

Final

ROBLAR ROAD QUARRY

Supplemental Environmental Impact Report
SCH # 2004092099

Prepared for
County of Sonoma Permit and
Resource Management Department

March 2019



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CHAPTER I

Introduction

On December 14, 2010, the Sonoma County Board of Supervisors (Board) certified the Roblar Road Quarry Final Environmental Impact Report (Final EIR), and approved a Reclamation Plan and a Use Permit for Alternative 2 as modified by the Board (herein referred to as “Modified Alternative 2”). The Use Permit allows for a 20-year mining permit with an annual limit of 570,000 cubic yards per year. The Final EIR included the May, 2008 Draft EIR, the October 2009 Response to Comments Document, the June 2010 Recirculated Portions of the Draft EIR, and the 2010 Response to Comments Document for the Recirculated Portions of the Draft EIR.

The Roblar Road Quarry is owned by Barella Family, LLC. The Applicant for the currently-proposed modifications to the Quarry Use Permit is John Barella Land Investments. The Quarry address is 7175 Roblar Road, Petaluma. The Quarry property includes Assessor’s Parcel Numbers 027-080-009 and 027-080-010.

Under the approved Modified Alternative 2, all project truck traffic generated by the Quarry will use the Applicant’s identified alternative haul route. This alternative haul route will consist of an improved section of Roblar Road from the Quarry access road entrance west to the point where the haul route turns overland off Roblar Road onto a private off-road segment named Access Road 2. Access Road 2 will connect to Valley Ford Road. From there, Quarry trucks will use designated public roads to and from U.S. 101. The Quarry on-site access road and entrance to the Quarry site will be developed the same as that originally proposed and analyzed in the Final EIR.

The original Alternative 2 that was described in the Final EIR consisted of two new temporary private off-road segments (named “Access Road 1” and “Access Road 2”), an improved section of Roblar Road between Access Road 1 and Access Road 2, and the use of various other existing public roads. However, the Board’s modification to Alternative 2, which was analyzed prior to Board approval of the Quarry project (ESA, 2010) precludes the construction of Access Road 1 (which would have crossed land encumbered by a Sonoma County Agricultural and Open Space Conservation Easement), and instead requires the Applicant to implement Roblar Road widening improvements from the Quarry access road west to Access Road 2.

The Use Permit requires that the Applicant improve the approximately 1.6-mile-long Modified Alternative 2 haul route section of Roblar Road to meet current County road design standards, including, but not limited to, two 12-foot-wide vehicle travel lanes, two 6-foot-wide paved shoulders (as well as associated striping/signage to meet Class II bicycle facilities), and two 2-foot-wide rocked shoulders. Moreover, the roadway will be improved as needed to meet pavement structural requirements per Caltrans Design Manual standards. The Use Permit requires

realignment of an existing “S-curve” on Roblar Road to reduce the horizontal curvature at this location, relocation of existing overhead electrical utilities, and modifications to stormdrain facilities.

The approved Modified Alternative 2 haul route will depart from Roblar Road at Access Road 2, where it will extend southwest through private property (Neve property) for approximately 2,100 feet between Roblar Road and Valley Ford Road. Stormdrains will be installed for the road crossing of two drainages on the Neve property. Access Road 2 will consist of two paved 14-foot-wide travel lanes plus drainage improvements on each side. From this point, Quarry trucks will travel east on Valley Ford Road, Pepper Road (west of Mecham Road), Mecham Road, and a combination of Stony Point Road, SR 116, Railroad Avenue and/or Old Redwood Highway to/from U.S. 101. Quarry haul trucks will not be allowed to use Roblar Road east of the Quarry access road entrance, or Pepper Road east of Mecham Road.

Under the approved Modified Alternative 2, 100 percent of materials produced at the Quarry will be either directly used by the Applicant or sold under contract. As such, all Quarry haul trucks generated at the Quarry will be those associated with the Applicant’s own truck fleet, or private haulers under contract with the Applicant, and where the specified haul route will be imposed in the contract. The use of the specified alternative haul route will be enforced by the Applicant, subject to penalties and/or contract termination, depending on the nature and/or frequency of a deviation of the specified haul route by a driver.

Under the approved Modified Alternative 2, all aspects of on-site Quarry characteristics and operations will be identical to that originally proposed, including the maximum permitted production rate (570,000 CY per year), total volume of aggregate that could be mined (11.4 million CY over the 20-year use permit), mining approach and techniques, location and design of all Quarry-related facilities, and interim and final reclamation.

A. Proposed Project Changes

The Applicant now seeks to modify its Use Permit (PLP03-0094), as follows:

Modify the Design of the Intersection of Stony Point Road / Roblar Road and Associated Condition of Approval 44 and Final EIR Mitigation Measure E.1. Condition of Approval (COA) 44 and Final EIR Mitigation Measure E.1 require installation of a signal at the Stony Point Road / Roblar Road intersection, including widening all approaches to the intersection, including shoulders, lengthening the northbound left-turn lane, and adding a southbound left-turn lane. The Applicant indicates that the County’s preliminary design for improvements at this intersection would impact vegetated drainage features outside the paved and/or hardscaped areas, and affect biological habitat. Impacts of the intersection upgrade were previously examined in an adopted 2005 Initial Study/Mitigated Negative Declaration (Sonoma County PRMD), which found that all project impacts, including impacts to biological resources, would be reduced to less than significant with implementation of specified mitigation measures. The Final EIR refers to these mitigation measures and requires their implementation in Mitigation Measure E.9, which was adopted as COA 86.

The Applicant proposes a modified design that can generally be accomplished within the existing paved and/or hardscaped area, thus minimizing impacts to adjacent vegetated drainage features and potential biological habitat.

Modify the Design to the Modified Alternative 2 Roblar Road Haul Road, and Associated Conditions of Approval 49 and 59.a, and Final EIR Mitigation Measure E.3a. Conditions of Approval 49 and 59 and Final EIR Mitigation Measure E.3a and E.4a require that the improvements to Roblar Road (between the Quarry access road and Access Road 2) include, among other requirements, two 12-foot-wide vehicle travel lanes and two 6-foot-wide shoulders, two 2-foot-wide rock shoulders, and associated striping to meet Class II bike facilities. The Applicant indicates that given the limited width of the existing right of way; the proximity of Americano Creek to Roblar Road, other proximal wetlands and/or linear drainage features to Roblar Road; and other factors, that the required road improvements on Roblar Road are impractical, unnecessary and infeasible.

The Applicant instead proposes to construct improvements to Roblar Road that would include two 11-foot-wide vehicle travel lanes, two 3-foot-wide paved shoulders, and two 2-foot-wide rock shoulders; and not include Class II bike lanes. There would also be minor modifications to the previously proposed alignment of Roblar Road between the Quarry access road and Access Road 2.

Realign Americano Creek Channel and Construct Wetland Enhancement Area on the Quarry Site, and modify associated Conditions of Approval 101 and 133. The widening of Roblar Road required in Final EIR Mitigation Measure E.3a would directly impact a section of Americano Creek located on the Quarry property adjacent to Roblar Road, and require this creek segment to be relocated. In order to accommodate the required widening of Roblar Road, the Applicant proposes to realign the creek channel further from the edge of the improved Roblar Road, and improve the habitat complexity along this section of Americano Creek, including establishing riparian vegetation along both sides of the realigned segment of creek.

B. Environmental Review for Project Changes

The California Environmental Quality Act (CEQA) Guidelines Section 15160 provides for variations in EIRs so that environmental documentation can be tailored to different situations and intended uses, and these variations are not exclusive. CEQA Guidelines Section 15163(a) indicates that a Supplement to an EIR, rather than a Subsequent EIR, may be prepared if:

- 1) Any of the conditions described in Section 15162 would require the preparation of a subsequent EIR, and
- 2) Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

The applicable conditions in Section 15162 that would trigger supplemental or subsequent review are as follows:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The County conducted a review of the Applicant's proposed modifications to the Use Permit COA, and determined that they have the potential for new or substantially more severe significant impacts. The County has also determined that only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation. Therefore, the County determined that a Supplement to the previous EIR is appropriate.

Draft Supplemental EIR

Following determination that a Supplement to the previous EIR is the appropriate level of CEQA review, the County prepared a Draft Supplemental EIR (Draft SEIR). The Draft SEIR examines the proposed modifications to the Use Permit COA and analyzes whether the proposed modifications, or changes to the setting in which the Quarry project would take place, could result in a new or substantially more severe significant impact, compared to the impacts identified in the Final EIR. Where a new or substantially more severe significant impact is identified, the Draft SEIR specifies mitigation measures for reducing or avoiding the impact, and considers whether the mitigation measures have the ability to reduce the impact to less than significant. CEQA Guidelines Section 15163(b) indicates a Supplement to an EIR need contain only the information necessary to make the previous EIR adequate for the project as revised.

Circulation and Review of the Draft SEIR

CEQA Guidelines Section 15163(c) indicates a Supplement to an EIR shall be given the same kind of notice and public review as is given to a draft EIR (outlined in Section 15087). Also, Section 15163(d) indicates a Supplement to an EIR may be circulated by itself without recirculating the previous draft or final EIR.

On September 24, 2018, the County released the Draft Supplemental EIR (DSEIR) for public review and comment. The DSEIR circulated for 45 days; the comment period closed on November 7, 2018. On October 16, 2018, the Board held a Public Hearing to take oral comment on the Draft SEIR.

In this Final SEIR, the County responds to all substantive comments on the adequacy of the analysis contained in the Draft SEIR, but not to comments on the previous environmental documents. Consistent with CEQA Guidelines Section 15163(d), prior to consideration of approval of the project, the County shall consider the previous EIR as revised by the Supplement to the EIR. The County must certify the Final Supplement to the EIR and adopt a mitigation monitoring and reporting program (MMRP) for mitigation measures identified in the report in accordance with the requirements of PRC Section 21081. A draft MMRP is included in this Final SEIR as Appendix A.

C. Organization

This Final SEIR is organized as follows:

Chapter I: Introduction provides a review of the Quarry project approved by the Board, and explains how it varies from the project and alternatives examined in the Final EIR. The Introduction briefly describes the modifications to mitigation measures and Use Permit COA now being proposed by the Applicant. This chapter also reviews the CEQA requirements for a Supplemental EIR.

Chapter II: List of Commenters provides a list of all agencies, organizations, and individuals who submitted written comments on the Draft SEIR and who provided oral comment at the Public Hearing.

Chapter III: Master Responses: where several commenters commented on the same subject or raised the same issues, a Master Response provides a comprehensive response. One Master Response is included in this chapter, addressing multiple issues raised in several comment letters, all related to the Applicant's proposed changes to the required improvements to Roblar Road, and bicycle and traffic safety.

Chapter IV: Comments and Responses to Comments contains copies of all comment letters received during the 45-day circulation period, a transcript of the Public Hearing, and responses to all comments.

Chapter V: Revisions to the Draft SEIR compiles all changes to Draft SEIR Chapter 3, Environmental Setting, Impacts, and Mitigation Measures, that were prompted by comments on the Draft SEIR, and in addition revisions and corrections initiated by County staff.

Chapter VI: Report Prepares identifies County staff, the County's EIR consultant team, and the project Applicant.

Appendices include the draft MMRP (Appendix A), a letter received after the close of the public comment period from the Applicant's attorney (Appendix B), and a large number of documents that were attached to one of the comment letters (Appendix C-1 and C-2). Appendices C-1 and C-2 are bound separately.

References

ESA, 2010. *Memorandum, ESA to Sonoma County PRMD, subject: Roblar Road Quarry Alternative Haul Route Alignment*. October 19, 2010.

CHAPTER II

Agencies and Persons Commenting on the Draft SEIR

A. Agencies and Persons Commenting in Writing

The following agencies, organizations and individuals submitted written comments on the Draft Supplemental Environmental Impact Report (Draft SEIR) during the public review period.

Letter	Person/Agency and Signatory
Agencies and Organizations	
A	Scott Morgan, Director, State Clearinghouse (Governor's Office of Planning and Research)
B	Patricia Maurice, Branch Chief, California Department of Transportation (CalTrans), District 4
C	Scott Briggs, on behalf of the Applicant
D	Stephen Butler, Clements, Fitzpatrick & Kenilworthy Inc., Attorney Representing the Applicant
E	Arthur Coon, Millar Star Regalia Law, Attorney Representing the Applicant
F	Nancy Graalman, Director, Defense of Place
G	Michael Molland, Molland Law, Attorney Representing Citizens Advocating for Roblar Road Quality (CARRQ)
H	Richard Harm, President, Petaluma Wheelmen Cycling Club
I	Alisha O'Loughlin, Executive Director, Sonoma County Bicycle Coalition
Individuals	
J	Margaret Hanley
K	Sean Butler
L	Keith Devlin
M	Rue Furch
N	Angela Levinger
O	Claudia Steinbeck Mcknight
P	Justin Merrick
Q	Barry Weinzveg
R	Jane Neilson
S	Edward Ryska
T	Harriet Saunders
U	David and Donna Spillman

B. Persons Commenting at the Public Hearing

A Public Hearing on the Draft SEIR was held by the Sonoma County Board of Supervisors on October 16, 2018. The following individuals provided spoken comments on the Draft SEIR (commenters whose names could not be determined from the audio/visual taping of the Public Hearing are designated “Woman” and “Gentleman”):

- Woman One
- Margaret Hanley
- Sue Buxton
- Jason Merrick
- Gentleman One
- Joe Morgan, Sonoma County Bicycle and Pedestrian Committee
- Woman Two
- Daniel (last name inaudible)
- Stephen Butler

CHAPTER III

Master Response

A. Master Response 1: Roadway Geometry and Bicycle and Traffic Safety on Roblar Road

Various comments address the Applicant's proposed changes to roadway geometry for the widening of Roblar Road required by Use Permit Condition/Mitigation Measure 49 and Condition 59, particularly with regard to bicycle and traffic safety issues. Numerous comments express concern for the safety of bicyclists, pedestrians, autos, and emergency vehicles and workers, if the Applicant's proposed narrower lane and shoulder width are implemented in lieu of the geometry required in the existing Use Permit Conditions of Approval. Some of the specific concerns expressed in the comments include the possibility of increased risk of conflicts between bicyclists and Quarry haul trucks because of the reduced clearance between bicyclists travelling on a narrower shoulder adjacent to a narrower travel lane; the increased potential for haul trucks, especially double-trailer trucks, to "off-track" from the roadway onto the shoulder where bicycles may be present; a potentially dangerous condition when two trucks pass each other in opposite directions at the same time as passing a bicyclist; and the increased risk of accidents involving bicycles and motor vehicles due to fog, speed, darkness, distracted drivers, and wildlife on the roadway. Commenters also express concern regarding traffic safety, for many of the same reasons as for bicycle safety, and also because of the increased possibility of conflicts between Quarry haul trucks and vehicles, including emergency vehicles, temporarily parked on a narrower shoulder. Several commenters state that the Applicant's design would not be consistent with Sonoma County General Plan and Sonoma County Bicycle and Pedestrian Plan policies or American Association of State Highway and Transportation Officials (AASHTO) guidelines.

Meanwhile, the Applicant's representative and attorneys express in their comments (comment letters C and E) a commitment to the roadway geometry specified in Mitigation Measure 3.4-3 in Section 3.4, Transportation and Traffic, in the Draft SEIR, in lieu of their proposed geometry (in particular, Mitigation Measure 3.4-3 requires 4-foot wide paved shoulders instead of the Applicant's proposed 3-foot wide paved shoulders, and an 11-foot wide left turn lane at Access Road 2, instead of 10-foot wide); state their position that this geometry is equally safe to that currently required in Use Permit Conditions 49 and 59 (which require 12-foot wide travel lanes, 6-foot wide paved shoulders striped and signed to meet Class II bikeway standards, and 2-foot wide rocked backing – see Figure 2-6 in Chapter 2, Project Description, of the Draft SEIR); that it is consistent with General Plan policies and AASHTO guidelines; that it has the support of the Sonoma County Bicycle and Pedestrian Advisory Committee; and that approval of their proposed geometry, as modified by Mitigation Measure 3.4-3, would not result in a new or substantially

more severe impact to bicycle or traffic safety. Based on their contention that the narrower travel lanes and paved shoulders (32-foot wide road) are equivalent, they contend that the 40-foot wide roadway required in the existing Condition of Approval is not proportional to the severity of the impact. The Applicant is arguing that protecting the public from the impacts of the project by requiring improvements is unconstitutional.

This master response addresses all these comments. The response first reviews bicycle and traffic safety impact discussions and conclusions from the 2010 Final EIR and the Draft SEIR. The response then reviews the relationship between roadway and shoulder width and bicycle and traffic safety by examining source documents in which roadway geometry standards are considered and recommended. The conclusion is reached that the Draft SEIR properly identifies Impacts 3.4-3 and 3.4-4 as significant and unavoidable, due to the significant decrease in safety of narrower travel lanes and shoulders, particularly on roadways carrying relatively large volumes of traffic, including large trucks, at high speeds, and where paved shoulders are intended to be used by bicyclists. Finally, the response considers the feasibility and effectiveness of additional mitigation measures to reduce Impacts 3.4-3 and 3.4-4.

Review of 2010 Final EIR and Draft SEIR Impacts of Haul Trucks on Bicycle and Traffic Safety on Roblar Road

The 2010 Final EIR concluded that Impacts E.3 (addressing bicycle and pedestrian safety) and E.4 (addressing traffic safety) would be significant and unavoidable because of the uncertainty of the feasibility of the road widening requirement for safety along the 6.5 mile haul route (Mitigation Measure E.3a/E.4a). An override was avoided, however, because under Alternative 2 these impacts would be reduced to less than significant because the mitigation measure would be feasible for the shorter length of road requiring upgrade. This conclusion was also reached in an analysis conducted for Modified Alternative 2 (ESA, 2010). In approving Modified Alternative 2 in 2010, the Sonoma County Board of Supervisors adopted findings that both Impacts E.3 and E.4 would be reduced to less than significant with implementation of the mitigation measures specified in the 2010 Final EIR, including Mitigation Measure E.3a/E.4a, requiring that the road be widened to meet safety standards. This measure was adopted as Condition/Mitigation Measure 49 and forms the basis for Condition 59, both of which the Applicant now proposes to change. On the basis of compliance with these requirements, the Board of Supervisors found that Impacts E.3 and E.4 would be less than significant, as mitigated.

