIR.

14. The result of the noise analysis concluded that blasting noise and vibrations would be a significant and unavoidable impact. The EIR does not attempt to dismiss residences in the vicinity of the proposed project and is not required to identify all sensitive receptors; rather the EIR identifies specific residences that would be most affected by the proposed project (e.g. nearby residences effected by noise resulting from operational activities and

blasting noise and vibration as shown in Figure 4.8-1). The EIR focuses the analysis of operational noise on those residences nearest to the project site and, thus, most likely to be affected by blasting and other aspects of the project operations. This is a reasonable approach, since effects such as noise diminish over distance. The significance criteria for these effects are based on identified threshold values, not on the number of residences in the general vicinity that may experience less than significant effects. While other residences in the vicinity may also be affected by the proposed project, CEQA does not require an exhaustive analysis of impacts. Identification of additional residences in the vicinity of the project site would not increase the significant of the impact therefore has not been included in the analysis. No changes are necessary in the EIR.

15. The result of the noise analysis concluded that ground vibrations from blasting and noise related to operational activities would be a significant and unavoidable impact. The EIR does not attempt to dismiss residences in the vicinity of the proposed project and is not required to identify all sensitive receptors; rather the EIR identifies specific residences that would be most affected by the proposed project (e.g. nearby residences effected by noise resulting from operational activities and blasting noise and vibration as shown in Figure 4.8-1). The residence on Assessor Parcel 070-142-016 is approximately 800 feet from the nearest point of the proposed quarry perimeter. At this location, using the same computation procedure presented in the project's General Blast Plan (included in Appendix B of the EIR), the estimated peak particle velocity would be 0.83 inches/second. While this result is well within the 2.0 inches per second vibration limit for blast frequencies above 40 Hz set by the federal Bureau of Mines, it would be clearly perceptible and is high enough to warrant monitoring as suggested by Mitigation Measure 3a and in the General Blast Plan. The mitigation measure deals primarily with air overpressure (sound levels) but also includes ground vibration monitoring. The General Blast Plan notes that all of the vibration predictions are based on using a conservative (high) factor for blast confinement (called "upper bound factor" or H factor in the report), and recommends the performance of test blasts to determine an accurate factor for the actual project conditions, which are likely to result in lower ground vibrations than predicted. While other residences in the vicinity may also be affected by the proposed project, CEQA does not require an exhaustive analysis of impacts. Identification of additional residences in the vicinity of the project site would not increase the significant of the impact therefore has not been included in the analysis. The commenter is correct in identification of the parcel (070-142-016) as Residential Rural but there is also a Rural Lands parcel (070-142-026) located east of the Oster property as referenced in the EIR. No changes are necessary in the EIR.

16. Upon further discussion with County staff, the applicant has clarified that washing (i.e., wet processing) is not required for any of the aggregate materials produced by the Quarry. Text Revision #8 makes this point clear as follows: *"Aggregate products that will be produced and sold include: rip rap, drain rock, landscape wall rock, decorative rock, decomposed granite for landscaping applications (trail pathways, etc.), road base, and non-expansive fill material. Washing is not required for any of these aggregate materials, and this process is therefore not evaluated in this EIR. In the event that aggregate material washing is proposed in the future, additional CEQA review would be*

required." Monitoring of water usage was determined to not be necessary based on the amount of water proposed to be used by the project and the availability of water at the proposed project site. If the decision makers decide to approve the proposed project, a condition of approval associated with monitoring of water usage may be included as a condition of approval.

17. The commenter is correct in noting that the project site is not located in an area affected by a Level of Serverity II or III. A discussion of hazardous materials is contained in Section 4.7.6 beginning on page 4.7-11 of the Final EIR. As discussed in this section, *"All materials accepted for recycling must be "Type A" inert debris and will be required to be free of hazardous wastes and soluble pollutants at concentrations in excess of water quality objectives, and must meet other specifications. Type A inert debris may contain fully cured asphalt, which is defined in state regulations as "substantially hardened, and ...inelastic." This material is not considered hazardous waste."* Please refer to response # 9 for further discussion regarding the handling procedures if CalRecycle determines the activities are subject to the permit requirements of a *"Inert Debris Type A Processing Operation"*. No changes are necessary in the EIR.

18. Through review of the required discretionary Conditional Use Permit and Reclamation Plan request, the County may apply conditions of approval associated with water usage if those conditions are determined to be necessary. No changes are necessary in the EIR.

19. The project would not be served by a public water system, instead would be served by a private water source on the project site. California Water Code Section 10910 (d)(2) requires the identification of existing water supply entitlements, water rights, or water service contracts, federal, state, and local permits for construction of necessary infrastructure, and any regulatory approvals required in order to be able to deliver the water supply. The groundwater basin that underlies the project site is not adjudicated, which means that landowners my extract groundwater underlying their property without approval from the State Board or a court. The project site has both riparian and appropriative water rights associated with it. Since the property is located directly along the Salinas River, the owner has a right to use water in the river for uses within the watershed, under conditions that attend riparian rights. The project site also has five Statements of Diversion and Use filed with the State Water Resources Control Board totaling 93.8 acre-feet/year (30,565,011 gallons), for uses that were established prior to 1914 and are considered predominantly riparian (and storage volumes that are considered appropriative). These include both surface water and shallow ground water sources and are shown as approximate locations on Figure WSA-5, which are derived from information on the Department of Water Resources website. The reference to the 350 gallon per minute well is in reference to the Statement of Diversion (S015134) filed with the spring box on Moreno Creek. No changes are necessary in the EIR.

20. Water storage for the proposed project would be provided in tanks with a total volume of 20,000 gallons. Two new water tanks are shown in the project plans and were considered in the EIR. The project will not rely on or affect the existing stock pond. No changes are necessary in the EIR.

21. The referenced 93 acre feet per year diversion rate was not reported as water consumption or use, just potential use or diversion from the surface flow in Moreno Creek near its confluence with the Salinas River. Water use for agricultural purposes on the property in the past has varied, with the highest use approximately 15.8 acre feet per year. No changes are necessary in the EIR.