The Applicant's proposal is to modify the existing approval, which requires the Applicant to improve Roblar Road to provide two 12-foot-wide vehicle travel lanes, two six-foot-wide paved shoulders, two two-foot-wide unpaved (rock) shoulders, and associated striping/signage to meet Class II bike facility standards. The Draft SEIR concludes in Impacts 3.4-3 and 3.4-4 that the narrower travel lane and shoulder widths proposed by the Applicant would result in new significant bicycle and traffic safety hazards from Quarry truck traffic on Roblar Road. The Applicant mentions that the road condition is an existing condition, which is of course correct. The Applicant's current proposal, however, creates new risks, compared to both the approved Modified Alternative 2 (i.e., the current use permit) and existing conditions on Roblar Road, because the dramatic increase in trucks on a substandard road will not be accompanied with road

improvements sufficient to reduce the project's safety impacts to a level that is less than significant. This raises the issue of whether and how the Quarry use can be made compatible with road safety. The Quarry would cause an increase in truck traffic on Roblar Road (i.e., an average of about 27 one-way trips per hour [about 302 per day], and a peak of about 43 one-way trips per hour [about 480 per day]), and could increase the risk of accidents due to potential conflicts between Quarry traffic and bicyclists, pedestrians, and other vehicles. The new and significant risks arise from the project approval because of the large number of trucks that are proposed to be added to a road that does not meet safety standards. The new impact also arises under CEQA Guidelines Section 15162, both when comparing the existing conditions to the proposed project without mitigation, and when comparing the relative decrease of safety between the prior approval analyzed in the 2010 Final EIR and the current unmitigated proposal.

For these reasons, the Draft SEIR includes Mitigation Measure 3.4-3, which requires the following:

- Minimum 11-foot wide travel lanes and 11-foot wide left-turn lane at Access Road 2;
- Minimum 4-foot-wide paved shoulders;
- Minimum 1-foot-wide unpaved (rock) shoulders;
- Final design of the horizontal curves shall be determined using AASHTO methodology, as determined by the DTPW, to accommodate all project trucks through the curves to prevent off-tracking, while maintaining an acceptable clearance to bicycles and vehicles in the opposing lane; and
- If any component of an adequate design requires additional right of way, and if the Applicant is unable to obtain this additional right of way from willing sellers, then any condemnation required must be paid for solely by the Applicant.

The Draft SEIR finds that, while this design would be consistent with allowable exceptions to applicable roadway geometry standards, the 11-foot wide travel lanes would not meet the General Plan standards and AASHTO guidelines for 12-foot travel lanes. The 4-foot wide paved shoulders would not meet the safety requirement for minimum 5-foot wide Class II bikeways as specified in the Sonoma County Bicycle and Pedestrian Plan. Because the Applicant's proposed roadway geometry would result in a new significant impact to bicycle safety, and Mitigation Measure 3.4-3 would not reduce the severity of the impact to a less-than-significant level, the Draft SEIR concludes that the impact would be significant and unavoidable. The same conclusion is reached for Impact 3.4-4, addressing traffic safety on Roblar Road, and for the same reason.

Relationship of Roadway and Shoulder Width to Bicycle and Traffic Safety

In the discussion of Impact 3.4-3, the Draft SEIR highlights that safety underlies roadway geometry standards. Generally, wider travel lanes and wider shoulders are safer. In AASHTO's "A Policy on the Geometry of Highways and Streets" (the "Green Book"), recommendations for lane and shoulder width for rural collector roads such as Roblar Road are tied to roadway design speed and volume (AASHTO, 2011, Table 6-5). Roblar Road meets the Green Book criteria for a

40-foot roadway (12-foot wide travel lanes and 8-foot wide shoulders) as required in the existing Use Permit Condition/Mitigation Measure 49 and Condition 59. The Applicant’s proposed design for a 32-foot wide roadway would not conform to this guidance. The Green Book does, however, provide for exceptions to the 40-foot roadway cross-section standard. The relevant exceptions are:

1. On roadways to be reconstructed, an existing 22-foot traveled way may be retained where alignment and safety records are satisfactory.
2. Shoulder width may be reduced for design speeds greater than 30 mph as long as a minimum roadway width of 30 feet is maintained.

The discussion of Impact 3.4-3 in the Draft SEIR notes that the recent collision rate on Roblar Road between Valley Ford Road and Stony Point Road is lower than the rate for Sonoma County as a whole, and is also lower than the rate for two-lane rural roadways state-wide.

With regard to the better-than-average collision rate on Roblar Road, the concern expressed by many commenters is that the addition of an estimated average 302 Quarry haul truck trips per day (480 peak daily haul truck trips) will increase the risk of accidents on the 1.6-mile section of Roblar Road that Quarry haul trucks would use. This is a reasonable and logical assumption, since the addition of haul trucks would increase both average vehicles per day, and the percent of vehicles that are large trucks (**Table MR-1**), both factors that correlate with greater safety risks. In addition, the regular use of Roblar Road by bicyclists indicates that lane widths narrower than the standard 12 feet and paved shoulders narrower than 6 feet could lead to increased conflicts between Quarry haul trucks and bicycles. The addition of an extremely large number of wide trucks on a narrow road increases the risk of accidents, including accidents resulting from conflicts between bicyclists and truck traffic.

**TABLE MR-1
EXISTING DAILY TRAFFIC COUNT PLUS PROJECTED QUARRY TRAFFIC
ROBLAR ROAD, 0.65 MILES WEST OF CANFIELD ROAD**

	Existing ^a			Existing + Average Quarry Traffic ^b		
	Avg Daily Traffic	Total Trucks	Total Truck %	Avg Daily Traffic	Total Trucks	Total Trucks %
Weekdays	1,705	40	2.3%	2,037	342	16.8%

NOTES:

^a 2017 average daily traffic and truck counts from Draft SEIR Table 3.4-1.

^b Daily Quarry trip generation (average production day) estimated at 332 trips, including 302 haul truck trips, from 2010 Final EIR Table IV.E-6.

As noted above, the basis of the width standards established by AASHTO is that there is a general nexus between lane width and traffic safety, with wider lanes generally providing safer conditions, especially for higher speed limits, higher traffic volume and a higher percentage of large vehicles: “[t]he lane width of a roadway influences the comfort of driving, operational characteristics, and, in some situations, the likelihood of crashes” (AASHTO, 2011, p. 4-7).

While the Green Book allows exceptions to the standards, this does not mean that the narrower widths allowed by the exceptions are equally safe; just that in certain circumstances they are judged to be minimally adequate. They are an acceptable compromise where conditions indicate that they can be used safely.

With regard to paved shoulders intended to accommodate bicycle use, the AASHTO *Guide for Development of Bicycle Facilities* (AASHTO, 2012)¹, clearly equates paved shoulder width with safety:

For any given roadway, the determination of the appropriate shoulder width should be based on the roadway's context and conditions in adjacent lanes. On uncurbed cross sections with no vertical obstructions immediately adjacent to the roadway, paved shoulders should be at least 4 ft (1.2 m) wide to accommodate bicycle travel. Shoulder width of at least 5 ft (1.5 m) is recommended from the face of a guardrail, curb, or other roadside barrier to provide additional operating width, as bicyclists generally shy away from a vertical face. It is desirable to increase the width of shoulders where higher bicycle usage is expected. Additional shoulder width is also desirable if motor vehicle speeds exceed 50 mph (80 km/h); if use by heavy trucks, buses, or recreational vehicles is considerable; or if static obstructions exist at the right side of the roadway. (AASHTO, 2012, p. 4-7)

Roblar Road, with a prima facie speed limit of 55 mph, and with the addition of a large number of wide and heavy Quarry haul trucks, will meet at least two of the AASHTO criteria described above (i.e., speeds in excess of 50 mph, and use by heavy trucks) for wider shoulders to accommodate bicyclists. Furthermore, Section 4.6.4 of the AASHTO *Guide for Development of Bicycle Facilities* also notes that “a bicyclist’s preferred operating width is 5 ft (1.5 m). Therefore, under most circumstances, the recommended width for bike lanes is 5 ft (1.5 m),” and that where speeds are higher than 45 mph and there are heavy vehicles, bike lanes wider than 5 feet are desirable. The Federal Highway Administration agrees (FHWA, 2013).

A recent study completed by Texas A&M University Transportation Institute for the Texas Department of Transportation and the Federal Highway Administration (Dixon et al, 2017) specifically examines design of shoulders to accommodate bicycles and pedestrians on low-volume, high-speed rural roads. “Analysis of the Shoulder Widening Need on the State Highway System: Technical Report” includes a literature review, a review of national and state roadway standards, and a statistical analysis of crashes involving pedestrians and bicycles on Texas rural highways. The report finds that higher speeds and higher traffic volumes both increase the risk of accidents involving pedestrians and bicyclists, and that wider shoulders decrease this risk. The report concludes, in pertinent part:

As speed limits are held constant and shoulder widths are increased, the bicycle or pedestrian injury crashes will decrease (Dixon et al, 2017, p. 54).

¹ While this edition of the Guide for Development of Bicycle Facilities post-dates adoption of the 2010 Sonoma County Bicycle and Pedestrian Plan, Policy 2.02 of the Plan states that, “Use the most recent version of Chapter 1000 of the Caltrans Highway Design Manual, AASHTO’s ‘Guide for the Development of Bicycle Facilities’, and the ‘California Manual on Uniform Traffic Control Devices’ (MUTCD) as general design guidelines for design, construction and maintenance of Sonoma County bikeways.”

As the risk to non-motorized users increases due to high speeds or volumes, the shoulder widths should increase to accommodate additional space (Dixon et al, 2017, p. 75).

Safety is not an “on/off” switch as suggested by the Applicant, and additional width provides additional safety. Conversely, reducing available shoulder width has the environmental impact of increasing safety risks to the public. Based on a statistical analysis of Texas crash data, the Texas report finds that shoulder widths greater than 5 feet have fewer pedestrian and bicyclist injuries. This notably conforms to the minimum width in the *Sonoma County Bicycle and Pedestrian Plan*. Consequently, the report states that a 6-foot wide usable shoulder is an advisable minimum. For each 5-mph increment in the speed limit above 55 mph on rural 2-lane highways, the report recommends an increase of shoulder width of 1.68 feet, a width increase pegged to the incremental increase in risk (Dixon et al, 2017, p. 76). Other conditions, such as the presence of barriers running parallel to the roadway in close proximity to the shoulder, rumble strips, and vertical drop-offs at the edge of the paved shoulder should also be considered, and roads with these features may require shoulders with additional width.

The review and conclusions in the Technical Report indicate that wider shoulders improve bicycle and pedestrian safety, and that certain conditions indicate the need for additional width. Such conditions will be present on Roblar Road once the Quarry begins operation and commences hauling: there would be an average of over 2,000 vehicles per day (existing traffic plus Quarry traffic), nearly 17 percent of which will be large trucks (Table MR-1); and a prima facie speed limit of 55 miles per hour.

The conclusions and recommendations in the Technical Report, as well as AASHTO guidance documents, all support the conclusion in the Draft SEIR that Impacts 3.4-3 and 3.4-4 would remain significant and unavoidable, even with the adjustments to lane and shoulder width required by Mitigation Measure 3.4-3: a narrower road is a more dangerous road, and the Applicant’s proposed narrower road would not fully mitigate the impact on bicycle and traffic safety of over 300 Quarry trucks trips per day on Roblar Road. Furthermore, the existing requirements in Use Permit Condition/Mitigation Measure 49 and Condition 59 for 12-foot wide travel lanes and 6-foot wide paved shoulders with striping and signage for a Class II bikeway are clearly proportional to the severity of the project’s safety impact, as recognized by safety guidance. The existing Use Permit directly tailors the limited improvements required (1.6 miles) to directly address the impacts caused by the project. While it may be possible to override the safety standard in the *Sonoma County Bicycle and Pedestrian Plan* if sufficient evidence of infeasibility is presented by the Applicant, the need for an override to approve the current proposal, even as mitigated, is clear.

Feasibility

Several commenters made comments about the feasibility or infeasibility of the currently approved Use Permit, or alternatively, on the feasibility of widening the 1.6 mile road segment’s shoulder to 5 feet instead of 4 feet, such that an override would not be required. With regard to the Applicant’s statement that achieving the applicable standards is infeasible, and various commenters’ contention that either the previously approved project or additional widening to

meet the 5-foot standard in the *Sonoma County Bicycle and Pedestrian Plan* is in fact feasible, the Draft SEIR does not address the issue of feasibility or infeasibility of the Use Permit Conditions of Approval that the Applicant proposes to modify. Should the County Board of Supervisors decide to approve the proposed modifications, it will do so only after making findings to support that decision, including, if warranted, findings of infeasibility with respect to the previously adopted measures, and/or a finding that the increase of one foot to achieve two 5-foot shoulders is not feasible. Alternatively, the Board of Supervisors can deny the proposal to significantly relax the safety mitigation previously imposed.

“Feasible” under CEQA, means “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” Pub. Res. Code section 21061.1; CEQA Guidelines Section 15364. No technological or environmental factors make meeting County standards infeasible. The submitted correspondence does indicate that one neighbor has declined to enter into a transaction with the Applicant. Condemnation is legally feasible in these circumstances and condemnation and widening cannot be rejected simply on the grounds that condemnation might be required. In other words, condemnation on its own will not make the mitigation infeasible. Condemnation does involve expenses that could be relevant to economic feasibility, and it could involve delays that would be relevant to the period of time in which the project can be implemented.

With respect to economic infeasibility, under CEQA additional costs or lost profitability must be sufficiently severe to render it impractical to proceed with the project. The magnitude of the difference between the project and the alternative will determine the feasibility of the mitigation. The applicable legal standard is whether the marginal costs of the alternative as compared to the cost of the proposed project are so great that a reasonably prudent person would not proceed with the mitigated project. The relevant feasibility determinations, which may involve matters of policy, is for the Board of Supervisors. CEQA does not require this economic determination to be made in an EIR.

Feasibility of Other Mitigation Approaches for the Significant Impact

Some commenters, including members of the Board of Supervisors, asked about the feasibility of reducing speed as a mitigation measure. As noted above, there are acknowledged speed issues on this road segment and the need to increase shoulder width is, in part, related to the introduction of a large number of trucks on a narrow road that is typically travelled at high speeds. The County has limited authority to modify speed limits and can only do so in response to a speed study. Currently, State law requires the Department of Transportation to include in the California Manual on Uniform Traffic Control Devices a requirement that local authorities, when setting speed limits, round speed limits to the nearest 5 miles per hour of the 85th percentile speed of traffic as determined by an engineering and traffic survey. State law authorizes a local authority to round the speed limit down to the lower 5 miles per hour increment in some instances but prohibits that speed limit from being further reduced for any reason. Per the direction of the Board of Supervisors, the Department of Transportation and Public Works is in the process of conducting the required study. However, speed limit reductions are not anticipated.

With respect to buffered bike lanes, The National Association of City Transportation Officials (NACTO) provides guidance on buffered bike lanes, recounted below (NACTO, 2019). Buffered bike lanes are conventional bicycle lanes paired with a designated buffer space separating the bicycle lane from the adjacent motor vehicle travel lane and/or parking lane. A buffered bike lane is allowed as per the Manual of Uniform Traffic Control Devices (MUTCD) guidelines for buffered preferential lanes (MUTCD section 3D-01).

NACTO lists benefits of buffered bike lanes as follows:

- Provides greater “shy distance” between motor vehicles and bicyclists;
- Provides space for bicyclists to pass another bicyclist without encroaching into the adjacent motor vehicle travel lane;
- Provides a greater space for bicycling without making the bike lane appear so wide that it might be mistaken for a travel lane or a parking lane;
- Appeals to a wider cross-section of bicycle users;
- Encourages bicycling by contributing to the perception of safety among users of the bicycle network.

According to NACTO, typical applications for buffered bike lanes include the following:

- Anywhere a standard bike lane is being considered;
- On streets with high travel speeds, high travel volumes, and/or high amounts of truck traffic;
- On streets with extra lanes or extra lane width.

Based on MUTCD standards, NACTO states that buffered bike lanes have the following required features; additional features are recommended by NACTO:

- Required:
 - Bicycle lane word and/or symbol and arrow markings (MUTCD Figure 9C-3) shall be used to define the bike lane and designate that portion of the street for preferential use by bicyclists;
 - The buffer shall be marked with 2 solid white lines. White lines on both edges of the buffer space indicate lanes where crossing is discouraged, though not prohibited. For clarity, consider dashing the buffer boundary where cars are expected to cross at driveways.
 - The buffer area shall have interior diagonal cross hatching or chevron markings if 3 feet in width or wider.
- NACTO Recommendations:
 - If used, interior diagonal cross hatching should consist of 4” lines angled at 30 to 45 degrees and striped at intervals of 10 to 40 feet. Increased striping frequency may increase motorist compliance;

- The combined width of the buffer(s) and bike lane should be considered “bike lane width” with respect to guidance given in other documents that don’t recognize the existence of buffers;
 - Where buffers are used, bike lanes can be narrower because the shy distance function is assumed by the buffer. For example, a 3 foot buffer and 4 foot bike lane next to a curb can be considered a 7 foot bike lane;
 - Buffers should be at least 18 inches wide because it is impractical to mark a zone narrower than that;
 - On intersection approaches with no dedicated right turn only lane, the buffer markings should transition to a conventional dashed line. Consider the use of a bike box at these locations.
- NACTO lists the following maintenance considerations for buffered bike lanes:
 - Buffer striping may require additional maintenance when compared to a conventional bicycle lane;
 - Buffered bike lanes should be maintained free of potholes, broken glass, and other debris;
 - If trenching is to be done in the bicycle lane, the entire bicycle lane should be trenched so that there is not an uneven surface or longitudinal joints.

Table MR-2 compares clearance, or “passing distance,” between bicycles and large vehicles for conventional bike lanes and buffered bike lanes. As shown in the table, given the Applicant’s proposed 32-foot cross-section for the widened segment of Roblar Road, a buffer could be accomplished using an 18-inch wide buffer and 2½-foot (30-inch) wide bicycle travel lane in lieu of the 4-foot paved shoulder required in Mitigation Measure 3.4-3. This would allow for 11-foot wide motor vehicle travel lanes and 1-foot rock backing at the outside edge of the pavement. By moving bicyclists farther from the vehicle travel lane, this would increase passing distance for cars and trucks, compared to both the Applicant’s proposed design and the mitigated design. Assuming a 10-foot wide truck (with mirrors)² in the middle of the travel lane, the passing distance from a 2-foot wide bicycle and rider in the middle of the buffered bike lane would be 2 feet, 3 inches (27 inches); without a buffer, the passing distance would be 18 inches. It would, however, also move bicyclists perilously close to the edge of the pavement. While the buffer would increase the passing distance compared to the same cross section without a buffer, large trucks would still have to cross the center line of the road in order to maintain the 3-foot passing distance required by Vehicle Code 21760.

By widening the bicycle lanes to 5-foot width with no buffer, and increasing the total width of the roadway to 34 feet, the passing distance would be 2 feet, with both bicycle and truck in the middle of their lanes. In this configuration, 3-foot passing distance could be achieved if a

² California Vehicle Code Section 35100 specifies maximum vehicle width. With mirrors, this is 122 inches (10 feet, 2 inches):

35100. (a) The total outside width of any vehicle or its load shall not exceed 102 inches.

35109. Lights, mirrors, or devices which are required may extend beyond the permissible width no more than 10 inches on each side.

bicyclist were to move closer to the edge of the pavement, and a truck were to move closer to the center line while passing.

**TABLE MR-2
TRUCK PASSING DISTANCE FROM BICYCLISTS FOR DIFFERENT ROAD GEOMETRIES (ALL FIGURES ARE FEET)**

Road Geometry	Vehicle Travel Lane Width	Buffer Width	Bicycle Travel Lane Width	Rock Backing Width	Passing Distance ¹	Can Truck Pass Bicyclist @ 3-feet without Crossing Center Line?
32-foot cross section, as proposed	11	n.a.	3	2	1.00	No
32-foot cross section, as mitigated	11	n.a.	4	1	1.50	No
32-foot cross section, as mitigated with buffer	11	1.5	2.5	1	2.25	No
34-foot cross section	11	n.a.	5	1	2.00	No
40-foot cross section, as required	12	n.a.	6	2	3.00	Yes
40-foot cross section, with buffer	12	2	4	2	4.00	Yes

NOTE:

¹ Passing distances assume 10-foot wide truck (with mirrors) and 2-foot wide bicycle and rider, both traveling in the middle of their respective lanes

SOURCE: ESA, NACTO, 2019

For the currently required 40-foot cross-section, the 6-foot wide bike lane could consist of a 2-foot wide buffer and 4-foot wide bicycle travel area. With this cross-section, the passing distance would be 4 feet. Without a buffer, the passing distance would be 3 feet. In either case, under the currently required cross-section, a 10-foot wide truck could maintain a passing distance of 3 feet without crossing the center line.

Three Feet for Safety Act

Several commenters inquired whether the Three Feet for Safety Act requires a particular design standard; several commenters suggested that it does. The Act does not require any design standards. The Act does, however, clearly recognize that three feet are required for passing safely. A paved shoulder less than 5 feet wide will put pressure on project trucks to violate the Act. For this reason, and because of the metrics above, approval of a 4-foot wide paved shoulder would require an override.

References

- American Association of State Highway and Transportation Officials (AASHTO), 2011. *A Policy on Geometric Design of Highways and Streets*. 2011.
- AASHTO, 2012. *Guide for the Development of Bicycle Facilities*. Fourth Edition, 2012.
- Dixon, Karen, Ph.D., Kay Fitzpatrick, Ph.D., Raul Avelar, Ph.D., and Subasish Das, Ph.D., 2017. *Analysis of the Shoulder Widening Need on the State Highway System: Technical Report*. Prepared by Texas A&M Transportation Institute in cooperation with the Texas Department of Transportation and the Federal Highway Administration. May, 2017. <http://tti.tamu.edu/documents/0-6840-1.pdf>
- ESA, 2010. *Memorandum, ESA to Sonoma County PRMD, subject: Roblar Road Quarry Alternative Haul Route Alignment*. October 19, 2010.
- Federal Highway Administration, 2013. *FHWA Course on Bicycle and Pedestrian Transportation*. https://safety.fhwa.dot.gov/ped_bike/univcourse/pdf/swless19.pdf
- National Association of City Transportation Officials (NACTO), 2019. *Urban Bikeway Design Guide: Buffered Bike Lanes*. <https://nacto.org/publication/urban-bikeway-design-guide/bike-lanes/buffered-bike-lanes/> Accessed January 14, 2019.
- Sonoma County, 2010. *Sonoma County Bicycle and Pedestrian Plan*, August 24, 2010.
- Sonoma County, 2016. *Sonoma County Year 2020 General Plan*, 1990, last amended August 2016.

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CHAPTER IV

Comments on the Draft SEIR and Responses

This chapter contains copies of the comment letters on the Draft Supplemental Environmental Impact (Draft SEIR) received during the public review period, and the individual responses to those comments. Each written comment letter is designated with a letter (A through U) in the upper right-hand corner of the letter. Oral comments on the Draft SEIR are also included in the transcript of the Public Hearing at the October 16, 2018 meeting of the Sonoma County Board of Supervisors.

Within each written comment letter, individual comments are labeled with a number in the margin. Immediately following each comment letter is an individual response to each numbered comment.

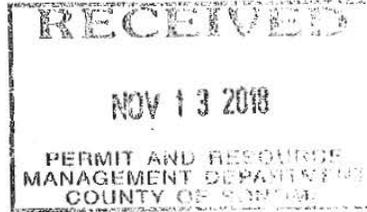


EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH



KEN ALEX
DIRECTOR



November 8, 2018

Blake Hillegas
Sonoma County Permit and Resources Management Department
2550 Ventura Avenue
Santa Rosa, CA 95404

Subject: Roblar Road Quarry Draft Supplemental EIR UPE16-0058/Prior file PLP03-0094 - SCH
#2004092099
SCH#: 2004092099

Dear Blake Hillegas:

The State Clearinghouse submitted the above named Supplemental EIR to selected state agencies for review. The review period closed on November 7, 2018, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

1

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

**Document Details Report
State Clearinghouse Data Base**

SCH# 2004092099
Project Title Roblar Road Quarry Draft Supplemental EIR UPE16-0058/Prior file PLP03-0094 - SCH #2004092099
Lead Agency Sonoma County

Type SIR Supplemental EIR
Description Use Permit modification to an approved Quarry (annual production of 570,000 tons per year) requesting changes to Conditions of Approval and Mitigation Measures #44, 49, 59, 101, and 133. These conditions involve modifications to: 1. the approved preliminary design for the required signalization of the Roblar Rd/Stony Point Rd intersection; 2. The approved travel lane and shoulder width of a 1.6 mi segment of Roblar Rd (required to be reconstructed); and 3. Encroachments into wetlands and riparian areas associated with the required widening of Roblar Rd and the proposed relocation of Americano Creek.

Lead Agency Contact

Name Blake Hillegas
Agency Sonoma County Permit and Resources Management Department
Phone 707-565-1392 **Fax**
email
Address 2550 Ventura Avenue
City Santa Rosa **State** CA **Zip** 95404

Project Location

County Sonoma
City Cotati, Petaluma
Region
Lat / Long 38° 18' 59.3" N / 122° 48' 09.5" W
Cross Streets Canfield Rd
Parcel No. 027-080-009
Township **Range** **Section** **Base**

Proximity to:

Highways
Airports
Railways
Waterways Americano Creek, Ranch Tributary
Schools
Land Use vacant residence, cattle grazing; LEA 160 acre density, mineral resource, riparian corridor, VOH, Z

Project Issues Biological Resources; Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Noise; Population/Housing Balance; Public Services; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Wetland/Riparian; Growth Inducing; Landuse; Cumulative Effects

Reviewing Agencies Resources Agency; Department of Conservation; Department of Fish and Wildlife, Region 3; Cal Fire; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Caltrans, District 4; Office of Emergency Services, California; Regional Water Quality Control Board, Region 3; Air Resources Board, Transportation Projects; Department of Toxic Substances Control; Native American Heritage Commission

Date Received 09/24/2018 **Start of Review** 09/24/2018 **End of Review** 11/07/2018

Letter A. State Clearinghouse

- A-1 This comment from the State Clearinghouse acknowledges that the County has complied with CEQA review requirements, and that no comments from State agencies were submitted through the Clearinghouse.

DEPARTMENT OF TRANSPORTATION

DISTRICT 4
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Making Conservation
a California Way of Life!

October 23, 2018

Mr. Blake Hillegas, Senior Planner
Sonoma County
Permit and Resource Management Department
2550 Ventura Avenue
Santa Rosa, CA 95403

SCH# 2016082041
04-SON-2018-00333
GTS ID 12829

Roblar Road Quarry – Supplemental Environmental Impact Report (SEIR)

Dear Mr. Hillegas:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above-referenced project. In tandem with the Metropolitan Transportation Commission’s (MTC) Sustainable Communities Strategy (SCS), Caltrans mission signals a modernization of our approach to evaluating and mitigating impacts to the State Transportation Network (STN). Caltrans’ *Strategic Management Plan 2015-2020* aims to reduce Vehicle Miles Travelled (VMT) by tripling bicycle and doubling both pedestrian and transit travel by 2020. Our comments are based on the SEIR.

Project Understanding

The proposed project would make several changes to the Use Permit Conditions of Approval for the originally-proposed Quarry project. The proposed changes to the Use Permit include the following:

1. Modify the Design of the Intersection of Stony Point Road/Roblar Road. The existing Use Permit requires the applicant to make improvements to the Stony Point Road/Roblar Road intersection, including installing four-way signals, widening all approaches to the intersection, and adding left-turn lanes, according to a design previously prepared by the County. However, the applicant proposes a different design for the intersection improvements.
2. Modify the Design of Roblar Road Improvements. The Use Permit requires the applicant make improvements to Roblar Road from the Quarry entry to Access Road 2. These improvements include widening Roblar Road to provide two 12-foot-wide vehicle travel lanes with six-foot-wide paved shoulders, two-foot-wide rock shoulders, and associated striping to meet Class II bicycle facilities. The applicant, citing their inability to obtain necessary right-of-way for the required improvements including Class II bike lanes, instead proposes to construct two 11-foot-wide travel lanes, two three-foot-wide paved shoulders and two, two-foot-wide rock

“Provide a safe, sustainable, integrated and efficient transportation system to enhance California’s economy and livability.”



Mr. Blake Hillegas, Senior Planner
Sonoma County
October 23, 2018
Page 2

shoulders. There would also be modifications to the previously proposed alignment of Roblar Road between the Quarry access road and Access Road 2.

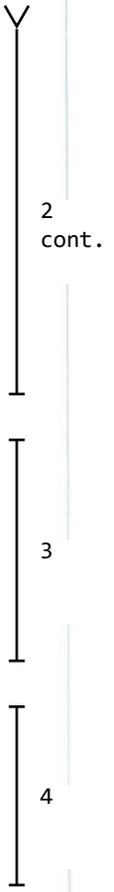
- 3. Realign Americano Creek Channel and Construct Wetland Enhancement Area on the Quarry Site. In order to accommodate the required widening of Roblar Road, the Applicant proposes to realign the channel of Americano Creek, which runs directly adjacent to Roblar Road along a portion of the Quarry property. The Applicant would create a new channel, farther from the edge of the improved Roblar Road, and would grade and plant the banks of the new channel to establish wetlands and riparian vegetation. Access to the project site is provided via an existing Roblar Road/Access Road 2 intersection. The site is located approximately 5.3 miles southwest of the State Route (SR) 116/Stony Point Intersection.

Multimodal Planning

The applicant should work with Sonoma County, as the Lead Agency, and the Sonoma County Regional Parks Department to ensure that modifications to Stony Point Road do not preclude implementation of the Petaluma Sebastopol Trail as envisioned in the *2018 Petaluma Sebastopol Trail Feasibility Study*. We recommend reverting to the intersection design features from the County Preliminary Design-Condition/Mitigation Measure 44 (Table 2-1). Please submit a copy of the final staff report and conditions of approval to Caltrans for our review.

Lead Agency

As the Lead Agency, the County of Sonoma is responsible for all project mitigation, including any needed improvements to the STN. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures. This information should also be presented in the Mitigation Monitoring and Reporting Plan of the draft environmental document.



Mr. Blake Hillegas, Senior Planner
Sonoma County
October 23, 2018
Page 3

Should you have any questions regarding this letter, please call Stephen Conteh at 510-286-5534 or stephen.conteh@dot.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Pat Maurice', with a stylized flourish at the end.

PATRICIA MAURICE
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

Letter B. California Department of Transportation (CalTrans)

- B-1 The County appreciates CalTrans' explanation of the modernization of their approach to evaluating and mitigating transportation impacts. Implementation of SB 743 (2014) requires lead agencies, beginning in July 2020, to use significance thresholds for transportation impacts based on the potential for a project to increase vehicle miles traveled (VMT), rather than the commonly-used level of service (LOS) standard. The Draft SEIR uses the LOS standard, consistent with current County practice and the certified 2010 Final EIR for the Roblar Road Quarry. In addition, VMT is not anticipated to change from the original approval.
- B-2 The summary of the project provided in this comment is accurate, except that access to the project site will not be provided via an existing Roblar Road/Access Road 2 intersection. The intersection of Roblar Road with planned Access Road 2 is located approximately 1.6 miles southwest of the project driveway. Access Road 2 will connect Roblar Road with Valley Ford Road, as shown in Draft SEIR Figure 2-2. The project site will be accessed via a new access road that will intersect with Roblar Road, as shown in the same Figure 2-2.
- B-3 The Petaluma-Sebastopol Trail Feasibility Study (Sonoma County Regional Parks, 2018) shows that the preferred design and alignment for the planned bicycle-pedestrian trail includes a Class 1 multi-use path along the west side of Stony Point Road through the Roblar Road intersection. The study anticipates that to accommodate this path, which would have a width of 12-16 feet, Stony Point Road would need to be shifted to the east, in order to avoid the Washoe House. As suggested in the comment, this makes the currently-approved intersection design more compatible with the trail, as planned, though the currently-approved design has a shoulder width of only 8-10 feet, 2-4 feet less than the minimum width for the trail. The County acknowledges CalTrans' preference for the currently-approved design.

The Draft SEIR (Impact 3.4-2 in Section 3.4, Transportation and Traffic) examines whether the Applicant's proposed design for the Stony Point Road/Roblar Road intersection, including its proposed minimum 4-foot wide shoulders, would impact bicycle safety compared to the currently-approved design. The Draft SEIR finds that it could, because the 4-foot width does not meet Class II bikeway safety standards, as specified in the Sonoma County 2010 Bicycle and Pedestrian Plan, which calls for five-foot shoulders. The Draft SEIR includes Mitigation Measure 3.4-2, which requires widening the paved shoulders on Stony Point Road to a minimum of five feet within the limits of the intersection improvement at Roblar Road unless such widening would disturb ditches. The Draft SEIR finds that this would mitigate the bicycle safety impact to less than significant, even if the 5-foot width could not be achieved all the way through the intersection.

It is noted that the Petaluma-Sebastopol Trail Feasibility Study was accepted by the Board in 2018, well after the original approval of the Quarry in 2010. The County's preliminary design from 2005 and the Applicant's proposed design modifications include Class II bicycle facilities, but do not include the planned, but not yet funded Class I bike path on Stony Point Road, which would require substantial design modifications, additional right of way, and additional environmental review. The Applicant's proposed design, which limits the intersection upgrade to the already-hardscaped area, would not preclude future modifications to the intersection, including a Class I bike lane, if and when funding is secured.

- B-4 The County is aware of its mitigation responsibilities and requirements for the Mitigation Monitoring and Reporting Program (MMRP). The draft MMRP is included in this document as Appendix A.

October 25, 2018

Blake Hillegas
Sonoma County Permit Center
2550 Ventura Avenue
Santa Rosa, CA 95403

Subject: Applicant Comments on September 2018 Draft Supplemental Environmental Impact Report (DSEIR), Roblar Road Quarry

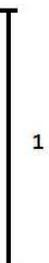
Dear Blake,

On behalf of the Project Applicant, Barella Family, LLC, please find below our project-team Comments on the September 2018 Draft Supplemental Environmental Impact Report, Roblar Road Quarry. In addition to our page-specific comments on the DSEIR presented below, please note that we will address the DSEIR's treatment of the issue of infeasibility (specifically, the important issue of infeasibility of the mitigation measures) in a separate comment letter.

Comments on September 18, 2018 Draft Roblar Road Quarry (DSEIR)

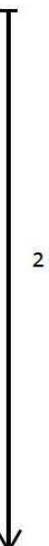
Comment 1.

DSEIR page S-1, first paragraph: This discussion should also reference the Board's adoption of the Reclamation Plan and call out all the document components of the Final EIR (i.e., the May 2008 Draft EIR, the October 2009 Response to Comments Document, the June 2010 Recirculated Portions of the Draft EIR, and the September 2010 Response to Comments Document for the Recirculated Portions of the Draft EIR).



Comment 2.

DSEIR page S-3, paragraph 3: This discussion of the realignment of Americano Creek as an element of our proposed modifications to the Use Permit gives the false impression that this creek realignment and riparian vegetation enhancement is required specifically as a result of our requested project modifications. In fact, as we discussed numerous times with the County and the DSEIR consultant, this realignment is a consequence of the Board decision to negate the use of Access Road 1 when the Board approved the project. The non-approval of Access Road 1 eliminated an original project element which would have shifted the project driveway access onto Roblar Road to a point west of where Americano Creek lies adjacent and very close to the southern edge of Roblar Road. This original project element was included specifically to avoid road reconstruction and widening where it would impact Americano Creek. Instead, the approved project requires use of the originally proposed driveway location which accesses onto Roblar Road east of this constrained section of Roblar Road and requires that Roblar Road be widened from this driveway intersection westward where there is insufficient ROW to recon-



struct and widen Roblar Road without impacting Americano Creek. Accordingly, the approved project would, therefore, impact Americano Creek. The applicant’s proposed creek realignment and conceptual planting plan will allow for creek enhancement by creating riparian vegetation on both sides of the creek. We also note that construction of a 40-foot road, rather than our requested 32-foot road, would reduce in width or in some areas possibly eliminate the existing riparian buffer adjacent to Roblar Road.

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cont.

Comment 3.

DSEIR page S-3, paragraph 5: This paragraph states that “The proposed modifications to the Use Permit, if approved and implemented, could result in several new or more severe adverse environmental impacts, compared to those identified in the Final EIR.” We believe this statement is incorrect, and that it strongly mischaracterizes and overstates DSEIR findings.

The DSEIR identifies only two impacts (Impact 3.4-3 related to bicycle safety, and Impact 3.4-4 related to traffic safety) which it indicates could remain significant and unavoidable after mitigation. But in the section addressing significance after mitigation for Impact 3.4-3, the DSEIR states that: “The DTPW as well as the SCBPAC have reviewed the proposed project and determined that, as mitigated (i.e., subject to construction of the 1-4-11-11-4-1 road design), it would be adequate for bicycle and traffic safety.” And for Impact 3.4-4 the DSEIR states that “The DTPW has determined that the proposed project would not be unsafe with respect to traffic safety impacts.” Therefore, the only basis provided in the DSEIR for the potential for significant and unavoidable bicycle and/or traffic safety impacts after construction of a 32-foot-wide road (1-4-11-11-4-1), now recommended as mitigation, are two policy considerations: first, that the proposed 11-foot wide travel lanes “would not meet the general AASHTO 12-foot lane recommendation...”, and second, that “the proposed bicycle lanes would not meet the general specifications of the Sonoma County Bicycle and Pedestrian Plan, which would provide additional protections that include a 5-foot paved lane (vs. the 4-foot paved shoulder now recommended as mitigation (Policy 2.08).”

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Regarding the first policy consideration, the DSEIR assertion that the proposed 11-foot-wide travel lanes would not meet general AASHTO recommendations is incorrect. AASHTO recommends 11-foot-wide travel lanes for rural collectors having a speed limit up to 50 mph. Condition of Approval 59 requires that Roblar Road be designed for a speed limit of 45mph.