22. Surface flows in the Salinas River downstream from the Margarita Lake reservoir are augmented by required releases from the reservoir; they are not governed by the diversion permit issued to the City of San Luis Obispo. If the proposed project or property owner were to apply for an increase in diversion of surface water along the Salinas River, then it is possible that the City of San Luis Obispo or other water users might protest. The proposed water use is within the maximum historical use rates on the property and no increase in diversion is being sought, therefore the objection raised in the comment is only speculation. No changes are necessary in the EIR.

23. Surface flow in the Salinas River is one, but not the main, contributor to groundwater in the Paso Robles Groundwater Basin. As stated in the comment, the project's water consumption is not expected to represent a significant impact. No changes are necessary in the EIR.

24. Project objectives are included in an EIR for the purpose of assisting the Lead Agency in developing a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. Incompatibility will be determined by the decision makers – the County Planning Commission and Board of Supervisors. In considering the project, if decision makers act to approve the application they would need to adopt the findings found in Section 22.62.060C.4. and may also need to adopt findings related to community benefits or other considerations. The commenter is correct, the reference to the EX1 combining designation found in Section 22.14.050 states, *"The purpose of the combining designation is to <u>protect</u> existing resources extraction operations from encroachment by incompatible land uses that could hinder resource extraction"* and does not state that combining designation is intended to <u>promote</u> mineral extraction.

25. Most of this comment relates to the existing concrete spring box on the Oster property in Moreno Creek, which is the diversion point for the stock pond on the property. This flow is riparian in nature which relates to the surface flow in the creek, it is not an artesian well, and no alterations are proposed at this location. In any event, this is not the water source proposed for the project, and the comment does not affect the conclusions in the EIR.

26. *"Scattered residential uses"* is a term commonly used in County documents to describe low density development in agricultural and rural land use categories. The comment provides a more detailed description of the Rural Residential subdivisions along Digger Pine Road and Parkhill Road as depicted in "Revised Figure 4.8-1", but does not contain

any new information that would lead to a change in the analysis and conclusions in the EIR.

27. Figure 4.14-1 accurately describes the project boundary, the location of the EX1 combining designation, and land use categories surrounding the proposed project site. Figure 4.8-1 was intended to identify sensitive receptors in the vicinity of the project site that would be most affected by the proposed project. No changes are necessary in the EIR.

28. The requested quarry along with the description of materials proposed to be produced (as identified within this comment) are subject to discretionary approval by the decision makers – the County Planning Commission and Board of Supervisors. The designation of the area as MRZ-2 (PCC) area identifies the potential of the resource to be used for various applications including but not limited to concrete or PCC-grade products. This designation is made for local planning purposes. If the decision makers determine the proposed project is not consistent with the designation of the area, then the project may be denied. No changes are necessary in the EIR.

29. The requested quarry along with the description of materials proposed to be produced (as identified within this comment) are subject to discretionary approval by the decision makers – the County Planning Commission and Board of Supervisors. The designation of the area as MRZ-2 (PCC) area identifies the potential of the resource to be used for various applications including but not limited to concrete or PCC-grade products. This designation is made for local planning purposes. If the decision makers determine the proposed project is not consistent with the designation of the area and is not compatible with the neighborhood including the noise criteria described in the Noise Element / Ordinance, then the project may be denied. No changes are necessary in the EIR.

30. Table 4.14-2 accurately describes the properties that are located adjacent to the proposed project site (next to or adjoining). Residential development in and around the project site will be a primary issued to be considered by the decision makers – the County Planning Commission and Board of Supervisors in considering whether to deny or approve (and conditioning) the proposed project. No changes are necessary in the EIR.

31. The suitability of the proposed use, and how its approval would be allowed and conditioned in compliance with the County Land Use Ordinance, is a matter that will be determined by the decision makers – the County Planning Commission and Board of Supervisors. The relevant findings that the County decision makers must make in approving this Conditional Use Permit are as follows:

    <u>Land Use Ordinance Section 22.62.060 (C) (4):</u>
    The Review Authority shall not approve or conditionally approve a Conditional Use Permit unless it first finds that:

    a. *The proposed project or use is consistent with the Land Use Element of the General Plan; and*

b. The proposed project or use satisfies all applicable provisions of this Title; and

c. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use; and

d. That the proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development; and

e. 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.

f. Any additional findings required by planning area standards in Article 9 (Community Planning Standards), combining designation (Chapter 22.14), or special use (Article 4).

<u>Land Use Ordinance Section 22.36.040 (E):</u>

Approval or conditional approval may be granted only upon making the findings that the application and reclamation plan or amendments to reclamation plan and reports submitted:

1. *Adequately describe the proposed operation in sufficient detail and comply with applicable state mandated requirements of SMARA;*
2. *Incorporate adequate measures to mitigate the probable significant adverse environmental effects and operational visual effects of the proposed operation;*
3. *Incorporate adequate measures to restore the site to a natural appearing or otherwise usable condition compatible with adjacent areas;*
4. *Show proposed uses which are consistent with the County General Plan; and*
5. *Demonstrate that the uses proposed are not likely to cause public health or safety problems.*

In addition, when any significant environmental impact has been identified, the findings mandated by the Public Resources Code shall be made.

The decision makers – the County Planning Commission and Board of Supervisors will make a decision based on the entire record, of which the EIR is but one, albeit an important source. Additional items that will be included in the record include but are not limited to public testimony and correspondence received during public hearings. If the decision makers determine that the project should be approved, they will be required to making the above referenced findings and can approve a project with significant impacts with overriding considerations.

C.02 Lynda Auchinachie; Letter dated May 31, 2013

1. Upon further discussion with County staff, the applicant has clarified that washing (i.e., wet processing) is not required for any of the aggregate materials produced by the Quarry. Text Revision #8 makes this point clear as follows: *"Aggregate products that will be produced and sold include: rip rap, drain rock, landscape wall rock, decorative rock, decomposed granite for landscaping applications (trail pathways, etc.), road base, and non-expansive fill material. Washing is not required for any of these aggregate materials, and this process is therefore not evaluated in this EIR. In the event that aggregate material washing is proposed in the future, additional CEQA review would be required."* Based on the anticipated revegetation and dust control activities that would be required for the proposed project, the estimated water usage has been determined to be appropriate.

2. The statement on page 4.13-4 reads as follows:

   > *The original Statements, and several Supplemental Statements of Use, indicate that approximately 94 afy has historically been diverted for temporary storage from Moreno Creek and from shallow wells associated with the Salinas River.*

   Not all of the diverted water has been used or consumed on the property – most of it is surface flow from Moreno Creek that is diverted into the stock pond and then flows into the Salinas River. The actual water use on the property in the past has varied, depending on the agricultural activities in any given year, and has ranged up to approximately 15.8 afy. The estimated historical water consumption which has been assumed for analysis of the proposed project is approximately 2 afy (i.e. baseline water consumption before the proposed project). This estimate includes usage by the two existing residences on the property as well as water of up to 30-40 cattle, a small orchard, garden, and landscaping at the primary residence.

6070 Parkhill Road
Santa Margarita,CA 93453
June 4, 2013

Mr. Murry Wilson
Environmental Resource Specialist
Department of Planning and Building
976 Osos Street, Room 300
San Luis Obispo, CA 93408

Dear Murry:

Attached are my comments on the Draft EIR concerning the Oster/Las Pilitas quarry (DCR2009-0002500.) My comments are in five sections: EX1, EX, - Classification, Designation; Recycling; Noise; Water; and Land Use. I have also included a Revised Figure 4.8-1.

Sincerely,

Roy Reeves

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enc.

DEIR Comments of Roy Reeves

EX1, EX, - Classification, Designation Comments

EX1 - Classification

The use of and the reference to the Extractive Resource Area (EX1) combining designation in this DEIR is rather excessive and in some cases does not apply to this project. The County Land Use Ordinance 22.14.050 does two things:

1. It identifies areas of the county that have been classified as containing or being highly likely to contain significant mineral deposits.
2. It protects **existing** resource extraction operations from encroachment by incompatible land uses that could hinder resource extraction.

At this time, the provisions of the Mineral Resources Chapter of the Conservation and Open Space Element do not override LUO 22.14.50. Therefore any reference to the EX1 zone by the DEIR can only be in reference to the geographic location of the proposed quarry. The encroachment provisions of LUO 22.14.50 do not apply until the project is permitted. This project is not yet an existing quarry and any suggestion that the EX1 combining designation applies to the operational protection or function of this project or gives the appearance that the project is covered by the encroachment provisions of LUO 22.14.50 is premature and in error. 1

In view of the encroachment provision of LUO 22.14.50, the question is; how can a quarry be sited in an area that has existing incompatible land uses or residences on adjacent parcels?

The reverse question, and probably the most important question to be answered, can also be asked about this quarry project. That is; why can't existing residences be protected from encroachment by incompatible land uses (this quarry)? 2

The DEIR seems to go to great lengths to ignore or dismiss the number of residences that are in the vicinity of this project. This is a topic that will be discussed in greater detail in another section of these comments. However, for this discussion the number of individual, inhabited residences/dwellings that are on only adjacent parcels is **ten** and this does not count the two residences that will probably be most affected by this project just across the river on parcel 070-154-009.

How many residences/dwelling units does it take to determine an incompatible land use? 3

If we look back at the history of the EX1 zone, it really did not do much. It certainly did not do anything to preserve the significant mineral deposits of the La Panza Granitic Area. There are currently only two active quarries in this EX1 zone, Rocky Canyon and Hanson. The SLO County Planning and Building Department initially made a feeble attempt to protect these quarries by designating parcels around the quarries as a "Mine Buffer Area." This designation is 4

still attached to many of the parcels surrounding the two quarries. Later the Rocky Canyon Specific Plan designated a small area around that quarry which was additionally to be used to control development in the vicinity of the quarry. These efforts both were failures in any real attempt to control incompatible land uses around the quarries. The "Mine Buffer Area" designation plan probably failed because no implementing ordnances were drafted to define or enforce the plan and it was initially misused. The "Mine Buffer Area" designation was given to parcels that already contained dwelling units or to parcels that could be permitted for residential dwellings or secondary dwellings. There is no history that residential building permits were ever restricted on these "Mine Buffer Area" parcels. While the Rocky Canyon Specific Plan designated an area so small that it barely extends beyond the working limits of the existing quarry.

With respect to the issuance of residential building permits within the EX1 Zone, a quick search of county records indicates that there have been at least 96 residential building permits issued for the 197 parcels in the zone since 1990. The majority of the permits were however for parcels in that portion of the zone south of Hwy 58. Even so, the counties efforts to preserve the mineral resource do not appear to be very good.

The question here is. Why is this project relying so heavily on an ordinance (LUO 22.14.50) that appears to be informational only and has no real enforcement structure?

4

EX – Designation

Question: Why was "Designation" or the imminent possibility of "Designation" by the State Mining and Geology Board (SMGB), of the La Panza Granitics Resource Area, the approximate current EX1 zone, and all the ramifications it will have on this project, not discussed in this DEIR?

It is hard to believe that the consultant was not informed by the Planning and Building Department that the SMGB, in its meeting on April 11, 2013, was taking the first step to designate the approximate current La Panza Granitics EX1 zone as an area known to contain significant deposits of Portland Cement Concrete (PCC) grade aggregate.

"Designation" will have several impacts on this project:

1. The probability is that "Designation" will be approved by the State before any final action on this project is decided at the local level.
2. The State Mining and Reclamation Act (SMARA) mandates that the local agencies, in this case the county, protects the "Designated" mineral resource area from encroachment by incompatible land uses that could limit current or future extraction of the resource.
3. "Designation" will change the applicable local ordinance for this project to LUO 22.14.40, which provides the county enforcement powers to actually preserve the mineral resource from incompatible land uses that would limit any future mining of the resource.

5

4. "Designation" also specifically names the mineral resource that is to be preserved for future extraction in the specific area. In this case it is specified as "PCC-grade aggregate."