Regarding the second policy consideration, namely that Sonoma County policy calls for a 5-foot paved lane for Class II bikeways, we note that General Plan Policy CT-3t specially requires that such bikeway improvements be included as part of all improvement projects along road segments with existing or proposed bikeways **to the maximum extent feasible** (underlined and bolded herein for emphasis). Project feasibility, or more specifically the infeasibility of constructing a 40-foot-wide road, is the main basis for requesting Use Permit modifications to the mitigation requirements for the reconstruction and widening of Roblar Road. Further support is provided for the safety of a 32-foot road. First, as noted on page 3.4-3 of the DSEIR in the Sec-

tion entitled "Collision History," the recorded accident rate on the affected section of Roblar Road is approximately half the average accident rate on Sonoma County rural roads. Page 3.4-3 Section entitled "Pedestrian and Bicycle Traffic" also points out that typical daily bicycle activity on Roblar Road in our project area ranges from 6-17 bicycles per day, or less than two bicycles per hour in the course of a day's daylight hours. And finally, the applicant submitted a report to the County (CHS Consulting Group, 2016) which provides substantial evidence that a 32-foot road section will adequately address road safety concerns.

In summary we believe that: 1., the lack of sufficient public ROW; 2., the increased hydrologic and biological impacts associated with the 40-foot-wide road as compared to our proposed 32-foot-wide road; 3., DSEIR findings that a 32-foot-wide road will adequately mitigate both bicycle and traffic safety; 4., the very low typical level of bicycle activity; 5., the lower than average accident rate on this section of Roblar Road, and 6., the fact that 11-foot-wide travel lanes are in fact consistent with AASHTO Standards for our required 45 mph design speed, taken together, provide a compelling case for not relying upon policy considerations (that is, a 4-foot vs. a 5-foot paved shoulder) as the basis for finding significant and unavoidable traffic and bicycle safety impacts after mitigation. Accordingly, we believe these facts bring into question the DSEIR conclusion that bicycle or traffic safety impacts could remain significant and unavoidable after mitigation, a conclusion which would seemingly require a Board override of questionable, unlikely impacts.

For all the reasons summarized above, we agree with and hereby commit to pursue the Roblar Road improvements recommended in DSEIR Mitigation Measure 3.4-3, should those be approved by the County. To this point see also our October 25, 2018 letter (attached) to Mr. Joe Morgan, Sonoma County Bicycle and Pedestrian Advisory Committee (SCBPAC), in which we commit to the "1-4-11-11-4-1" road geometry specifically recommended by the SCBPAC.

Comment 4.

DSEIR page S-4, paragraph 3, final sentence: We recommend rewriting this sentence to read "The following mitigation measure, in tandem with other mitigation, would reduce this impact to less than significant."

Comment 5.

DSEIR page S-6, Impact 3.3-1, first bullet: As shown on the bottom of DSEIR page S-5, mitigation measure 133 requires avoidance of "all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on the valley floor adjacent to Americano Creek) of the property, except as shown in the Applicant's plans for relocation of Americano Creek, specifically the drawing by BKF Engineers, "Americano Creek Relocation" dated September 1, 2017 and the "Conceptual Planting Plan for Realigned Americano Creek" prepared by Ted Winfield, Ph.D., dated August 21, 2017.



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The first bullet on DSEIR page S-6 requires the installation of construction fencing around the two seasonal wetlands identified on [Final EIR] Figure IV.D-1 to protect these features from all construction and operation activities. The upgrading of Roblar Road, under either scenario, would directly impact a portion of the large wetland that is included in the “seasonal wetlands on the valley floor adjacent to Americano Creek” shown on [Final EIR] Figure IV.D-1. This mitigation measure should be revised to acknowledge that the roadway improvements will impact an area of one of the seasonal wetlands that is part of the jurisdictional wetlands located in the southwest corner of the property. This impact would have occurred under the project as originally approved by the Board.

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The first bullet also requires fencing of the North Pond, as identified as one of the two seasonal wetlands shown on [Final EIR] Figure IV.D-1. Although construction and operation of this man-made feature will avoid impacting the North Pond, we are proposing measures to enhance this pond to improve its suitability as breeding habitat for the California tiger salamander.

Comment 6.

DSEIR page 1-3, paragraph 1, line 7: We recommend that the beginning words of the second sentence “The Applicant indicates that” be deleted, such that this sentence reads “Given the limited width of the existing prescriptive right-of-way...”

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Comment 7.

DSEIR page 1-3, paragraph 3: See Comment 2.

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Comment 8.

DSEIR page 2-1, Section 2.1 Introduction: We request the addition of a new second sentence to this paragraph as follows: “The 2010 Use Permit remains valid and in effect, and has been recognized by the County as “used” by the applicant, thus preventing any automatic expiration of the 2010 Use Permit in the future.”

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Comment 9.

DSEIR page 2-8, first paragraph following bullets, sentence 1 and Note 2 at bottom of the page: This sentence correctly notes that the requested modifications to the signal design at the intersection of Roblar and Stony Point roads are a result of the fact that the County’s intersection design would impact vegetated drainage features outside paved and/or hardscape areas, and may adversely affect biological habitat for sensitive species. Note 2 at the end of the sentence and presented at the bottom of page 2-8 states that the 2005 IS/MND for the County’s design for a signal at the intersection of Stony Point and Roblar roads identified mitigation measures to reduce potential impacts to wetlands and special-status species to less than significant. While true in 2005,

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this Note neglects to explain that subsequent changes to the status of special-status species, and stormwater runoff requirements, would now cause this previous, 2005 signal design to result in significant, unmitigated environmental impacts. This is the very reason why an equally effective but modified signal design is requested in this Use Permit modification.

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Comment 10.

DSEIR page 2-10, Table 2-1, Table row 7 (Left Turn Lanes: Stony Point Road), Table column 4 (Applicant’s Proposed Design): The discussion of taper lengths is incorrect as written. This text should be rewritten to say: “The taper lengths (approach and bay) and deceleration lane lengths shall be designed in accordance with the preliminary signal design shown on Figure 2-5 on DSEIR page 2-9.” This text change will then make this Table discussion consistent with the discussion in the last paragraph on page 2-8.

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Comment 11.

DSEIR page 2-22, Section 2.6: As explained in our application for Use Permit modifications (see also Comments 2 , 5, 14, and 16), this DSEIR discussion of our recognized need to modify Conditions 101 and 133 neglects to point out that when the Board approved the project without Access Road 1, the approved project then required that Robber Road be reconstructed and widened west of the existing driveway where Americano Creek currently runs along and in very close proximity to the southern edge of Roblar Road. Accordingly, the project as approved would unavoidably require construction within 50 feet of the top of bank of Americano Creek (pertinent to Condition 101). And regarding some of the initial language of Condition 133, including the first bullet, we believe it currently contains language that is a holdover from when it was assumed Access Road 1 would be included as part of the project. Had Access Road 1 been approved, improvements to Roblar Road would not have been required where it lies immediately adjacent to Americano Creek, and in the area on the southern edge of Roblar Road between where Americano Creek enters onto the quarry property and the entrance road to the quarry.

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Comment 12.

DSEIR page 2-26, Section 2.7, Project Approvals: This discussion should be modified to reflect the Board’s assumption of Original Jurisdiction regarding project approvals, negating the need for Board of Zoning Adjustments action.

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Comment 13.

DSEIR page 3.2-1, Section 3.2.2: The Applicant continues to believe and again asserts that the correct CEQA baseline for the Supplemental EIR is “assumed buildout” of the project as approved by the existing and valid 2010 use permit, i.e., the project as originally approved without our proposed modifications. The Applicant asserts that CEQA impacts of the proposed modifica-

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tions should be measured by the delta between the assumed buildout of the 2010 approvals and the proposed modifications.

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Comment 14.

DSEIR page 3.3-4, first paragraph in the section entitled “Impacts and Mitigation Measures, last sentence: This final sentence indicates that “the impact discussion below focuses on the Applicant’s proposed relocation of Americano Creek and modification of Condition 101 and Condition/Mitigation Measure 133, as desired in Chapter 2, Project Description.” However, the subsequent impacts discussion on DSEIR pages 3.3-4 through 3.3-13 includes no additional discussion of Condition 101. This must be corrected for reasons summarized below.

DSEIR Pages 2-22 through 2-26 of the Project Description do, as indicated above, discuss Condition 101, and our proposed revisions to Condition 101 made necessary by the fact that as currently written Condition 101 precludes grading or land disturbance within 50 feet of top of banks of the waterways, except for stream crossings. It is critical that Condition 101 be modified since any reconstruction and widening of Roblar Road west of the quarry driveway will violate Condition 101 as currently written (see also Comment 11).

As indicated in our application to modify certain Roblar Road Use Permit Conditions of Approval, Condition 101 is a holdover from when the Project Alternative 2 included Access Road 1. Access Road 1 was proposed in order to avoid the widening and reconstruction of Roblar Road along that portion of Roblar Road, west of the originally proposed quarry driveway, where Americano Creek lies immediately adjacent to and south of Roblar Road. Access Road 1 would have bypassed this area, crossing Ranch Tributary before intersecting Roblar Road, thus eliminating impacts of road widening on Americano Creek. The Access Road 1 crossing of Ranch Tributary was, in fact, the reason Condition 101 included the words “except for stream crossings.”

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When the Board rejected Access Road 1 (because it would have traversed lands encumbered by an Open Space easement) the resulting approved project requires that Roblar Road be reconstructed and widened for a distance of about 1.6 miles west from the original quarry driveway. As discussed in our application, and in our DSEIR Comments 2, 5, 11, and 16, the required reconstruction and widening of Roblar Road adjacent to Americano Creek cannot be completed without grading and land disturbance within 50 feet of top of bank of Americano Creek. Accordingly, we proposed that the first sentence of Condition 101 be modified as follows (**new text in bold underline**):

“Except for stream crossings **and the proposed realignment of Americano Creek**, no grading or land disturbance shall occur within 50 feet of the top of banks of the waterways, **as feasible**.”

The requested text changes simply allow for the required reconstruction and widening of Roblar Road along Americano Creek, as required for the project as approved by the Board. And as not-

ed in DSEIR Impacts 3.3-1, 3.3-2, and 3.3-3, 3.3-4, 3.3-5, 3.3-6, and 3.3-7, our proposed re-alignment and enhancement of Americano Creek in this area, with associated mitigation, will not result in any new or substantially more severe impacts to wetlands and riparian areas, special status reptiles or amphibians, special status birds, badgers, special-status bats, or special-status fish. In summary, the requested modification of Condition 101 will allow for Roblar Road to be widened and reconstructed along Americano Creek as required, and will not result in any new or substantially more severe environmental impacts. In contrast, Condition 101 as currently written would violate the Board-approved reconstruction and widening of Roblar Road along Americano Creek.

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Comment 15.

DSEIR page 3.3-4, Footnote 1 at bottom of the page: Regarding the reference to the absence of invasive plant species, this reference needs to be qualified to pertain to those species that have a HIGH rating as an invasive plant species by the California Invasive Plant Council (Cal-IPC). It would be impossible to keep out all non-native plant species considered invasive at some level based on the Cal-IPC rating system. For example, Italian ryegrass (*Festuca perennis*) is a facultative plant species (occurs equally in wetlands and uplands) that occurs in seasonal wetlands and vernal pools throughout the region, is commonly planted as a hay crop, and is rated as MODERATE as an invasive species by Cal-IPC.

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Comment 16.

DSEIR page 3.3-6, Mitigation Measure 3.3-1, Revised Mitigation Measure 133: In light of discussion provided previously in Comments 2, 5, and 11, we request that the underlined portion of the third sentence of the mitigation measure be revised (revisions shown in **bold**) to read “ except for secondary improvements described herein, and as shown in the Applicant’s plans for the relocation of Americano Creek including related roadway improvements, specifically the drawing....” These text changes will make this mitigation measure feasible.

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Comment 17.

DSEIR page 3-3-7, first bullet at top of the page: As noted previously in our Comments 2, 5, 11, 14, and 16, we remain concerned that as written this bullet does not recognize that jurisdictional wetlands and riparian habitat in the southwestern corner of the property will necessarily be impacted by the widening of Roblar Road. Further, one of the two seasonal wetlands referenced in DEIR Figure IV.D-1 is the North Pond, which will be enhanced as a component of project mitigation as described by the Applicant in correspondence between our project biologist, Ted Winfield, Ph.D., and the County and ESA environmental document consultant team. Exclusionary fencing will be installed, as feasible, to maximize habitat protection while still allowing for the reconstruction and widening of Roblar Road, and mitigation enhancement efforts at the North Pond. Our comment 16 suggests revised text for Mitigation Measure 133.

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Comment 18.

DSEIR page 3.4-3, second paragraph in Section entitled “Pedestrian and Bicycle Traffic”: This section says that typical bicycle activity on the section of Roblar Road impacted by this project ranges from 6 to 17 bicycles per day. We believe this extremely low, typical level of bicycle activity brings into question the DSEIR conclusion that a significant and unavoidable bicycle safety impact could remain following mitigation (i.e., construction of the recommended 32-foot road), and thereby also brings into question the need, as the SEIR is currently written, for the Board to Override bicycle safety per DSEIR Impact 3.4-3. See also our Comment 3.

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Comment 19.

DSEIR pages 3.4-6 - 3.4-7: Mitigation Measure 3.4-1 requires alternative signalization infrastructure at the intersection of Stony Point and Robber roads. Condition 44 to the 2010 approvals is inconsistent with Mitigation Measure 3.4-1 since the condition relies on now antiquated county preliminary design plans. Condition 44 should be modified to be consistent with Mitigation Measure 3.4-1.

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Additionally, Mitigation measure 44, as presently written states that “an offset of the payment mitigation fees may be considered.” This language should be modified to require an offset inasmuch as the intersection improvements are included in the County’s current CIP for which county-wide mitigation fees are collected.

Comment 20.

DSEIR page 3.4-8, Footnote 1: As we noted in Comment 3, this Footnote states that General Plan policy does NOT establish hard and fast standards for bikeways, but instead provides for recommended bikeway designs to the maximum extent feasible, recognizing physical, geographic, and environmental constraints to bikeway construction.

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Notwithstanding the quotation of General Plan Policy CT-3t on page 3.4-8 and CT-3t’s acknowledgment that bikeway improvements are required to “the maximum extent feasible,” the DSEIR erroneously concludes that an alleged violation of bikeway design standards not only exists, but rises to the level of a General Plan Policy inconsistency resulting in a significant impact (see paragraphs 4 and 5 on DSEIR page 3.4-11). We assert that this conclusion is spurious for two reasons. First, the conclusion flies in the face of the General Plan’s acknowledgment that county design standards are not absolute but must be implemented to the “maximum extent feasible.” Second, with respect to any conclusion in the SEIR that failure to achieve absolute conformity with county design standards results in General Plan inconsistency, this conclusion is not supported by the law or facts.

“An action, program or project is consistent with the General Plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment. . . State law does not require perfect conformity between a proposed project and the applicable general plan. . . [citation omitted] In other words ‘it is nearly, if not absolutely, impossible for a project to be in perfect conformity with each and every policy set forth in the applicable plan.’” (*Pfeiffer v. Sunnyvale City Council* (2011) 200 Cal.App.4th 1552, 1563.) It is enough that the proposed project will be compatible with the objectives, policies, general land uses and programs specified in the applicable plan.”

“Because policies in a general plan reflect a range of competing interests, the governmental agency must be allowed to weigh and balance the plan’s policies when applying them, and it has broad discretion to construe its policies in light of the plan’s purposes.” (*Pfeiffer* at p. 1563).” “It is beyond cavil that no project could completely satisfy every policy in the [general plan], and that state law does not impose such a requirement.” (*Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 719-720.)

Based on the foregoing, the DSEIR should be clarified to conclude that the minor modifications now proposed to the project are consistent with the County General Plan. The width of bicycle infrastructure is subject to the overarching principal of feasibility and may be further found consistent with the County General Plan based upon the furthering of county land use goals related to resource protection and a reduction in the loss of agricultural land, among other things. Furthermore, the proposed width of bicycle lanes now proposed does not impede a wider width at a later time should such expanded width be deemed necessary or desirable.

Comment 21.

DSEIR page 3.4-9, first paragraph: The DSEIR states that Impact E.3 was found to be mitigated to a level insignificance and thus no impact override was necessary. Notwithstanding language elsewhere in Resolution 10-0903 to the contrary, Section 1.04 of Exhibit “C” to the Resolution contained an impact override for “those impacts found to be significant and unavoidable and potentially significant and unavoidable as set forth in the Final 2010 EIR and Record of these proceedings.” To our knowledge, the potentially significant impact relating to bicycle safety was not deleted from the 2010 Final EIR.

Comment 22.

DSEIR page 3.4-9, paragraphs 2 and 3: A major factor in requesting a modified design for the reconstruction and widening of Roblar Road is the lack of sufficient public right of way (ROW) to construct a 40-foot-wide road and necessary drainage and grading requirements outside the 40-foot-wide roadway alignment.

The DSEIR incorrectly states “With respect to Roblar Road to the west under the approved alternative, the applicant had asserted that he could obtain sufficient right of way to widen the 1.6



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mile segment of Roblar Road and that condemnation would not be required.” This is patently untrue.

On pages 11-27 and IV. E-34 the May 2008 DEIR for the approved project, it was represented that the county right of way width between Valley Ford Road and Orchard Station Road was 50 feet. These representations were based on 2008 personal communications with Mr. Giovannetti of the county’s Public Works Department, not the applicant (see paragraph 3 on DEIR page IV. E-34).

On or about October 19, 2010, the applicant’s engineer submitted a letter to the county with respect to the construction of Roblar Road within the represented 50 foot right of way. A copy of that letter is attached. That letter stated, in pertinent part, “We have reviewed the option of improving Roblar Road to county standards within the existing 50’ right of way referred to in the EIR. . . our preliminary review indicates that it is feasible to construct the road improvement within the existing 50’ right of way. . . .” While such a conclusion regarding feasibility may well have been true at the time, this is no longer the case for two reasons. First, the county’s representation about having 50 feet of right of way has subsequently been shown to be erroneous. Second, the AC dikes and fill slopes referenced in Mr. Carlenzoli’s letter would impact linear features which are now protected by more intensive environmental regulations. The DSEIR should be revised to make it clear that it was the county’s representation, not the applicant’s, that asserted that 50 feet of right of way existed along the referenced 1.6 mile section of Roblar Road.

In addition, land ownership along the section of Roblar Road to be improved has changed, impacting the ability to acquire ROW in certain areas. Further, it was not recognized at the time that there was insufficient ROW to construct a 40-foot-wide road along the portion of Roblar Road just west of the quarry property which lies constrained between the Wilson property to the south, encumbered by an Open Space Easement, and lands on the north side of Roblar Road owned by an unwilling seller.

Comment 23.

DSEIR page 3.4-10 - 3.4-11: The discussion beginning in paragraph 3 on page 3.4-10, and continuing to page 3.4-11, regards whether our proposed 32-foot-wide road meets AASHTO Standards. The DSEIR notes that the “Applicant’s proposed alternative road design would not conform to the guidance in the latest edition of the AASHTO publication” on the basis that AASHTO requires 12ft-wide travel lanes. However, AASHTO recommends 11ft-wide travel lanes for rural collectors having a speed limit up to 50mph and Condition of Approval 59 requires that Roblar Road be designed for a speed limit of 45mph.



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Comment 24.