It is fairly obvious that "Designation" is going forward as outlined in the language of Agenda item 8, for the meeting of the SMGB on April 11, 2013, despite the requests for revisions by the public, the County and Margarita Proud. The SMGB did grant a ninety day delay in their decision to go forward with the designation process for the San Luis Obispo- Santa Barbara Production-Consumption Region. However, this delay does not appear that it will change, in any way, the ultimate designation of any portion of the La Panza Granitics Resource Area north of Hwy 58. 5

Designation and the imposition of LUO 22.14.40 gives this project the added protection from incompatible land uses that the DEIR seemed to be giving it by the excessive reference to the EX1 zone. However, even with designation and EX zoning, there is still the problem that the existing nearby occupied dwelling units represent. It is an incompatible land use problem for the proposed quarry; that the DEIR ignores the existence of.

Designation does give this project one huge problem that the DEIR does not address. It is the problem of "product."

What exactly are the products of this quarry (excluding the recycled products)?

The DEIR fails to accurately or specifically define the products of this quarry in the Executive Summary, the Introduction and the Project Description. The first mention of the actual products of this quarry is buried in the Project Description, in the Operational Details section, on pg. 2-5. Even this description of the proposed products is in error based on the letter from Las Pilitas Resources to Ms. Sue Luft, Chair of the Water Resources Advisory Committee (WRAC), dated May 1, 2013. This letter states that "—this project will be producing non-grade aggregate, not concrete or PCC-grade." The letter further amplifies what the proposed products are in the following passage: "We intend to produce the following products: Decomposed granite (DG) for residential, commercial and landscaping (trail pathways, etc.) applications, road base, rip rap, drain rock, landscape wall rock, decorative rock, and non-expansive fill. There is the potential for this material to be used, unwashed, as an ingredient in asphalt, but this scenario is unlikely as all of the local asphalt producers have their own supply of rock." 6

So, what we now have is a quarry that is going to produce DG, road base, various forms of rock, and fill. That being the case, instead of trying to quarry in a MRZ-2 (PCC) area, this project should refer back to Plate 1A, in Special Report 215, from the California Geological Survey, where MRZ-2 (Sub-base) is available in the South County just north of Hwy 166.

That brings up the biggest "Designation" question. 7

How is the Lead Agency going to justify allowing this project to extract the protected resource, PCC-grade aggregate, from the "Designated " area and use it for purposes it is not intended?

The intent of the designation portion of SMARA is fairly clear. It is to protect the designated resource, in this case PCC-grade aggregate, from encroachment by incompatible land uses so it will be available for future construction purposes in the Production-Consumption Region. Allowing a quarry to extract PCC-grade aggregate for nonconcrete purposes in a PCC designated area seems to be in direct violation of the provisions and intent of SMARA. It appears that this quarry is an incompatible land use.

7

DEIR Comments of Roy Reeves

Recycling Comments

There seems to be some hesitation in defining just what type of regulatory tier the proposed recycling portion of this project is qualified for and is requesting a waiver for. CalRecycle in their response to the NOP was obviously in error when they stated that the project could qualify as an "Inert Debris Type A Recycling Center" because the Project Description in Section 2.3.1, under Recycling, on pg. 2.6, states that the recycled "material would be processed by the same portable crushing and screening equipment that is used in the processing of mined materials." A Recycling Center is the lowest category of recycling facility, requiring the least amount of regulatory scrutiny. These facilities can basically only **store and sort** recycled material. T14, CCR, Section 17381.1(c) specifically prohibits chipping or grinding of any material at a CDI Recycling Center. There seems to be an effort within the DEIR to still portray this operation as merely a Recycling Center Operation in some portions of the document. The last paragraph of Section 1.3.2 of the DEIR, on pg. 1-6, is a perfect example. It reads "The recycling component of the project would include the receipt, temporary storage and re-sale of PCC and AC material — ." This theme is also expressed in the Project Description in the Recycle paragraph in Section 2.3.1, on pg. 2-6, where the second sentence reads "Material will be inspected and weighed then unloaded into appropriate stockpiles for temporary storage before re-sale." In both cases the correct sequence should include processing after the initial temporary storage, because without processing, that is crushing and screening of the material, you can sneak this operation into the category of a Recycling Center. 8

The DEIR Introduction in Section 1.4.2 CalRecycle, on pg. 1-7, goes to the other extreme discussing the requirements for a full Solid Waste Facility Permit and the requirements for smaller operations, depending on the amount of recycled material (above or below 1,500 tons per day). It is fairly obvious that this project could not and does not want to apply for waiver for a full Solid Waste Facility Permit and since they are only going to recycle concrete and asphalt, the only logical regulatory tier placement, (in T14, CCR, Section 17381.2) is as an "Inert Debris Type A (only) Processing Operation," that requires only the EA Notification Tier. This DEIR section then goes on to indicate that these smaller operations are governed by T14, CCR Section 17383.7, the correct section for the governing requirements for an Inert Debris Type A Processing Operation, and references a requirement that "Notification must also be accompanied by an Inert Debris Type A Processing Operations Plan." Except for the fact that this section of the DEIR does not specifically state that this project should be an Inert Debris Type A Processing Operation, although it provides every indication that it should be so designated, the section is fairly accurate. There is one sentence, however, that provides misleading and an inaccurate information. It is the sentence that reads "Some of the applicable requirements for this type or permit are presented in the Project Description (section 2.3.1), and the detailed requirements are at 14 CCR 17383.7." 9

The Projection Description in the Recycling paragraph, in Section 2.3.1, on pg. 2-6, does not delineate the "— applicable requirements for this type of permit—." It only further confuses the type of permit required by referencing T14, CCR, Sections 17381.1, 17381.2, 17383 for information and finally to Section 17381.1(2)(e) for "other requirements for this type of operation." Section 17381.1 governs the requirements for Recycling Centers, for which this project does not qualify; Section 17381.2 is the table for determining which regulatory tier the project requires; and Section 17383 covers the requirements for the higher regulatory tiers. The requirements for a proper assignment in the regulatory tier for "this type of operation" are specifically in Section 17383.7, even though the table in Section 17381.2 of the CalRecycle online version of the regulations incorrectly references Section 17383.6 as the requirements for "Inert debris Type A only processing operations (less than 1500 tons per day)—". Lastly, there is no Section 17381.1(2)(e). Even if you change it to (e)(2), a correct alpha numeric sequence, it still does not apply. The Recycling paragraph ends with a description of the requirements for the permit which seem to be excerpted from Section 17383.7. 9

The question is still; what type of recycling operation is this project? It appears that the authors of the DEIR have reluctantly accepted the fact that this project is an Inert Debris Type A Processing Operation but they are still open to the option that CalRecycle may still declare it a Recycling Center. In any event, the verbiage and the references need to be correct and consistent in the recycle sections.

Recycling facilities also require a CUP as specified in LUO 22.06.030 Table 2-2. Where is the reference to requesting a CUP for this function? 10

Where is the reference to and the justification for the request for a waiver from that portion of a recycling facility permit on parcels zoned Rural Lands when it is not in conjunction with an approved waste disposal site? (See LUO 22.30.380.)

What is the maximum amount material that can be recycled at this facility? The number for the maximum amount of material, projected or allowed, to be recycled at this facility is never really specified by the applicant or in the DEIR. The "up to 1,500 tons per day," that is referenced to in the DEIR, is only in reference to the lowest tier of the CalRecycle simplified permitting system that this operation is qualified for. Therefore, "up to 1,500 tons per day" should be specified in the CUP as the maximum amount of material that this facility can recycle because going beyond that amount requires a Full Solid Waste Permit. 11

Why is there no declaratory sentence or warning in the Description of Impact box, under **IMPACT HAZ-2: Release of Hazardous Materials or Wastes** and in the paragraph above it, on pg. 4.7-11? The sentence should clearly indicate or state that; residue or residual material from the processing of recycled material (from the crushing and screening process) shall be considered hazardous waste. CalRecycle is well aware of this hazard and goes to some length to declare that Inert Debris is generally safe and inert and it is, until it is processed. This is the 12

reason for the paragraph that appears in all of the Regulatory Requirements sections of Construction and Demolition/Inert Debris Operations and Facilities (T14, CCR, Sections 17383.4-8); it states that "Residual material shall be removed from the site within 48 hours or at an alternate frequency approved by the EA." The residual material from the asphalt and concrete crushing operation will result in dust and small particulate matter. Asphalt millings in particular, as well as exhaust particles, tire ware residue, and motor oil, that are most likely to be contaminates associated with recycled concrete and asphalt, contain increased concentrations of polycyclic aromatic hydrocarbons (PHAs) which are targeted as pollutants by the EPA. These residual materials have the potential to migrate through the actions of wind, water, and physical displacement to contaminate surrounding soils and surface water sediments.

12

DEIR Comments of Roy Reeves

Noise Comments

The noise studies for both the Truck Traffic Noise and Quarry Operations Noise fail to consider a noise source that will not be shielded by quarry ridgelines and will be there for the life of the quarry. The entrance road and its impact on noise, is going to be significant. This piece of road has been almost totally ignored except it is now being considered as a staging area which will further amplify the noise problem.

The quarry entrance road is right there in plain sight on all the maps of the quarry. Besides having two ninety degree turns and a 180 degree turn the unnoticed thing about the road is that it is a ten degree uphill grade (See Appendix B, Entrance Road Sheets 2 & 3). The grade from the quarry going west over the Salinas River Bridge is five degrees and this is where the initial truck noise studies were conducted. A ten degree grade is significant especially when almost all the trucks will have to come to a complete stop, or very close to a stop, on both entering and leaving the quarry. Then you can factor in some compression braking for the loaded trucks leaving the quarry or five or six trucks starting up at nearly the same time while climbing the hill during staging and then throw in a few trucks overloaded with recycled material climbing the hill. At the worst case scenario the noise generated could be greater than a couple of bulldozers or crusher plants. The entrance road noise alone is probably good for a couple of extra dBA. 13

The questions here are:

- How can the noise generated by trucks entering and leaving on a ten percent grade entrance road not be addressed in the noise section of the DEIR?
- Should the entrance road noise be addressed as both a "Truck Traffic Noise" impact and a "Quarry Operations Noise" impact?

Blasting Noise and Vibration Effects are going to be much worse than the implication of the Noise Chapter seems to imply. I credit this to the most egregious misrepresentation in the whole DEIR. The labeling of Figure 4.8-1 as "Residences in the Project Vicinity" is not only incorrect; it is highly misleading. It gives the impression that there are only five residences in the vicinity of the project. There are at least seventeen additional inhabited residences not represented in Figure 4.8-1, not counting the five monitored residences in the vicinity of the quarry and the two residences on the Oster property. (See revised Figure 4.8-1, attached.) Blasting noise is probably going to be a "Significant and not mitigable" Residual Impact to most of these additional residences. 14

Ground vibration effects from blasting and operation of heavy equipment were not accurately reviewed because not all of the nearby residences are over 1,000 feet from where quarry operations are proposed, as indicated in the last paragraph on pg. 4.8-24. The residence on Parcel Number 070-142-016 is less than 1,000 feet from the quarry lip. This residence is clearly 15

depicted on Sheet 1, the Cover Sheet in Appendix B. All the other sheets depicting the quarry have managed to selectively delete this nearby residence. This parcel is also miss-identified as an RL parcel, in the first paragraph on pg. 4.8-20, when it is in fact an RR parcel. In any event, this residence is going to be impacted the most by the effects of blasting and vibration since it is located on the other side of the hill that is being removed.

Does Impact Noise-3b: Blasting Ground Vibration, need to be reevaluated for the residence on parcel 070-142-016?

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DEIR comments of Roy Reeves

Water Comments

Water is the key. This project from the start was continually changing and it was all because of water. Initially the project was going to produce high quality PCC-grade aggregate but because of the outcry by neighbors along Parkhill Road about the possible impacts of the quarries water use, the projected water use fell to 20,000 gallons per day and then to the current estimated use of only 5,500 gallons per day in the DEIR. Now the product of this quarry project consists of: DG, road base, some rock, and fill.

It is fairly obvious that producing PCC-grade aggregate from the La Panza Granitic formation takes water and lots of it. Since this project is now producing "non-grade aggregate," in an area that is to be preserved for the production of PCC-grade aggregate, and with a limited amount of water, there are two more important water related questions that must be addressed: 16

First: How is the Lead Agency going to monitor water use by this quarry?

Second: If the Applicant again changes the quarry's product or the quarry's projected water use, does this require another EIR since this DEIR is based on water use of 7 acre feet/year?

Table 4.13-3 summarizes County policies related to water quality and supply.