DSEIR page 3.4-12, paragraph entitled "Significance after Mitigation": As explained in both Comments 3, 18, and 19, we believe there a number of considerations which we believe challenge the DSEIR conclusion that Impact 3.4-3 would remain significant.

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Comment 25.

DSEIR page 3.4-13, paragraph near top of page entitled "Significance after Mitigation": As explained in Comments 3, 18, and 19, we believe there a number of considerations which we believe challenge the DSEIR conclusion that Impact 3.4-4 would remain significant.

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Comment 26.

DSEIR page 3.7-4, first paragraph of section 3.7.4 entitled "Land Use and Agricultural Resources": The DSEIR correctly notes that the transfer of a permanent conservation easement on a separate exchange site was not required because the Applicant chose to delay the development of the Quarry until after the Williamson Act Contract on the mining site had expired. As a result of the expiration of the Williamson Act Contract, deletion of the requirement for the transfer of a conservation easement was reflected in the "Project Description" preamble to Exhibit "E" of the December 14, 2010, approval of Board Conditions and Mitigation Monitoring accompanying Board Resolution 10-0903. The deletion of the conservation easement transfer condition on December 14, 2010, is further evidenced by comparing the December 14, 2010, "Project Description" with the "Project Description" accompanying the April 1, 2010 and December 17, 2009, Draft Conditions of Approval which, at that time, both required the conservation easement transfer. Notwithstanding deletion of the requirement for a conservation easement transfer as part of the 2010 approvals, Condition No. 120 of the 2010 approvals was inadvertently and erroneously included in Exhibit "E" to Board Resolution 10-0903. That condition purports to still require an easement transfer. We request that the DSEIR acknowledge that the 2010 clerical error should be corrected by deleting Condition 120 to Exhibit "E" of the 2010 approvals to achieve consistency with the DSEIR's correct conclusion that "this measure was not adopted as a COA."

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Closing

We thank you for the opportunity to provide these comments.

Sincerely,



Scott R. Briggs, Ph.D.

CC: John Barella

Arthur Coon
Stephen Butler
Geoff Coleman
Ted Winfield
Brian Sobel

Attachment A: October 25, 2018 letter to Mr. Joe Morgan, Sonoma County Bicycle &
Pedestrian Advisory Committee

ATTACHMENT A

October 25, 2018

Mr. Joe Morgan
 2nd District Member, Sonoma County Bicycle & Pedestrian Advisory Committee (SCBPAC)
 % Sonoma County Transit
 Attn: Steven Schmitz
 355 West Robles Avenue
 Santa Rosa, CA 95407

Subject: SCBPAC Concerns expressed regarding the Draft Supplemental EIR for the Roblar Road Rock Quarry Project

Dear Mr. Morgan,

On behalf of John and Andrea Barella, project applicant, and the entire Roblar Quarry Project Team, I write to you to address concerns expressed both by you at the October 16, 2018 Hearing on the DSEIR. In light of how the DSEIR describes our requested modifications to the project Use Permit, specifically regarding requested changes to how Roblar Road will be reconstructed, we fully understand your concerns.

I write to assure you that we very much appreciate SCBPAC's consideration of our requested project modifications to Roblar Road, and SCBPAC's support of a road geometry consisting of two 11-foot-wide travel lanes, two 4-foot-wide paved shoulders, and 1-foot of rock backing on each side of the reconstructed road. Most importantly, we hereby confirm for the record that we fully support this recommended road geometry.

We too were initially surprised by the DSEIR's description of our requested Use Permit modifications to the design for the project-affected portion of Roblar Road, until we reviewed the timing of key steps during our request to modify the Use Permit. Our application to the County requesting modifications to the Use Permit (which was originally approved by the Board of Supervisors back in 2010) consisted of two application documents, our initial Application dated July 18, 2016 and our Supplemental Information application dated September 21, 2016. While preparing these application documents we met numerous times with County planning and public works staff to discuss our reasons for requesting changes to certain Conditions of Approval, and our thoughts regarding revised Conditions. Relevant here was our request to modify the condition requiring widening and reconstruction of a portion of Roblar Road to provide a total road width of 32 feet instead of 40 feet. At that time, Public Works staff indicated they would not support less than 2-feet of rock backing for the shoulders. So, although our applications to modify the Use Permit noted that our requested 5-foot shoulders could include either 4-feet of paving with 1-foot rock backing, or 3-feet of paving with 2-feet of rock backing, at that time it focused on the 3-2 shoulder option Public Works staff indicated they would require.

There followed the November, 2016 and January, 2017 SCBPAC meetings. In light of SCBPAC's resulting recommendations Public Works staff indicated they would accept 1-foot of rock backing to provide for 4-feet of shoulder paving. From that point forward this is the geometry the Roblar Quarry Project team has been pursuing, and all of our post-January-2017 efforts have focused on designing a road with 4-feet of paved shoulder. In short, to the extent the DSEIR suggests we currently seek anything different, the SEIR consultant simply relied upon the "dated" information included in our original 2016 application, and did not account for the more recent developments. The DSEIR recommends the 1-4-11-11-4-1 road geometry recommended by the SCBPAC, which is now supported by Public Works, and we hereby clarify that we fully support and intend to implement the SEIR's recommendation in that regard subject to approval by the Board of Supervisors.

In closing, we again express our appreciation to the SCBPAC for its willingness to reasonably consider and balance the many physical, environmental and other constraints to widening Roblar Road, through its support of a feasible alternative that minimizes impacts while still providing for bicycle and pedestrian safety.

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cont.

Sincerely,



Scott R. Briggs, Ph.D., Roblar Quarry Project Team Consultant

CC: John Barella
Geoff Coleman
Stephen Butler
Arthur Coon

Letter C. Scott Briggs, on behalf of the Applicant

- C-1 At the suggestion of the commenter, the text on page S-1 of the Draft SEIR is amended as follows (note also the correction to the statement regarding the annual limit, which was misstated as “tons” instead of “cubic yards”):

On December 14, 2010, the Sonoma County Board of Supervisors (Board) certified the Roblar Road Quarry Final Environmental Impact Report (Final EIR), and approved a Reclamation Plan and a Use Permit (Use Permit PLP03-0094) for a modified version of one of the alternatives to the originally-proposed Quarry project described in the Final EIR, Alternative 2 (herein referred to as “Modified Alternative 2”). The Use Permit allows for a 20-year mining permit with an annual limit of 570,000 ~~tons~~ cubic yards per year. The Final EIR included the May, 2008 Draft EIR, the October 2009 Response to Comments Document, the June 2010 Recirculated Portions of the Draft EIR, and the 2010 Response to Comments Document for the Recirculated Portions of the Draft EIR.

- C-2 The commenter notes that the Applicant’s original proposal was not permitted due to the project impacts. As stated in the paragraph cited by the commenter, the relocation is for the purpose of accommodating the required widening of Roblar Road. As stated in Chapter 2, Project Description, of the Draft SEIR (page 2-2), the Applicant has stated that their proposed modifications to the Use Permit, “...are necessary to resolve conflicts between Conditions, to make implementation of Conditions feasible, and/or to reduce potential impacts associated with their implementation.” At this time, the proposal to relocate the creek channel stems from the Applicant’s contention that there is not sufficient right-of-way available to widen Roblar Road on the side opposite the creek, as described on page 2-22 of the Draft SEIR.

- C-3 The commenter suggests that the Draft SEIR mischaracterizes its own findings, and appears to suggest that the findings be changed. As shown in Table S-1 in the Executive Summary of the Draft SEIR, the Draft SEIR identifies seven new or more severe significant impacts that can be mitigated to less than significant, and two new or more severe impacts that would remain significant and unavoidable after mitigation. The statement on page S-3 of the Draft SEIR that, “[t]he proposed modifications to the Use Permit, if approved and implemented, could result in several new or more severe significant adverse environmental impacts, compared to those identified in the Final EIR” is therefore accurate in its use of the term “several.”

With regard to the issue of lane width and bicycle safety raised in the rest of the comment, please see Master Response 1. With respect to speed, please refer to Response C-23.

- C-4 Impact 3.4-5, in Section 3.4, Transportation and Traffic, is a carry-over of the portion of Impact E.2 from the 2010 Final EIR, focusing only on the Stony Point Road/Roblar Road intersection. As discussed on pages 3.4-13 and 3.4-14 in Section 3.4, the 2010 Final EIR specified Mitigation Measure E.2a to address the Quarry’s contribution to a long-term

cumulative impact on intersection level of service at this intersection. The 2010 Final EIR found, however, that this mitigation measure, requiring a right turn lane from southbound Stony Point Road onto Roblar Road, may not be feasible (because of the presence of the historic Washoe house, and uncertainty about the potential to obtain additional right of way on the east side of Stony Point Road). Neither the currently-approved County design of the intersection, nor the Applicant's proposed design, includes a right turn lane. No other mitigation was offered in the 2010 Final EIR. Therefore, the statement on page S-4 that new Mitigation Measure 3.4-5 would reduce the impact (not in tandem with other mitigation, since no other mitigation is specified) to less than significant is accurate.

- C-5 The seasonal wetlands, described in the comment and shown on Figure IV.D-1 in the 2010 Final EIR, are shown on the Applicant's figure for relocation of Americano Creek (Figure 2-8 in the Draft SEIR). The modified language of Condition of Approval 133 included in Draft SEIR Mitigation Measure 3.3-1 (allowing disturbance of wetlands consistent with the Applicant's proposed relocation of the creek) would enable disturbance of these features, if necessary.

With regard to North Pond, this feature is not shown on Draft SEIR Figure 2-8. It is shown (but not labeled as "North Pond") in 2008 Draft EIR Figure IV.1, and is shown and labeled as such and described in Recirculated Draft EIR Figure IV.D-2. North pond is one of two ponds in which California tiger salamander larvae were discovered in 2010. The Quarry project, as approved, would eliminate the other CTS breeding pond, Center Pond. This is addressed in Impact D.11 in the 2010 Final EIR. Mitigation Measures D.11a and D.11b were specified to mitigate this impact. These measures were adopted as Conditions of Approval 143 and 144.

To clarify that conditions governing protection of wetlands are not intended to prevent the Applicant from enhancing the value of aquatic habitat in North Pond, subject to resource agency approval, the following text is added to Mitigation Measure 3.3-1, as an additional change to the text of Condition/Mitigation Measure 133: "Nothing in this condition or other conditions will preclude enhancements to the North Pond subject to resource agency approvals."

- C-6 The cited passage from the Draft SEIR accurately reflects the Applicant's stated purpose for the proposed modifications to the Use Permit Conditions of Approval. The Applicant appears to be suggesting that the SEIR should make a finding that the original Use Permit is infeasible. This is a determination to be made by the Board of Supervisors based on the relevant economic considerations. It should be noted that the Applicant has stated that he will go ahead with the original Use Permit if the modification is disapproved.
- C-7 Please see the response to Comment C-2.
- C-8 The commenter correctly notes that the current Use Permit is valid and in effect. Notwithstanding various statements about infeasibility, the Applicant has stated that it will go ahead with the original Use Permit if the modification is disapproved. No change in the Draft SEIR is required.

- C-9. The 2005 Initial Study/Mitigated Negative Declaration for the Stony Point Road/Roblar Road intersection improvements (Sonoma County PRMD, 2005) anticipated the need to obtain permits for the relocation of the ditches on the east side of Stony Point Road:

To widen Stony Point and Roblar Roads the roadside ditch on the south side of Roblar Road and the ditches on the east side of Stony Point Road will require filling and relocation. The relocation of the roadside ditches will require permits from the ACOE [Army Corps of Engineers] and the RWQCB [Regional Water Quality Control Board]. All permits will be obtained prior to construction and permit conditions will be implemented into the project plans and specifications (Sonoma County PRMD, 2005, page 13).

If signalization of the intersection were to proceed according to the approved County preliminary design, the permitting process could include, in addition to ACOE and RWQCB, the U.S. Fish and Wildlife Service, the federal agency with responsibility for the California Tiger Salamander. Permits would specify conditions consistent with current regulatory requirements. Additional environmental review could be required.

- C-10 If the Applicant's proposed intersection design is approved, the final design of the entire intersection, including the northbound left turn lane, will be reviewed and subject to final approval by DTPW, per Mitigation Measure 3.4-1 (see Draft SEIR Section 3.4, Transportation and Traffic). Therefore, the reference to CalTrans standards in Table 2-1 in Chapter 2, Project Description cited by the commenter is not needed. The table is revised as shown on the following page.
- C-11 The commenter is correct that the Board of Supervisors did not approve the Access Road 1 proposal when it considered the Use Permit currently in effect. The modifications to Condition 133 specified in Draft SEIR Mitigation Measure 3.3-1 would enable the relocation of Americano Creek, as proposed.
- C-12 While the point made in this comment, that the Sonoma County Board of Supervisors maintains Original Jurisdiction over the project, is correct, no revisions are required in the Draft SEIR.
- C-13 As discussed on page 1-4 of the Draft SEIR,

This Supplement to the Roblar Road Quarry Final EIR examines the proposed modifications to the Use Permit COA and analyzes whether the proposed modifications, or changes to the setting in which the Quarry project would take place, could result in a new or substantially more severe significant impact, compared to the impacts identified in the Final EIR. Where a new or substantially more severe significant impact is identified, this Supplemental EIR specifies mitigation measures for reducing or avoiding the impact, and considers whether the mitigation measures have the ability to reduce the impact to less than significant.

The passage cited by the commenter on page 3.2-1, which the commenter requests modification of, is consistent with this approach, and requires no modification. Under CEQA Guidelines Section 15162, both the changes to existing conditions and the changes to the approved project are relevant to the required impact analysis.

**TABLE 2-1
COMPARISON OF INTERSECTION DESIGN FEATURES**

Design Feature	Existing Condition	County Preliminary Design-Condition/ Mitigation Measure 44	Applicant's Proposed Design
Traffic Control	Stop sign on Roblar Road. No controls on Stony Point Road	4-way traffic signal, including signal for driveway opposite Roblar Road	4-way traffic signal, including signal for driveway opposite Roblar Road
Travel Lanes: Stony Point Road	One 12-foot lane in each direction	Same as Existing	Same as Existing
Travel Lanes: Roblar Road	One 12-foot lane in each direction	Same as Existing	Same as Existing
Paved Shoulders: Stony Point Road (each side of road)	4 feet	8 to 10 feet	minimum 4 feet
Paved Shoulders: Roblar Road (each direction)	1 to 1.5 feet	6 feet	3 feet
Bike Lanes (each direction)	None	8 – 10 feet	4-foot-wide paved shoulder in each direction on Stony Point Road for use by bicyclists
Left Turn Lanes: Stony Point Road	Southbound: None; Northbound: 10 feet wide and 70-50-foot-long stacking length	Southbound: 11 feet wide and 50-20-foot-long stacking length; Northbound: 11 feet wide and over 250-90-foot-long stacking length The taper lengths (approach and bay) and deceleration lane lengths shall be designed in accordance with Caltrans standards.	Southbound: 11 feet wide and 50-49-foot-long stacking length; Northbound: 11 feet wide and 120-50-foot-long stacking length The taper lengths (approach and bay) and deceleration lane lengths shall be designed in accordance with Caltrans standards.
Turn Lanes: Roblar Road	Single lane widens to accommodate turns	Same as Existing	Same as Existing
Driveway on east side of intersection	at south end of intersection	relocated north, opposite Roblar Road	not relocated
Drainage Ditches	Existing ditch on east side of Stony Point Road and on portions of Roblar Road	Portions of existing ditches on Stony Point Road filled and relocated	Existing ditches not filled

SOURCE: Sonoma County PRMD, 2005; BKF Engineers, 2016, W-Trans 2015.

C-14 In response to the comment, the discussion of Impact 3.3-1 and Mitigation Measure 3.3-1 in Section 3.3, Biological Resources, of the Draft SEIR is revised as follows:

Impact 3.3-1: The proposed relocation of Americano Creek would involve construction and grading activities that could disturb or remove wetland and riparian habitat. (*Beneficial Impact / No New or Substantially More Severe Significant Impact, After Mitigation*)

Final EIR Impact D.1 concluded that the Quarry project would directly impact wetlands, other waters, and riparian habitat, resulting in the permanent fill of

potentially jurisdictional wetlands or other waters of the U.S. and waters of the State. The Final EIR specified Mitigation Measures D.1a (mitigate the filling or excavating of jurisdictional wetlands by conducting a formal wetland delineation, compensating for loss of jurisdictional wetlands at specified ratios, and implementation of a five-year monitoring program with applicable performance standards¹); D.1b (avoid all potential jurisdictional wetlands and riparian habitat located along the southern boundary [i.e., Ranch Tributary] and the southwestern corner [i.e., seasonal wetlands on valley floor adjacent to Americano Creek] of the property); and D.1c (monitor base flows in Ranch Tributary and if necessary augment them with releases of stored surface water) to reduce the Quarry project impacts to wetlands and riparian habitats to a less-than-significant level. These mitigation measures were adopted as Conditions/Mitigation Measures 132, 133, and 115 respectively. Condition 101 was also adopted. Condition 101 states that, “Except for stream crossings, no grading or land disturbance shall occur within 50 feet of the top of banks of the waterways.”

The proposed relocation of Americano Creek to accommodate the required widening of Roblar Road would result in the filling of the existing Americano Creek channel along most of its course on the Quarry project site, and relocation of the creek away from Roblar Road. Most of the existing riparian habitat adjacent to the south side of the existing creek would not be disturbed. A review of the 2015 USACE wetland delineation for the Quarry property and roadway alignment (U.S. Army Corps of Engineers, 2015) and the proposed relocation of Americano Creek shown in Figure 2-8 in Chapter 2, Project Description, shows that approximately 750 feet of Americano Creek would be filled to accommodate Roblar Road widening. This would fill an estimated 0.40 acre (17,599 s.f.) of waters of the State, which includes 0.18 acre (7,701 s.f.) of waters of the U.S. The 2015 USACE wetland delineation did not clarify the extent of federally-jurisdictional wetlands within the waters of the U.S.; hence, for this assessment, the entire 0.18-acre area was presumed to support federally jurisdictional wetlands. These jurisdictional areas include a portion of the riparian area along the south side of the existing creek, which is a part of an approximately 0.90-acre riparian area that supports native willows [arroyo willow (*Salix lasiolepis*), Pacific willow (*S. lucida* spp. *lasindra*), and red willow (*S. laevigata*)]. Only a portion of this riparian area would be removed to accommodate road widening and creek relocation. The remainder of this riparian area would not be disturbed. In addition, the realigned channel would fill (remove) an approximately 0.05-acre seasonal wetland identified as SW-17 (Figure 2-8 in Chapter 2, Project Description).

As part of the proposed modifications to the Use Permit, a realigned Americano Creek channel would be created that measures approximately 935 feet long with

¹ Performance standards specified for the monitoring program for creation of compensatory wetlands include: 80 percent survival rate of restoration plantings native to local watershed; absence of invasive plant species; absence of erosion features; and a functioning, and self-sustainable wetland system.

a 14-foot wide creek bed covering approximately 0.30 acre and an additional 0.45 acre of low flood terraces. The creek banks would be vegetated with willows and other native species as identified in the Applicant's "Conceptual Planting Plan for Americano Creek Realignment" (Winfield, 2017; included as Appendix A; hereafter, "Planting Plan"). A new roadside ditch would be created adjacent to the widened Roblar Road.