- Policy WR 1.14: In the discussion, the project is not in an area affected by Level of Severity II or III, but it is on the river that is a major contributor to basins that are LOS II and III and there will be some small effect on the basins by removing even a small amount of water from the riparian flow into these basins.
- Policy WR 3.1: In the discussion, the concrete (and asphalt) recycling operation may not accept hazardous grade material but once this material is crushed and sorted the residue from these operations is hazardous and needs to be handled accordingly. 17

Section 14.13.6 Project Impacts and Mitigation Measures; Impact WQ-1: Alterations of Runoff Water: Why does this impact fail to mention the hazardous nature of residue from the crushing and sorting of recycled asphalt and concrete and the requirement for special handling and removal from the site within 48 hours? (See hazardous residue comments in Recycling Comments section.)

There seemed to be a discussion of whether a Conditional Use Permit should apply to water use on Rural Lands parcels and to those rural parcels in non-adjudicated water basins. The question here is: Can a CUP put water limits or water use restrictions on an industrial/mining use on RL parcels and further can a CUP require water metering on these projects water sources? 18

A review of the DEIR Section 4.13, Water Quality and Supply, and Appendix F, Water Supply Assessment, provides some interesting and disturbing points:

- The project site seems to have access to sufficient water that could supply the needs of a moderately sized quarry provided that the water purveyors, down-stream and the city of San Luis Obispo did not object to the taking of the water from the Salinas River and its riparian flow. 19

- The WSA never gives an accurate inventory of just how many wells are on the site. There is well "A," the mystery 350gpm well, and a well in/at the concrete spring box on Moreno Creek that supplies the existing stock/duck pond and residences, that is not mentioned, if is all gravity fed why is there an electric meter there? There may be more wells but the WSA never says. 19
- The discussion of water storage is incomplete and inaccurate. There is no discussion of proposed water storage facilities for the project. The WSA and 4.13 discuss water storage as if the 0.7AF of water storage exists on the property. There is the small stock/duck pond just north of the Salinas River Bridge but the 0.7AF river impoundment doesn't currently exist, if it ever actually did. (0.7AF is 228,079 gallons, probably enough water to run a fair sized quarry if they could fill it daily.) 20
- With respect to the historical 93AFY diversion; it must have been used in conjunction with the 0.7AF storage facility as one very large stock pond, next to a fairly reliable river, or for irrigation but not for irrigation on the current property unless they were growing rice. I suspect that the system, if it was actually used, was to irrigate the adjoining parcel to the west or the Oster property owners were planning for water for a quarry and not for an agriculture use . 21
- Whoever wrote the WSA apparently never asked any basic questions or looked over the site.
- There seems to be some question between the WSA and Section 4.13 about the availability of surface water. F.2.5 states that the upper Salinas River falls into the category of a non-adjudicated basin and the project needs no permit "to pump ground water or to make use of surface or shallow surface water associated with the Salinas River." Surface flow of this part of the Salinas River is governed by mandated releases from the Santa Margarita Reservoir by the City of San Luis Obispo. The City and down-stream water purveyors may have legal and other objections to any taking of surface waters on this portion of the river. 22
- There seems to be a very strong tendency when the discussion of water or water basins is the topic, that they all are independent and not related. This is particularly true in north San Luis Obispo County when discussing the Upper Salinas River Basin and especially the Paso Robles Groundwater Basin that lies within it. This tendency is also true in this DEIR where it is quickly pointed out that the project is at least five miles upstream from the boundary of the Paso Robles Groundwater Basin, and taking water from a main contributor to that basin will have no impact. Thus Policy WR 1.14, from table 4.13-3, may be technically correct geographically, but it is related because the Salinas River is an input to the Paso Robles Groundwater Basin. In this case there may be little impact because of the stated water use by the project is small, (7AFY), but if this project were a PCC-grade aggregate quarry the impact would be different. 23
- In keeping with my discussion of the EX1 and EX zoning overlays, sections of the WSA and 4.13 should be revised. The WSA in section F.1 Project Description, on pg. F-1, the Project Objectives needs considerable revision, as follows: under A. I don' think this quarry, as it is now planned, "is consistent with other County general plan goals and policies." B. It is not going to protect "significant mineral resources" (PCC-grade aggregate) "from land uses that threaten their availability for future mining." C. It is not going to "Develop known concrete-grade aggregate resources" or, do it in coordination with "the County EX1 Combining Designation—." D. It is not going to be done "consistent with state policy" or the County EX1 Combining Designation. F. This is not a "concrete-grade aggregate quarry." In Section 4.13, in the <u>Cumulative Effects</u> section on pg. 4.13-12. The first paragraph relies heavily on the EX1 effect; but to make this paragraph technically correct a word in the sentence on line five needs to be changed. The word 24

"promote" needs to be changed to "protect" so the sentence reads; "Since the Combining Designation is specifically intended to protect mineral extraction,—." 24

- As a resident of Parkhill Road, with a good well, I cannot believe anybody with knowledge of hydrology wrote the section of the paragraph, on pg. 4.13-13 of the DEIR, concerning the Oster Ranch's use of water from Moreno Creek. We are about to close out the second year in a row with rainfall below eleven inches. Two of my nearby neighbors are already importing water and I am sure there are more households within the Moreno Creek drainage that are doing the same. It is not because they were guilty of "substantial pumping." Moreno Creek is not a ground water basin. It is a riparian stream that is flowing underground. Think of it as a half barrel, cut long-ways, set on an angle and the barrel is surrounded on the bottom and sides by the rather impervious La Panza granitic formation except for the outlet through the Oster property. Then fill the barrel with sand and water. Now we stick our straws into the sand to suck out the water. Some of us are lucky enough to be on the center line of the barrel and towards the lower end while others, less fortunate, are near the sides of the barrel and at the upper end. The Oster property is at the low end of the barrel and the Moreno Creek barrel also gets pinched together here. In any event, the Oster property will get the last drop of water in the barrel and will certainly have the last cement box or well, for that is what it really is, an artesian well, on Moreno Creek to run dry. I cannot believe that whoever wrote this section could say that the Oster property would be the "adversely affected user" after every other water user on Moreno Creek has gone dry. And what is this junk about being a "riparian use not a groundwater withdrawal by pumping." Moreno Creek is not a basin it is a riparian flow and how you get the water from this flow is immaterial. Just because the water from the "box " flows by gravity to the stock pond and the rest of the ranch or where ever it goes; it is still a "taking" or a diversion and use. At some point the water from this artesian well gets pumped to holding tanks or pressure tanks for the property residences or to the irrigation system for the pasture above the spring box, (which has not been irrigated for the last 20 years that I know of). That is unless the Oster property knows something more about gravity than the rest of us. Then there is still the question of power lines and an electric meter at the box site. As for the topic of increased water use on the Oster property not hurting the other water users on Moreno Creek. Generally speaking if you start pumping from or put a larger pipe into the "spring box" you will not get more water out than the pressure of the normal flow into the box will allow. However, it can have an impact on upstream users in drought years. The additional pumping and taking would continue to lower the level of the riparian flow to a point where it would take much longer for the seasonal rains to replenish the underground flow to a level that will service all users. And I do have a question here but it does not apply to the DEIR. It is; does the gravity flow from the spring box have a shut-off or a float valve at the stock pond to shut-off the gravity flow when it is not needed? If not, and the excess water continually flows to the Salinas River then the "adversely affected user" might just be my neighbors who are importing water. 25

DEIR Comments of Roy Reeves

Land Use Comments

Section 4.14 starts off with 4.14.1 Introduction and Existing Conditions. In this DEIR the "Existing Conditions" where the nearby neighbors are concerned gets glossed over as "some scattered large lot residential parcels" or as "scatter (sic) rural residential developments to the south and southeast of the project site." Scattered is not the appropriate word to describe the residential units south of the project site. These units are concentrated south of the site. The residential parcels are primarily located in the two Residential Rural zoned areas southeast and southwest of the site as depicted in Figure 4.14-1. Here I would like to emphasize that the first word in this zoning is "Residential" and that is the way the County LUO discusses this zoning.

The two RR zoned areas, Parkhill Road, to the southeast and Digger Pine Road to the southwest contain some 59 parcels. All but four of the parcels are 20 acres or less and three of the four are split with only a small part of the parcel within the RR zone. Currently all but seven of the 59 parcels contain residences and 24 parcels have multiple residences. Three of the seven undeveloped parcels are not suitable for development, one being a water line easement and the two others being small land locked lots. Any potential for future development in these areas is limited but secondary dwelling units are currently allowed. This may change if designation is imposed by the State and the provisions of LUO 22.14.40 are implemented by the County as all but five of the RR zoned parcels carry the EX1 Combining Designation and are within or partially within the current EX1 zone overlay. 26

Currently there are 83 residences in the two RR areas and four more residences on the three RL parcels, south of and nearest the site, along the Salinas River between the two RR areas. There are ten residences alone on the parcels that adjoin the Oster property, to the south and southeast. Therefore, it seems that residential development is concentrated, well established and not exactly scattered. It would have been appropriate if the Consultant would have taken time to survey the residences in the neighborhood or at least looked at Google Earth and provided a depiction of all the residences within a certain radius of the site (See revised Figure 4.8-1, attached.)

A word on Figure 4.14-1, at least it is not as bad as Figure 4.8-1, which I consider the most egregious misrepresentation in the whole DEIR. Figure 4.14-1 could be a much better product and a more accurate depiction of the existing land use conditions if they used the County Planning and Building Department's Interactive Mapping site for a map that included parcel boundaries along with the zoning, (AG, RL, & RR) and the EX1 overlay. 27

This proposed surface mining operation falls short in meeting the meaning of the true purpose and applicability of the Extractive Resource Area. The significant mineral deposits that the County is supposed to protect and preserve in this EX1 area are not the products this mining operation is planning to produce. The State is designating and has classified this EX1 area as an 28

area that is highly likely to contain the significant mineral deposits of PCC-grade aggregate. The question here is:

How can this project justify the COSE Policy MN2.1: Protect Mineral Resources, in Table 4.14.1, as being determined as anything but Inconsistent? 28

Section 4.14.3 Regulatory Setting is likewise based on this same false premise that the MRZ-2 aggregate found there, that the State wants to protect and preserve, is not the aggregate that this mining operation wants to extract.

With respect to the Compatibility Criteria, in Section 4.14.5, that the decision makers will use in their review and consideration of this project: a. It should be determined to be inconsistent because this project plans to extract a mineral resource that the County is supposed to preserve for future use, and in d. It should also be determined to be inconsistent because the project is incompatible with the neighborhood and cannot meet noise and traffic criteria that will make it even close to compatible. 29