The Applicant proposes to modify Condition/Mitigation Measure 133 to state that all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on the valley floor adjacent to Americano Creek) of the Quarry site would be avoided "as feasible." The Applicant also proposes to modify Condition 101 to provide an exception to the prohibition against grading and land disturbance in proximity to waterways. ~~These changes~~ ~~This change~~ would enable the widening of Roblar Road and the proposed relocation of Americano Creek, since both the road widening and creek relocation would necessarily impact existing wetlands and occur within 50 feet of Americano Creek. This would increase the severity of Final EIR Impact D.1, by increasing the extent of wetlands that would be filled.

Condition/Mitigation Measure 132, which requires compensatory mitigation for the fill of jurisdictional waters, applies to the proposed modifications to the Use Permit, and would be effective in compensating for the increased loss of wetlands. While there would be a temporary loss of function on approximately 750 linear feet of Americano Creek while revegetated areas become established, creek relocation would not cause a long-term loss of wetland functions or habitat values because: 1) a greater area of wetlands would be created than filled: about 0.23 acres of wetland (0.18 acres of existing channel and associated riparian vegetation, plus 0.05 acres of seasonal wetland) would be filled, and about 0.30 acres of wetland/stream channel would be created. In addition, 0.45 acre of low flood terraces (waters of the State) would be created; 2) with implementation of the Planting Plan, the enhanced areas would provide similar or better habitat values than the existing creek; and 3) long-term monitoring provided in Mitigation Measure D.1a (COA 132) would ensure that the restored areas meet minimum performance criteria and adequately enhance functions and values of the created riparian corridor. Therefore, with the continued application of Condition/Mitigation Measure 132, the proposed modifications to the project would not result in any new or substantially more severe significant impacts to wetlands or riparian habitat. However, the Applicant's proposed modification of Condition/Mitigation Measure 133, which would add "as feasible" to the requirement to avoid wetlands and riparian habitat, would introduce uncertainty regarding the extent of wetland and riparian habitat that would be disturbed or destroyed. This could cause a new or more severe significant impact to wetlands and riparian habitat. Therefore, the Applicant's proposed revisions are rejected, and other revisions to Condition/Mitigation Measure 133 are specified below as mitigation.

In addition, Condition/Mitigation Measure 133 has been revised to confirm that the referenced 100-foot setback from critical habitat (Chapter 26A County Code) does not apply retroactively to sites that were reviewed pursuant to the California Environmental Quality Act and approved prior to the designation of relevant critical habitat in the General Plan. The Roblar Road Quarry was approved by the Board of Supervisors in December, 2010. The site was included in a federal critical habitat rulemaking by the U.S. Fish and Wildlife Service in August, 2011. On October 23, 2012, the Board of Supervisors adopted map amendments to the Open Space Element of the General Plan to designate critical habitat for the California Tiger Salamander. However, these setback provisions were not intended to be applied retroactively, and independent of any setbacks, the mitigation measures already mitigated the impact to California Tiger Salamanders to a level that is less than significant. The approved Quarry project includes Condition/Mitigation Measure 143 and 144 to mitigate potential impacts to CTS to less than significant as noted below under Impact 3.3-3.

The Applicant's proposed modifications to Condition 101 are also rejected, and this condition is modified as specified below (new changes to the text below are indicated with double underline and double strike-through).

Mitigation Measure 3.3-1a: Revise wording of Condition/Mitigation Measure 133 as follows to confirm that the referenced 100-foot setback to critical habitat does not apply retroactively and to allow creek relocation, but with specific parameters for wetland and riparian habitat disturbance (additions to the text of the adopted Condition are underlined):

133. Avoid all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on valley floor adjacent to Americano Creek) of the property, except as shown in the Applicant's plans for relocation of Americano Creek, specifically the drawing by BKF Engineers, "Americano Creek Relocation" dated September 1, 2017 and the "Conceptual Planting Plan for Realigned Americano Creek" prepared by Ted Winfield, Ph.D., dated August 21, 2017. Prior to construction activities, the project Applicant shall take appropriate measures to protect the wetland and riparian habitat located in these areas. The following protection measures are to be included in the grading and Reclamation Plan:

- Installation of exclusionary construction fencing along the southern property line as well as around the two seasonally wetlands identified on [Final EIR] Figure IV.D-1 except for the wetland that would be impacted by the relocation of Americano Creek to protect these features from all project construction and operation activities.;
- Implementation of measures to control dust in adjacent work areas (see comprehensive dust control program identified in Condition 161);

- Maintenance of the hydrologic inputs (flow) to the seasonally wet area in the southwestern corner of the property, unless otherwise approved by resource agencies.
- Except as stated above for the relocation of Americano Creek, the project Applicant shall maintain the minimum allowed 200-foot and 100-foot setback for quarry mining operations from stream banks (Americano Creek and Ranch Tributary) respectively and critical habitat areas designated in the Sonoma County General Plan (Chapter 26A, County Code), provided, however, that setbacks from designated critical habitat do not apply to sites that were reviewed pursuant to the California Environmental Quality Act and approved prior to the designation of the relevant critical habitat in the General Plan.

Mitigation Measure 3.3-1b: Revise wording of Condition 101 as follows to allow the widening of Roblar Road and relocation of Americano Creek in proximity to waterways:

101. Except for stream crossings and also except as shown in the Applicant’s plans for relocation of Americano Creek, specifically the drawing by BKF Engineers, “Americano Creek Relocation” dated September 1, 2017 and the “Conceptual Planting Plan for Realigned Americano Creek” prepared by Ted Winfield, Ph.D., dated August 21, 2017, no grading or land disturbance shall occur within 50 feet of the top of banks of the waterways. Any waterway setbacks, including but not limited to building setbacks, grading setbacks, riparian corridor setbacks or biotic resources setbacks, shall be shown and noted on the grading plans. A construction fence must be placed along the most stringent waterway setback to prevent land disturbance adjacent to the waterways.

Significance with Mitigation: The additional revisions to Condition/Mitigation Measure 133 and Condition 101 would ensure that disturbance of wetlands and riparian habitat would be restricted to the areas shown in the Applicant’s plans for relocation of Americano Creek and evaluated in this document. This would ensure that all impacts to wetlands and riparian areas are adequately mitigated. The additional specification regarding setbacks from designated critical habitat would clarify that the Quarry project is consistent with Chapter 26A of the County Code. Therefore, with implementation of Mitigation Measures 3.3-1a and 3.3-1b, the impact would be less than significant.

- C-15 The footnote cited by the commenter references performance standards contained in Condition/Mitigation Measure 132, which is based on Mitigation Measure D.1a from the 2010 Final EIR. These performance standards for created, restored, or enhanced wetlands to compensate for the loss of wetlands include a general standard for exclusion of invasive species. Neither Mitigation Measure D.1a nor Condition/Mitigation Measure 132 specify the type or category of invasive species that must be excluded. It is anticipated that these details will be contained in permit conditions in the applicable wetland permits. As noted in Mitigation Measure D.1a, these permits will include a Section 404 Clean Water Act permit from the Army Corps of Engineers, Section 1603 Streambed Alteration

Agreement from the California Department of Fish and Wildlife, and/or Section 401 water quality certification from the Regional Water Quality Control Board. In order to clarify this, and in response to the comment, the following text is added to footnote 1 on page 3.3-4 of the Draft SEIR: “It is anticipated that absence of invasive species within compensatory wetlands will be demonstrated by the applicant to the extent required by applicable CDFW, USFWS, Water Board, and/or Army Corps of Engineers permit requirements.”

- C-16 Please refer to the responses to comments C-2, C-5, and C-14. The modified language of Condition 133 contained in Mitigation Measure 3.1-1a, and the new modified language of Condition 101 contained in Mitigation Measure 3.1-1b (see response to comment C-14) together enable the Applicant’s proposed design for road widening and Americano Creek relocation. However, to clarify that allowed disturbance of wetlands includes disturbance related to the widening of Roblar Road, Mitigation Measure 3.3-1 is further modified to include the following revision to Condition/Mitigation Measure 133 (new addition to the text is double-underlined); the same revision is added to Condition 101 in Mitigation Measure 3.1-1b; see Chapter 5 for all revisions to the text of the Draft SEIR)

133. Avoid all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on valley floor adjacent to Americano Creek) of the property, except as shown in the Applicant’s plans for relocation of Americano Creek, including related roadway improvements, specifically the drawing by BKF Engineers, “Americano Creek Relocation” dated September 1, 2017 and the “Conceptual Planting Plan for Realigned Americano Creek” prepared by Ted Winfield, Ph.D., dated August 21, 2017. Prior to construction activities, the project Applicant shall take appropriate measures to protect the wetland and riparian habitat located in these areas.

- C-17 Please see responses to comments C-5 and C-16.
- C-18 Please see Master Response 1.
- C-19 The Applicant appears to reference Condition of Approval 44, and suggests it is inconsistent with Mitigation Measure 3.4-1. In the event of approval, Mitigation Measure 3.4-1 would replace Condition of Approval 44.
- C-20 Please see Master Response 1. The commenter appears to suggest that feasibility analysis be included only in analysis of the General Plan, and not with respect to the issue of whether an override is justified. Such an approach would not be in the interests of safety and would not analyze the environmental risks posed by the proposal as CEQA requires.
- C-21 The commenter is incorrect in stating that the 2010 Final EIR includes a Statement of Override for a significant and unavoidable impact on bicycle safety. The 2010 Final EIR concluded in Impact E.3 that the project, as proposed, could have a significant and unavoidable impact on bicycle safety. This impact, however, was effectively mitigated to a less-than-significant level when the Board of Supervisors elected not to approve the

project with this significant impact, and instead approved an alternative. The 2010 ESA Memo (ESA, 2010), which is part of the Administrative Record for the 2010 Final EIR, states clearly that for Modified Alternative 2, the impact to bicycle and pedestrian safety could feasibly be mitigated to less than significant, even though the modified alternative would increase the distance of roadway requiring upgrading compared to the originally described Alternative 2.

Under CEQA Guidelines Section 15093, a Statement of Override is required for an approved project, not versions of the project that are not approved. Indeed, in Resolution 10-903 the Board of Supervisors specifically elected not to approve the project with an override for bicycle safety impacts, and those significant impacts in the original approval were in fact avoided. The resolution does not include an override for Impact E.3. Neither is Impact E.3 included in resolution Exhibit B, the findings for Potentially Significant Impacts that Cannot be Fully Mitigated. Impact E.3 is, however, included in Exhibit A, the findings for Potentially Significant Impacts that Can be Mitigated to a Less-Than-Significant Level. The Board of Supervisors, in approving the Quarry project in 2010, did not determine that the approved Modified Alternative 2 would result in a significant and unavoidable impact on bicycle safety. Therefore, the commenter is incorrect in stating that an override exists for Impact E.3.

- C-22 The commenter claims that a major factor in requesting a modified design for reconstruction and widening of Roblar Road is the lack of sufficient public right-of-way (ROW) to construct a 40-foot paved road and necessary drainage and grading requirements outside of the approved 40-foot roadway alignment. The commenter states that the Draft SEIR incorrectly states “with respect to Roblar Road to the west under the approved alternative, the Applicant had asserted that he could obtain sufficient ROW to widen the 1.6-mile segment of Roblar Road and that condemnation would not be required” (Draft SEIR page 3.4-9).

The commenter goes on to argue that the 2008 Draft EIR represented that there is a 50-foot ROW on Roblar Road between Orchard Station Road and Valley Ford Road and the Applicant’s engineer indicated it was feasible to improve Roblar Road to County Standards based on the represented 50-foot ROW.

The commenter then asserts that the prior feasibility determination is no longer valid because 1) the County’s representation of a 50-foot ROW was in error and 2) land ownership along the section of Roblar road to be improved has changed, impacting the Applicant’s ability to obtain ROW in certain areas.

The comment is correct in one respect, but misleading and incorrect in others. The commenter’s assertion that the 2008 Draft EIR represented a 50-foot wide ROW along the approved 1.6-mile segment of Roblar Road is correct. This representation was based on preliminary review by the Department of Transportation and Public Works. However, based on further review of the ROW issue, the Department of Transportation and Public Works had determined that the ROW is not necessarily 50 feet wide, and this was

discussed with the Applicant well before the prior approval. In some cases, the ROW along the approved Roblar Road Haul Route is less than 50 feet. When, the limitations of the ROW were discovered, this issue was brought to the attention of the Applicant in the context of the prior approval process.

Thus, what is incorrect and misleading in the commenter's statement is the suggestion that a mistake was carried into the Board of Supervisor's original decision to issue the current use permit. This is incorrect. To the contrary, the Board of Supervisors required the Applicant to obtain the required ROW in the Conditions of Approval (Condition of Approval/Mitigation Measure 49), and the only new information present is the Applicant's statement that doing so has encountered obstacles. In the prior process, and knowing that the ROW was more constrained than 50 feet, the Applicant indicated at the time he could obtain ROW necessary to reconstruct and widen the 1.6-mile segment of Roblar Road approved under Modified Alternative 2. The rationale for mitigating traffic and bicycle/pedestrian safety impacts E.3 and E.4, and for finding that those impacts were mitigated to a level that was less than significant, was the finding that Mitigation Measures E.3.a and E.4.a were feasible.

The findings of feasibility based on the 1.6-mile segment contrasted with the findings with respect to the 6.5-mile proposal that the Board of Supervisors rejected. The broader implementation of Roblar Road reconstruction and widening was recognized to be potentially infeasible (widening on approximately 6.5 miles of roadway from Stony Point Road to Valley Ford Road), but the Board of Supervisors rejected this alternative. The widening of Roblar Road required for the 1.6-mile segment approved under Modified Alternative 2 was recognized to be feasible because the Applicant indicated he could secure the necessary ROW. As such, the Applicant agreed to Condition of Approval/Mitigation Measure 49, which requires the Applicant to obtain additional ROW or easements, as necessary, in order to accomplish the required roadway widening:

49. Prior to the commencement of mining, the Applicant shall obtain easements/right of way (if necessary) and improve Roblar Road (between the on-site project access road and Access Road 2) to meet current County road design standards, including, but not limited to, two 12-foot wide vehicle travel lanes and two six-foot wide [paved] shoulders with traffic index of 10.5, and associated striping/signage to meet Class II bike facilities.

The Applicant was thus well-aware at the time of approval of the project (Modified Alternative 2) that the existing ROW was not sufficient to implement the required design.

It is also important to note that the 2010 Final EIR disclosed that approximately 60 feet of ROW would be needed to accommodate the required 40-foot wide road and associated drainage improvements. Thus, even though there is not a 50-foot roadway easement on Roblar Road, the Applicant was well aware that additional ROW would be needed, not only to reconstruct and widen Roblar Road, but to straighten the "S" curve as proposed and approved in the current use permit that the Applicant proposes to modify. As with the prior approval, the Applicant's proposal still requires acquisitions of additional ROW.

The exact amount cannot be determined until, in the event that amendments are approved, a build-level design is completed and approved by the County.

- C-23 While Condition of Approval 59 requires Roblar Road to be designed for a speed limit of 45 mph, the actual prima facie (unposted) speed limit on Roblar Road is 55 mph. Furthermore, the 2010 Final EIR notes the actual speed at which vehicles were traveling on Roblar Road .65 miles west of Canfield Road, based on a speed study conducted in 2005: the 85th percentile speed was 59.4 mph.² Condition/Mitigation Measure 49 and Condition 59 clearly state the required lane and shoulder width for Roblar Road. Achieving this standard – 12-foot travel lanes and 6-foot paved shoulders – is the basis for the finding that for Mitigated Alternative 2, Impact E.3 would be mitigated to less than significant. This finding supported the resolution to approve Mitigated Alternative 2 (see response to comment C-21).
- C-24 Please see Master Response 1.
- C-25 Please see Master Response 1.
- C-26 The Applicant is correct in that Condition 120 should be deleted because the quarry parcel is no longer under a Land Conservation contract.
- C-27 The commenter notes the Applicant’s current support for a configuration for the portion of Roblar Road that is required to be widened, consisting of 11-foot travel lanes, 4-foot paved shoulders, and 1-foot rocked backing. Mitigation has been required because the original application package submitted to the County and dated July 19, 2016, and a supplemental package dated September 27, 2016 had previously suggested 3-foot paved shoulders.³ Both application submittals also note the possibility of using 12-foot travel lanes and 2-foot paved shoulders (this alternative is referred to in footnote 2 on page 3.4-9 of the Draft SEIR). The supplemental package mentions in passing “3 to 4-foot paved shoulders” (on page 5) for mitigating the bicycle safety impact, but does not actually propose 4-foot shoulders.

² The 85th percentile speed is the speed at or below which 85 percent of the motorists drive on a given road unaffected by slower traffic or poor weather. This speed indicates the speed that most motorists on the road consider safe and reasonable under ideal conditions

³ See July 19 application package, “Proposal Statement, Modified Roblar Road Quarry Project,” dated July 12, 2016, page 8 and Figure 3; and September 27 supplemental application package, “Supplemental Information for Roblar Quarry UPE Application, September 21, 2016,” page 9.

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STEPHEN K. BUTLER

October 26, 2018

VIA EMAIL

Blake.Hillegas@sonoma-county.org

Blake Hillegas, Planning Supervisor
Sonoma County PRMD
2550 Ventura Avenue
Santa Rosa, CA 95403

Re: *Roblar Road Quarry / Draft Supplemental Environmental Impact Report
Comments*

Dear Mr. Hillegas:

Please accept the following letters and emails into the record for the hearing and comment period for the Roblar Supplemental Environmental Report.

Very truly yours,


STEPHEN K. BUTLER

SKB/ed
enclosure

c(w/enc./via email): John Barella
Arthur F. Coon, Attorney at Law
Sean Marciniak
Scott R. Briggs, Ph.D.

1

JOHN AND ANDREA BARELLA

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June 23, 2017

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Petaluma, CA 94952

Ronald E & K Wilson Trust
9420 Valley Ford Road
Petaluma, CA 94952

John and Barbara Shelling Trust
8064 Washington Avenue
Sebastopol, CA 95475

Kenneth A & C Wilson Trust
1570 Tomales Road
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Re: *Roblar Road Quarry/Roblar Road Right of Way Improvements*

Dear Property Owners:

I am writing to you on behalf of myself, and my wife Andrea, in connection with the road widening improvements associated with the approval of the Roblar Road Quarry (the "Quarry"). As all of you are likely aware, my wife and I were applicants for the Roblar Road Quarry which was approved by the Board of Supervisors on December 14, 2010, by way of Resolution No. 10-0903.

In approving the Roblar Road Quarry project, the Board of Supervisors ("Board") recognized that there might be insufficient right of way between the existing fence lines on Roblar Road to complete the road improvements which were otherwise required as a condition of the project. Recognizing this, the Board made a Statement of Overriding Considerations under the California Environmental Quality Act ("CEQA") determining that specific economic, legal, social, technological and other benefits of the project outweighed any unmitigated road or other impacts associated with the Quarry's approval. This Statement of Overriding Considerations sanctioned buildout of the project even if Roblar Road could not, due to right of way constraints, be improved to specifications otherwise designated by the County's Department of Public Works.

Regardless, in the spirit of being good neighbors and in the spirit of fulfilling project conditions to the letter, my wife and I are reaching out to each of you to determine whether you would be willing to sell any of your respective lands abutting Roblar Road for the purpose of improving Roblar Road to the exact specifications imposed by the County's Department of Public Works in connection with the Quarry's approval.

Would you please advise me and Andrea, in writing, whether each or any of you would be willing to sell a small strip of your respective lands abutting Roblar Road which may be necessary to comply with the exact letter of the County Public Works' conditions? We request that you respond within 14 days of the date of this letter or we shall assume that one or more of

Property Owners
June 23, 2017
Page 2

you are unwilling to voluntarily convey, for just compensation, any portion of your right of way to my wife and me for purposes of completing previously identified road improvements.

Should you need additional time to consider this matter, we request that you respond, in writing, within 14 days, indicating that you need additional time and the time needed to consider this offer. My wife and I are willing to pay fair market value for any property acquired from any of you for the purpose of further widening Roblar Road. This widening will benefit both your neighborhood and the community at large. In the event that one or more of you are unwilling to voluntarily part with a portion of your land bordering Roblar Road, three other possibilities will arise.

First, as many of you may be aware, my wife and I have submitted an application for minor modifications to some of the conditions imposed on the Quarry by the Board in 2010. With respect to the conditions relating to the improvement of Roblar Road, my wife and I are now proposing to realign the road and the creek in a southerly direction which would avoid any need to acquire any of your respective properties for purposes of widening Roblar Road. The proposed project modifications relating to Roblar Road not only would avoid the necessity for acquiring a small portion of your respective properties, but, based on communications with all of the resource agencies consulted, will achieve a superior environmental benefit both for the creek and the ongoing use and maintenance of Roblar Road, as well as mitigate Roblar Road impacts to an insignificant level. We hope that you can support our efforts and those of the resource agencies in this regard.

The second possibility is that the Board does not approve the modifications to the realignment of Roblar Road and the creek, in which case, the County may simply rely on its previously adopted Statement of Overriding Considerations and approve buildout of the Quarry, notwithstanding the fact that insufficient right of way may be available to complete, to the letter of the conditions, previously identified Roblar Road improvements.

Third, absent approval of our requested minor modifications to project conditions, the County may determine that since the road widening improvements were imposed upon the Quarry project as mitigation measures under CEQA, the County may have an obligation, pursuant to its adopted Mitigation Monitoring Program, to condemn the requisite portions of your land. This alternative would, of course, involve both you and the County in condemnation litigation in order to complete the Quarry project.

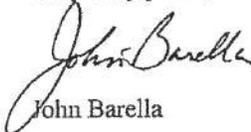
We know that the approval and buildout of the Quarry has been, and continues to be, a long and arduous and, at some times, contentious proceeding, notwithstanding the fact that the Roblar Quarry has been designated as a quarry site by the County since the adoption of its original ARM plan in 1982. While the County has worked hard to satisfy its commitments to transition gravel mining from the Russian River terraces and instream mining of the Russian River and its tributaries in favor of replacing locally needed hard rock through the mining of hard rock quarries, such transition has been subject to past and ongoing delays, as evidenced by the Roblar Quarry approval. We now hope that each of you, as neighbors, can embrace broader community environmental and economic goals and put the ongoing dispute to rest.

Property Owners
June 23, 2017
Page 3

We have been good neighbors in the past and will continue to be so in the future. Currently, suitable road aggregate is being brought in by barge from Canada with associated greenhouse gas, truck and other associated impacts. The ultimate development of the Roblar Road Quarry will reduce all of these impacts and further long range County planning goals which have been in place for 35 years. We hope that each of you can join with us in the spirit of cooperation by putting aside any past differences in the interests of completing this necessary, critical and long overdue project.

Andrea and I thank you very much for your consideration of our request.

Very truly yours,



John Barella



Andrea Barella

c: Shirlee Zane, Chair, Sonoma County Board of Supervisors
David Rabbitt, 2nd District Supervisor, Sonoma County Board of Supervisors
Jennifer Barrett, Deputy Director-Planning, Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Jeffrey Brax, Chief Deputy County Counsel, Office of the Sonoma County Counsel
Arthur F. Coon, Esq.
Stephen K. Butler, Esq.

July 11, 2017

John and Andrea Barella
496 Jasmine Lane
Petaluma, California 94952

Shirley Zane
Sonoma County Board of Supervisors
575 Administration Drive, Room 100A
Santa Rosa, California 95403

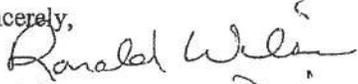
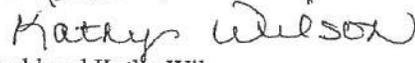
David Rabbitt
Sonoma County Board of Supervisors
575 Administration Drive, Room 100A
Santa Rosa, California 95403

RE: Roblar Road Quarry

Dear Mr. & Mrs. Barella, Supervisor Zane, Supervisor Rabbitt:

This responds to the June 23, 2017 letter of Mr. and Mrs. Barella to us and three other property owners, which was also copied to Ms. Zane and Mr. Rabbitt. First, we note the June 23 letter does not specify the exact location or amount of our land adjoining Roblar Road in which you express interest, nor does it offer any specific price for it. Accordingly, we assume it was written primarily to serve as leverage as part of the Quarry owners negotiations with Sonoma County to avoid their compliance with the permit conditions which are referred to in the letter. We believe the June 23 letter to us and the other property owners, since it lacks these specific terms, is insufficient for this purpose. However, we believe Sonoma County should enforce its previously adopted permit conditions on any future operation of the Quarry project, and we write now to express our hope our officials will do so.

While we opposed the permitting of the Quarry Operation, the Board of Supervisors in 2010 eventually approved the project subject to permit conditions necessary to protect the safety of the Sonoma County residents and their environment. We encourage the current Board of Supervisors to enforce any attempts to weaken or change these conditions. To our mind, the proposed modifications to these permits cannot, as the letter asserts, be "minor", otherwise we would not have been sent the letter of June 23. We request Ms. Zane and Mr. Rabbitt and our County officials to continue to insist on these permit conditions to protect our land, water, and public safety.

Sincerely,


Ronald and Kathy Wilson

- cc: Jennifer Barrett, Deputy Director – Planning, Sonoma County PRMD
- Blake Hillegas, Planning Supervisor, Sonoma County PRMD
- Jeffrey Brax, Chief Deputy County Counsel, Office of the Sonoma County Counsel
- Claudia McKnight
- John & Barbara Shelling Trust
- Kenneth A & C Wilson Trust

see mailed
Butler
Briggs

7 11 17

LAW OFFICES OF
CLEMENT, FITZPATRICK & KENWORTHY
INCORPORATED
3333 MENDOCINO AVENUE, SUITE 200
SANTA ROSA, CALIFORNIA 95403
FAX: 707 546-1360
TELEPHONE: (707) 523-1181

STEPHEN K. BUTLER

June 6, 2018

***VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED***

Claudia McKnight
5000 Canfield Road
Petaluma, CA 94952

Ronald E & K Wilson Trust
9420 Valley Ford Road
Petaluma, CA 94952

John and Barbara Shelling Trust
8064 Washington Avenue
Sebastopol, CA 95475

Kenneth A & C Wilson Trust
1570 Tomales Road
Petaluma, CA 94952

Re: *Roblar Road Quarry/Roblar Road Right of Way Improvements/Offer to Purchase
Land for Right of Way*

Dear Property Owners:

We are writing to you on behalf of John and Andrea Barella, in connection with the road widening improvements associated with the approval of the Roblar Road Quarry (the "Quarry"). As all of you are aware, John and Andrea were applicants for the Roblar Road Quarry which was approved by the Board of Supervisors on December 14, 2010, by way of Resolution No. 10-0903.

In approving the Roblar Road Quarry project, the Board of Supervisors ("Board") recognized that there might be insufficient right of way between the existing fence lines on Roblar Road to complete the road improvements to Roblar Road which were otherwise required as a condition of the project. Recognizing this, the Board made a Statement of Overriding Considerations under the California Environmental Quality Act ("CEQA") determining that specific economic, legal, social, technological and other benefits of the project outweighed any unmitigated road or other impacts associated with the Quarry's approval. This Statement of Overriding Considerations sanctioned buildout of the project even if Roblar Road could not, due to right of way constraints, be improved to specifications otherwise designated by the County's Department of Public Works.

Regardless, in the spirit of being good neighbors and in the spirit of fulfilling project conditions to the letter, John and Andrea reached out to each of you by way of correspondence dated June 23, 2017, to determine whether each of you would be willing to sell any of your respective lands abutting Roblar Road for the purpose of improving Roblar Road to the exact

Roblar Road Property Owners
 June 6, 2018
 Page 2

specifications imposed by the County's Department of Public Works in connection with the Quarry's approval. Such offer was, at that time, responded to by way of deafening silence other than Ronald and Kathy Wilson's letter of July 11, 2017, which rejected the offer. The purpose of this letter is to reiterate the Barellas' offer and to provide greater detail regarding such offer.

Would you please advise us, in writing, whether each or any of you would be willing to sell a small strip of your respective lands abutting Roblar Road which may be necessary to comply with the exact letter of the County Public Works' conditions? We request that you respond within 14 days of the date of this letter or we shall assume that one or more of you are unwilling to voluntarily convey, for just compensation, any portion of your right of way to the Barellas for purposes of improving Roblar Road to previously identified County Road Standards.

The terms of the Barellas' offer follows as to each of you:

<i>Name</i>	<i>APN</i>	<i>Area to be Purchased*</i>	<i>Dollar Amount**</i>
Claudia McKnight	027-080-004	.28 x 8,000 sq. ft.	\$ 2,240.00
	027-210-007	.28 x 32,000 sq. ft.	\$ 8,960.00
			Total \$11,200.00
John and Barbara Shelling Trust	027-080-005	.28 x 15,000 sq. ft.	Total \$4,200.00
Ronald E & K Wilson Trust	027-210-005	.28 x 29,700 sq. ft.	\$ 8,316.00
	022-300-010	.28 x 55,000 sq. ft.	\$15,400.00
			Total \$23,716.00
Kenneth A & C Wilson Trust	022-290-008	.28 x 63,800 sq. ft.	\$17,864.00
	022-290-007	.28 x 20,900 sq. ft.	\$ 5,852.00
			Total \$23,716.00

*One acre is equal to 43,560 square feet

**\$12,000 per acre or .28 square feet

The foregoing offer was based on recent independent appraisal information which identified property values in your area between \$4,800 and \$11,200 per acre. The independent appraisal, not commissioned by the Barellas, was based on eight comparables with a median value of \$7,800 per acre. The offer made here is more than the highest end of the range. Please note that the only contingency in this offer is that the project only requires the acquisition of either the lands of the Ronald E & K Wilson Trust or the lands of the Kenneth A & C Wilson Trust, not both. Accordingly, if either the Ronald E & K Wilson Trust or the Kenneth A & C Wilson Trust accepts the Barellas' offer as set forth herein, then the offer to the other shall be considered immediately withdrawn.

Should you need additional time to consider this matter, we request that you respond, in writing, within 14 days, indicating that you need additional time and the time needed to consider this offer. The Barellas have offered to pay fair market value for any property acquired from any of you for the purpose of further widening Roblar Road. This widening is intended to benefit

Roblar Road Property Owners
June 6, 2018
Page 3

both your neighborhood and the community at large. In the event that one or more of you are unwilling to voluntarily part with a portion of your land bordering Roblar Road, three options remain.

First, as all of you are aware, the Barellas have submitted an application for minor modifications to some of the conditions imposed on the Quarry by the Board in 2010. With respect to the conditions relating to the improvement of Roblar Road, the Barellas are now proposing to realign the road and the creek in a southerly direction which would avoid any need to acquire any of your respective properties for purposes of widening Roblar Road. The proposed project modifications relating to Roblar Road not only would avoid the necessity for acquiring a small portion of your respective properties, but, based on communications with all of the resource agencies consulted, will achieve a superior environmental benefit both for the creek and the ongoing use and maintenance of Roblar Road, as well as mitigate Roblar Road traffic/bicycle safety impacts to an insignificant level. We continue to hope that you can support the Barellas' efforts and those of the resource agencies in this regard. Alternatively, should you continue to oppose a modified Quarry project and disregard its environmental benefits and file suit to litigate any modified Quarry project, the Barellas intend to build out the Quarry in accordance with the 2010 Board approvals.

The second option is that the Board does not approve the modifications to the realignment of Roblar Road and the creek, in which case, the County may simply rely on its previously adopted Statement of Overriding Considerations and the Barellas will continue buildout of the Quarry, notwithstanding the fact that insufficient right of way may be available to complete, to the letter of the current conditions, previously identified Roblar Road improvements.

The third option, absent approval of the Barellas' requested minor modifications to project conditions, is that the County may determine that since the road widening improvements were imposed upon the Quarry project as mitigation measures under CEQA, the County may have an obligation, pursuant to its adopted Mitigation Monitoring Program, to condemn the requisite portions of your land. This alternative would, of course, involve both you and the County in condemnation litigation in order to obtain the land which the Barellas have offered to buy as set forth above.

We know that the approval and buildout of the Quarry has been, and continues to be, a long and arduous and, at some times, contentious proceeding, notwithstanding the fact that the Roblar Quarry has been designated as a quarry site by the County since the adoption of its original ARM plan in 1982. While the County has worked hard to satisfy its commitments to transition County gravel production from the Russian River terraces and instream mining of the Russian River and its tributaries in favor of replacing locally needed hard rock through the mining of hard rock quarries, such transition has been subject to past and ongoing delays, as evidenced by the Roblar Quarry approval and your past, and apparently ongoing, opposition. We continue to hope that each of you, as neighbors, can embrace broader community environmental, fire recovery and economic goals and put the ongoing dispute to rest.

The October 2017 fires created tragic havoc upon Sonoma County and resulted in the damage or destruction of thousands of residential and commercial structures. The rebuilding of

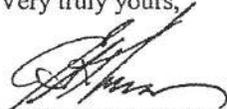
Roblar Road Property Owners
June 6, 2018
Page 4

our community requires not only overburden for soil remediation resulting from the fires, but also construction grade aggregate to rebuild our stricken community. You now have another opportunity to partner with the broader community and further both State and County goals to have a State required local supply of aggregate or choose to oppose these benefits in favor of a perceived defense of your insular enclave to the detriment of both the Barellas and the community at large.

The Barellas have been good neighbors and community supporters in the past and will continue to be so in the future. Currently, suitable road aggregate is being brought in by barge from Canada with associated greenhouse gas, truck and other impacts. The ultimate development of the Roblar Road Quarry will reduce all of these impacts and further long range County planning goals which have been in place for 35 years. We hope that each of you can join with us in the spirit of cooperation by putting aside any past differences in the interests of completing this necessary, critical and long overdue project.

We and the Barellas thank you very much for your consideration of the offers set forth herein.

Very truly yours,



STEPHEN K. BUTLER

SKB/pd

c: James Gore, Chair, Sonoma County Board of Supervisors
David Rabbitt, 2nd District Supervisor, Sonoma County Board of Supervisors
Shirlee Zane, 3rd District Supervisor, Sonoma County Board of Supervisors
Susan Gorin, 1st District Supervisor, Sonoma County Board of Supervisors
Lynda Hopkins, 5th District Supervisor, Sonoma County Board of Supervisors
Jennifer Barrett, Deputy Director-Planning, Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Verne Ball, Deputy County Counsel, Office of the Sonoma County Counsel
Arthur F. Coon, Esq.
John and Andrea Barella

Via Certified, Return Rec.
RECEIVED

JUN 22 2018

**CLEMENT, FITZPATRICK &
KENWORTHY**

June 19, 2018

Steven Butler
Clement Fitzpatrick and Kenworthy
3333 Mendocino Ave., Suite 200
Santa Rosa, CA 95403

Ms. Shirley Zane
Shirlee.Zane@sonoma-county.org

Mr. David Rabbitt
David.Rabbitt@sonoma-county.org

Mr. James Gore
James.Gore@sonoma-county.org

Ms. Susan Gorin
Susan.Gorin@sonoma-county.org

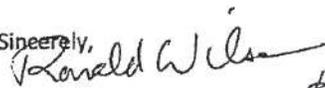
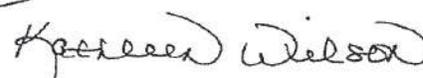
Ms. Lynda Hopkins
Lynda.Hopkins@sonoma-county.org

Mr. Butler and Supervisors:

This responds to your June 6, 2018 inquiry on behalf of Mr. and Mrs. Barella to us and three other property owners, which was also copied to Ms. Zane, Mr. Rabbitt, Mr. Gore, Ms. Gorin and Ms. Hopkins.

Like the earlier, June 23, 2017 letter of the Barella's to us on the same subject, we assume it was written primarily to serve as leverage as part of the Quarry owners' negotiations with the County of Sonoma to avoid compliance with existing or possible future permit conditions for the Quarry. To our mind, the proposed modifications sought by the Quarry owners (which are referred to but not described in your letter) to the existing permit are not, as you represent, "minor". We expect and understand that they will and should require review under the California Environmental Quality Act and further consideration by the Sonoma County Board of Supervisors. After this impartial review and consideration has taken place, we expect to be in an informed position to consider your inquiry.

Sincerely,

Ronald and Kathleen Wilson

cc: Jennifer Barrett, Deputy Director - Planning , Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Verne Ball, Deputy County Counsel, Office of the Sonoma County Counsel

John Barella

From: John Schelling <johnschelling@hotmail.com>
Sent: Wednesday, June 13, 2018 4:27 PM
To: j2barella@gmail.com
Subject: Re: Roblar Road Quarry - Offer To Purchase Land

Hi John,

Thank you for your offer. We are not interested in selling any of our portion of the Steinbeck Ranch at this time.

Regards,
John

John Schelling, Jr.
John And Barbara Schelling Trust
johnschelling@hotmail.com
707-326-4313

Letter D. Stephen K. Butler, Clement, Fitzpatrick & Kenworthy (Attorney Representing the Applicant)

- D-1 This comment letter contains correspondence between the Applicant and the Applicant's attorneys, and neighbors of the Quarry project site who own property along Roblar Road. The correspondence details offers made by the Applicant to purchase portions of the neighbors' properties to be dedicated to right-of-way for the purpose of widening and upgrading Roblar Road, and speculation regarding potential future courses of action should these offers be refused. The Applicant informed the County in communications subsequent to the completion of the application of his unsuccessful efforts to obtain land for right-of-way. This comment does not directly address the Draft SEIR and requires no substantive response.