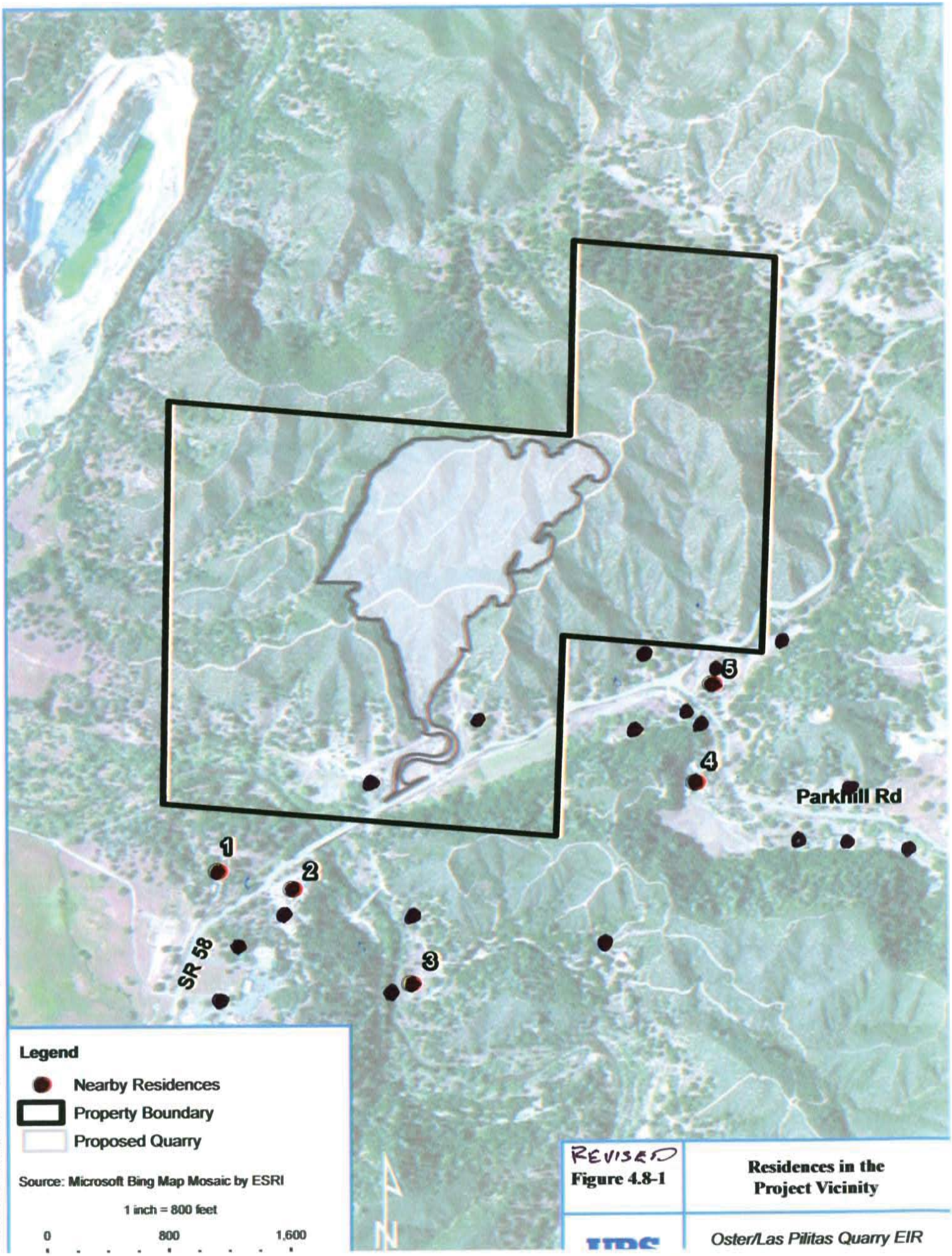
Table 4.14-2, titled "Compatibility with Surrounding Area" is a terrible table unless you want to cover up what the surrounding area is really like. Rural residential uses are "not compatible with a new resource extraction operation" but you would not know it from looking at the data portrayed in this table. The first thing that might help the project more is if they used correct information. In the "Future Land Use Categories, Per County General Plan" column, the vast majority of the Residential Rural parcels are partially within the EX1 zone and therefore, could be listed as Residential Rural/EX1. As for comments on the "Existing Land Use" column, the "South" line is a stretch. I would say there are more than "Several rural homes on Parkhill Road and SR 58" probably more like 70 if you go all the way to the end of the RR zone on Parkhill. The "East" line, because of the shape of the site property, is a little harder to define. There could be ten or twelve rural homes in that direction, because "East" could include homes on Parkhill Road too. In any event, the majority of the impacted homes tend to be south and southeast of the site. It is very hard to get an accurate picture of the "Compatibility with Surrounding Area" from the table. Using figures or mapping should give a clearer picture of the Land Use situation, provided the correct data is displayed. 30

The Title 22 Land Use Ordnance requiring findings from the Review Authority for approval of the Conditional Use Permit for this project is going to find it very difficult to make findings in favor of this project in view of the questions that they must respond to. These are questions, in each area, that I believe the Review Authority is going to have real problems with in finding that this project should get approval: 31

a. How can the Review Authority find that the proposed project is consistent with the Land Use Element of the General Plan when it is mining non-grade aggregate in an area that is to be protected for the mining of PCC-grade aggregate?

b. How can the Review Authority find that the proposed project meets all the applicable provisions of this title when there are significant noise violations that cannot be mitigated?
c. How can the Review Authority find that this project will not be detrimental to the welfare of the general public and particularly the present residents residing in the neighborhood and that it will not be injurious to the property and certainly the property values of the property owners in the vicinity of the project?
d. This is a given, again how can the Review Authority find that this project will not be inconsistent with the character of the immediate neighborhood?
e. Caltrans will give its approval for the traffic use on the state highway but it is not going to make the neighborhood or the residents of Santa Margarita happy.
f. How can the Review Authority find that the current Combining Designation applies in this case, since it only applies to existing mining operations and when or if the EX Designation is applied in the near future, does the new designation provide any priority for new mines over existing land uses?

31



PROJECTS\Oster Quarry\Maps\Fig 4.8-1 Residences in Project Vicinity.mxd

REVISED
Figure 4.8-1

Residences in the Project Vicinity

Oster/Las Pilitas Quarry EIR

Roy Reviews

C.02

COUNTY OF SAN LUIS OBISPO
Department of Agriculture/Weights and Measures
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DATE: **May 31, 2013**

TO: **Murry Wilson, Project Manager**

FROM: **Lynda L. Auchinachie, Agriculture Department**

SUBJECT: **Las Pilitas Quarry DEIR DRC2009-00025 (1540)**

Thank you for the opportunity to review the Las Pilitas Quarry DEIR. Both the project description and project objectives indicate that the product mined from the proposed quarry will be concrete-grade aggregate. This type of material needs to be washed before use, however, such washing is not accounted for in water demand estimates for the project. The neighboring Hanson quarry is estimated to use 88 acre feet a year. The Department is concerned about undefined water use and potential impacts to agricultural resources if the aggregate washing is to occur in an agricultural area. The location of where this project's aggregate will be washed and impacts associated with such washing need to be identified. Will the washing occur in an agricultural area? Will the washing occur over the Paso Robles groundwater basin? How much water will be required? Will recycling occur similar to the Hanson quarry or will more water be required? How is policy consistency achieved without this information identified? 1

Additionally, there appears to be a significant error on page 4.13-4 that indicates 94 afy of water has historically been used on the site . As indicated in the Agricultural Resources section, this project site does not have the underlying resources to support more than a few acres of irrigated agricultural production and there is not a history of such irrigated production. 2

If we can be of further assistance, please call 781-5914.