**MILLER STARR
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Walnut Creek, CA 94596

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F 925 933 4126
www.mslegal.com

Arthur F. Coon
Direct Dial: 925 941 3233
arthur.coon@msrlegal.com

October 29, 2018

Blake Hillegas
Sonoma County Permit Center
2550 Ventura Avenue
Santa Rosa, CA 95403

Re: Applicant Barella’s Comments on Treatment of Issues Concerning
Infeasibility of Original Mitigation Measures In September 2018 Draft
Supplemental Environmental Impact Report, Roblar Road Quarry (“2018
DSEIR” or “DSEIR”)

Dear Mr. Hillegas:

This office represents John Barella and Barella Family, LLC (“Applicant” or “Barella”) in connection with the Applicant’s proposed modifications to the approved Roblar Road Quarry Project which are the subject of the above-referenced 2018 DSEIR. As you know, in 2016 Barella filed an application seeking modifications to certain conditions of approval (“COAs”) originally imposed as mitigation measures by the County of Sonoma, in connection with its Board of Supervisors’ approval of the Quarry Project Use Permit in December 2010. Barella sought the minor modifications of the Use Permit COAs now proposed because the original mitigation measures are infeasible, impractical, unworkable, and/or unnecessary to mitigate the Quarry Project’s potentially significant environmental impacts to a level of insignificance. Barella appreciates this opportunity to further address these issues in this comment letter on the DSEIR.

The 2018 DSEIR, in various portions of its discussion of Barella’s modification request, recognizes and touches on the issue of the “infeasibility” of the prior mitigation measures Barella seeks to modify, and related issues. (E.g., 2018 DSEIR at pp. 1-2 [“The Applicant indicates that the County’s preliminary design for improvements at th[e] [Stony Point/Roblar Road] intersection would impact drainage features outside the paved and/or landscaped areas, and affect biological habitat”]; 1-3 [“Applicant indicates that given the limited width of the existing prescriptive right of way; the proximity of Americano Creek to Roblar Road, other proximal wetlands and/or linear drainage features to Roblar Road; and other factors, that the required road [widening] improvements on Roblar Road are impractical, unnecessary and infeasible.”]; 2-11 – 2-12 [stating proposed changes to COAs 49 and 59 are “based on [Applicant’s] contention that these conditions are impracticable, infeasible, and unnecessary” and attributing to Applicant “state[ments] that the Roblar Road



Blake Hillegas
October 29, 2018
Page 2

prescriptive right-of-way (ROW) is not wide enough to accommodate the specified road width, that it is unable to obtain sufficient land to expand the required ROW, and that the proximity of Americano Creek and other wetlands along the road constrains road widening.”]; 2-22 [“Applicant states that this Condition [101] is infeasible because the required widening of Roblar Road would necessarily encroach not only within 50 feet of Americano Creek, but into the Americano Creek channel itself, due to the inability to obtain right of way on the opposite side of the road [in specified area].”]; 2-26 [explaining Applicant’s request to modify COA 133 for feasibility reasons as necessary work within and adjacent to existing Americano Creek channel would come within 100-foot setback].)

Despite these references to the issue of the infeasibility of prior mitigation measures, the DSEIR, in its text addressing the applicable regulatory framework, does not discuss relevant legal and regulatory standards addressing or governing an applicant’s request to delete or modify previously adopted mitigation measures on the basis that such measures are infeasible, impracticable and/or unnecessary. Among other things, this comment letter aims to provide an accurate legal/regulatory framework and setting to address that omission.

More specifically, the purposes of this comment letter are: (1) to set forth the relevant regulatory/legal framework that is currently omitted from the DSEIR for County’s consideration; (2) to set forth and discuss the substance of relevant previously adopted mitigation measures, including (but not limited to) measures that remain applicable and which Barella does not seek to modify; (3) to support the conclusions that Barella’s requested modifications are relatively minor, will not result in new or more severe significant impacts not previously analyzed and will, in fact, lessen the environmental impacts that would occur from implementing the previously adopted measures Barella seeks to modify; and (4) to cite to substantial record evidence showing that the previously adopted mitigation measures/COAs that Barella seeks to modify are infeasible, impracticable, unworkable and/or unnecessary, and that legitimate reasons supported by substantial evidence thus exist fully supporting the County’s ability to grant the requested modifications.

I. Relevant Authorities Governing Deletion Or Modification Of Previously Adopted CEQA Mitigation Measures

A. The Relevant Legal/Regulatory Framework: Substantive Rules For Deleting Or Changing Mitigation Measures

“After a project has been approved and while it is still being developed a mitigation measure or condition of approval may be changed or deleted if the measure has been found to be impractical or unworkable.” (*Lincoln Place Tenants Assn. v. City of Los Angeles* (2005) 130 Cal.App.4th 1491, 1508-1509, emph. added [rejecting argument that conditions of approval for redevelopment of property that were designed to mitigate impacts of demolishing historic buildings did not apply at all when separate demolition permit was obtained]; see also *id.* at 1509 [also citing



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cont.

2

Blake Hillegas
 October 29, 2018
 Page 3

and quoting *Napa Citizens* case (discussed below) regarding rules for deleting mitigation measures and stating: “Clearly, these rules should apply to all projects which come within CEQA not just land use plans.”].)

The *Napa Citizens* case discussed in *Lincoln Place Tenants* is the seminal decision regarding the permissibility of altering previously adopted CEQA mitigation measures for an approved project. In that case, the Court reasoned: “The claim that once a mitigation measure is adopted it can never be deleted is inconsistent with the legislative recognition of the need to modify land use plans as circumstances change. It is also true that mistakes can be made and must be rectified, and that the vision of a region’s citizens or its governing body may evolve over time. In light of all these considerations, we conclude that there are times when mitigation measures, once adopted, can be deleted.” (*Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 358, emph. added.)

The Court proceeded to explain the circumstances under which CEQA mitigation measures could permissibly be *entirely* deleted: “In short, we find nothing in established law or in logic to support the conclusion that a mitigation measure, once adopted, never can be deleted. Nonetheless, when an earlier adopted mitigation measure has been deleted, the deference provided to governing bodies with respect to land use planning decisions must be tempered by the presumption that the governing body adopted the mitigation measure in the first place only after due investigation and consideration. We therefore hold that a governing body must state a legitimate reason for deleting an earlier adopted mitigation measure, and must support that statement of reason with substantial evidence. If no legitimate reason for the deletion has been stated, or if the evidence does not support the governing body’s finding, the land use plan, as modified by the deletion or deletions, is invalid and cannot be enforced.” (*Id.* at 359, emph. added.)

In elaborating on its teaching, the *Napa Citizens* court stated: “The modified EIR also must address the decision to delete a mitigation measure. In other words, the measure cannot be deleted without a showing that it is infeasible. In addition, the deletion of an earlier adopted mitigation measure should be considered in reviewing any conclusion that the benefits of a project outweigh its unmitigated impact on the environment.” (*Id.* at 359, emph. added.)¹

While *Napa Citizens* involved deletion of a land use plan’s mitigation measure calling for extensive traffic infrastructure improvements, and Barella seeks only relatively minor modifications of certain infeasible COAs, *Napa Citizens*’ facts

¹ As noted above, while *Napa Citizens* involved mitigation measures incorporated into a land use plan, the *Lincoln Place Tenants* court opined that its rules governing deletion or modification of adopted mitigation measures “clearly” should apply to all types of projects that are subject to CEQA. (*Lincoln Place Tenants Assn., supra*, 170 Cal.App.4th at 1509.)

2
 cont.

Blake Hillegas
October 29, 2018
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are nonetheless instructive here. In that case, in the course of a Plan Update, the County of Napa deleted from its 1986 Airport Industrial Area Specific Plan traffic mitigation measures that it had essentially determined were “infeasible” and “ill-advised” for a number of reasons. (*Napa Citizens for Honest Government, supra*, 91 Cal.App.4th at 359.) The County’s findings supporting the deletion, which were ultimately upheld by the Court of Appeal as stating legitimate, evidence-supported reasons, included: (1) project-related traffic was but a minor contributing factor to the regional cumulative traffic impacts intended to be addressed by the transportation measures; (2) County lacked funding to implement the 1986 measures; and (3) County had little control over improvements to state highways, which fall under Caltrans’ jurisdiction. (*Id.*) “These were legitimate reasons for deleting the measures, and were supported by substantial evidence.” (*Id.* at 359-360.)

Among the specific reasons the measures were found *infeasible* by the County in *Napa Citizens* included lack of available funding for construction, the *need for extensive right-of-way takings from adjacent properties* to enable construction (see also *id.* at 363-364 [only \$2 million available to build what amounted to \$70 million worth of roadway improvements]), and *legal “rough proportionality” limits on mitigation measures* (see CEQA Guidelines, § 15126.4(a)(4)(B)) that precluded recovery of the bulk of the expense of the mitigation measures from project developers within the Specific Plan area. (*Ibid.*) These facts – found in *Napa Citizens* to constitute “legitimate” reasons for deleting mitigation measures *entirely* – are similar to many of the facts presented by Barella’s more modest proposal here to *modify* certain of the Roblar Road Quarry Project’s mitigation measures. It is beyond cavil that: (1) an EIR should focus on mitigation measures that are feasible, practical, and effective (*Napa Citizens, supra*, 91 Cal.App.4th at 365); and (2) mitigation measures must be consistent with all applicable constitutional requirements, including that there must be an essential nexus between the mitigation measure and a legitimate governmental interest, and the mitigation measure must be roughly proportional to the impacts of the project. (CEQA Guidelines, § 15126.4(a)(4); *Nollan v. California Coastal commission* (1987) 483 U.S. 825, 837; *Dolan v. City of Tigard* (1994) 512 U.S. 374, 390.)

B. Procedural Vehicle Under CEQA For Deleting Or Modifying Mitigation Measures

Per the *Lincoln Place Tenants* court: “The court in *Napa Citizens* ... did not elaborate on the procedure a public agency should follow in deciding whether a previously adopted mitigation measure is no longer feasible. However, because an initial determination a mitigation measure is infeasible must be included in the EIR and supported by substantial evidence it is logical to require a later determination a mitigation measure is infeasible be included in a supplemental EIR and supported by substantial evidence.” (130 Cal.App.4th at 1509, *emph. added, fns. omitted [dicta].*)



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Notwithstanding the dicta in *Lincoln Place Tenants* opining that it is “logical” that a “supplemental EIR” should be required if mitigation measures are later deleted, another division of the same Court of Appeal (Second Appellate District) in a subsequent case upheld use of an Addendum for that purpose where the deleted measures were “no longer necessary” and where “no new or more severe impacts are caused by the deletions or changes to the mitigation measures.” In *Mani Brothers Real Estate Group v. City of Los Angeles* (2007) 153 Cal.App.4th 1385, the Court upheld those portions of an Addendum to an EIR for a large downtown development project that deleted or revised certain mitigation measures, and held that a subsequent EIR was not required: “Nor does the City’s decision to delete or revise certain mitigation measures warrant an SEIR. Mitigation measures adopted when a project is approved may be changed or deleted if the agency states a legitimate reason for making the changes and the reason is supported by substantial evidence. [Citing *Napa Citizens*.] Here, substantial evidence supports deleting the measures because they are no longer necessary. [¶] ... [¶] Thus, substantial evidence in the record supports the reasons for the changes in the Modified Project’s mitigation measures, and no new or more severe impacts are caused by the deletions or changes to the mitigation measures. Hence, no SEIR was required.” (*Id.* at 1403, *emph. added*; *see also Katzeff v. Department of Forestry & Fire Protection* (2010) 181 Cal.App.4th 601, 613-614 [citing *Mani Brothers* for proposition “no need for supplemental EIR rather than addendum to EIR where substantial evidence supported city’s conclusion mitigation measures no longer necessary”].)

Here, while legally *unnecessary* under these relevant case law authorities (under which the County could have proceeded by way of an Addendum), the County has nonetheless conservatively chosen to prepare a more robust CEQA document – a Draft Supplemental EIR – to address the relatively minor modifications Barella has proposed to certain Use Permit COAs. Here, substantial evidence in the record shows that: (1) the original mitigation measures Barella proposes to modify are infeasible, impractical or unworkable, and unnecessary to mitigate his Quarry Project’s impacts to a less-than-significant level; and (2) no new or more substantially severe impacts will be caused by the modifications,² which will in fact lessen the secondary environmental impacts that would be caused by the previously approved infeasible measures.

C. CEQA’s Definition Of “Feasibility”

CEQA also contains statutory and regulatory definitions of “feasibility,” which have been interpreted and applied by the case law, and which inform and govern the relevant analysis here. A lead agency may permissibly find mitigation measures

² The DSEIR indicates in its analysis of mitigation measure 3.4-4 that certain impacts would be significant and unavoidable; as explained below in this letter, substantial evidence supports the determination that modifications to the DSEIR’s mitigations measures will result in less-than-significant impacts.

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to be infeasible for *numerous* reasons – i.e., it may do so when “[s]pecific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.” (Pub. Resources Code, § 21081(a)(3); see *id.* at § 21002 [legislative finding and declaration “that in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”]; § 21061.1 [“Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.”].)

Determining the feasibility of mitigation measures or alternatives for CEQA purposes “involves a balancing of various ‘economic, environmental, social, and technological factors[]’” and “[i]n this sense ... encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors.” (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001, citing and quoting *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401, 417; see also *Los Angeles Conservancy v. City of West Hollywood* (2017) 18 Cal.App.5th 1031, 1041 [same, collecting cases, and also noting that “agency’s finding of infeasibility for this purpose is “entitled to great deference” and “presumed correct.””].) A finding of infeasibility may thus be based on an evidence-supported finding that a proposed mitigation measure or alternative “is impractical or undesirable from a policy standpoint.” (*Los Angeles Conservancy, supra*, 18 Cal.App.5th at 1041, citing and quoting *California Native Plant Society, supra*, 177 Cal.App.4th at 1001.) Such determinations are particularly appropriate where, as here, an infeasible measure, as written, would have more severe adverse secondary environmental impacts and/or hinder accomplishment of an approved project that itself greatly advances important economic, environmental and social interests.

II. Application Of The Legal/Regulatory Framework To The Relevant Previously Adopted Mitigation Measures And Barella’s Modification Requests

A. The 2010 FEIR’s Mitigation Measures

1. The Original FEIR And Court Of Appeal Opinion Upholding It

Any understanding of the relevant legal and regulatory background, and how it applies in the current scenario, would be incomplete without an understanding of the relevant existing mitigation measures/COAs – both those that Barella seeks to modify and those that will remain unmodified. Preliminarily, it should be noted that the County’s 2010 FEIR, as well as its mitigation measures related to off-site road widening and intersection improvements, were discussed and unanimously upheld



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against legal challenge by the Quarry Project's opponents in the unpublished First District Court of Appeal opinion filed May 13, 2014 in *Citizens Advocating For Roblar Rural Quality v. County of Sonoma, et al. (John Barella, et al., Real Parties in Interest)*, First App. Dist. Div. 5, Case No. A136877 ("CA Opn.") The Court of Appeal's opinion, at pages 16 through 23, described in some detail the EIR's analysis of the Roblar Road Quarry Project's relevant mitigation measures, as well as those measures' own secondary environmental impacts (which, it bears noting, would be lessened by Barella's currently proposed modifications).

Accordingly, as relevant and essential background, key findings and holdings from the Opinion's relevant portions include:

- "The secondary [environmental] impacts resulting from implementation of offsite transportation mitigation measures were analyzed separately. The draft EIR recognized that the required offsite improvements would mitigate Quarry Project impacts, and provide a beneficial effect on the movement of large vehicles, cars and bicyclists on haul routes, but that construction and implementation of these offsite transportation improvements would also result in their own potentially significant temporary and long-term environmental impacts on land use and agricultural resources, geology and soils, hydrology and water quality, hazardous materials, biological resources, transportation and circulation, air quality, noise, aesthetics and cultural resources. It discussed the 'likely range of potential environmental impacts,' but noted that '[a] detailed analysis of the specific off-site impacts cannot be completed until and if design work was undertaken that would provide information on the specific alignment and structural improvements that may be required along Roblar ... Road[] to accommodate the proposed widening. If the proposed roadway improvements were pursued, subsequent detailed environmental analysis and County approval would be required.'" (CA Opn., at p. 17.)³
- In December 2010, County ultimately approved a "hybrid" version of the originally proposed Quarry Project and Alternative 2 (the "environmentally superior alternative") studied in the EIR. The Court noted that Alternative 2 "was considered by the Sonoma County Permit and Resource

³ Through Barella's application for the modified mitigation measures which is the subject of the DSEIR, and related materials, he has provided and facilitated the required "subsequent detailed environmental analysis" that is embodied in the DSEIR, and related evidence, and seeks from County the requisite approval.

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Management Department to be the “environmentally superior alternative” due to reduced secondary impacts associated with the improvements to Roblar Road (and other access roads) otherwise required as project mitigation.” (CA Opn., at pp. 17-18.)

- As opposed to the originally proposed Project’s mitigation requirement to improve “Roblar Road along its [entire] approximate six and one-half mile length” (CA Opn. at p. 16), “[t]he Modified Alternative 2 resulted in a requirement that a total approximate 1.6-mile segment of Roblar Road be improved to current County road design standards – an additional 0.6 miles over what would be required in proposed Alternative 2, but significantly less than required under the original proposal addressed in the draft EIR and its recirculated portions. County staff review found that Modified Alternative 2 would not result in any new significant or substantially more severe environmental impacts than already analyzed in the draft EIR and its recirculated portions, and that no additional environmental review was required. Barella also submitted evidence from his engineers that the roadway improvements under Modified Alternative 2 could be constructed within the boundaries of” a presumed existing 50-foot right of way.” (CA Opn., at p. 18.)⁴
- County’s Board found “Modified Alternative 2 would not result in any new construction impacts associated with

⁴ As the County is aware, the FEIR’s road-widening mitigation measure was ultimately adopted and embodied in COA 59, which called for a 36-foot paved road (with two 12-foot travel lanes, two 6-foot wide shoulders) and two-foot wide shoulder backing at edge of pavement. (12/14/10 Board COAs and MMP, p. 13.) Barella’s engineer in 2010 did not purport to measure, survey or provide his own analysis, evidence or opinion as to the actual width of the County’s existing prescriptive right-of-way along Roblar Road. Rather, in reliance on the *information provided in the EIR and obtained from another County source* that the existing right-of-way was between 50 and 60 feet, he opined that the extent of roadway widening improvements required by the original mitigation measure could (as a technical engineering matter) be constructed within the space of the (then presumed) 50-foot right-of-way. (See AR 20:10158 [10/19/10 letter from Carlenzoli, BKF Engineers, stating that with use of “standard AC dikes in lieu of roadside ditches” and collecting water into a storm drain system that would discharge at existing cross culverts, “cut and fill slopes would not extend beyond the 50’ right of way”].) As pointed out in separate correspondence from Barella, statements in the DSEIR or public record contrary to these facts are inaccurate and should be corrected.

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offsite transportation improvements that were not already evaluated in the EIR (section V; impact E.8) and ... the offsite improvements required for Modified Alternative 2 would be substantially less than the originally proposed project. In approving the hybrid haul route, the County found that it would avoid potentially significant land use and agricultural resource impacts associated with the implementation of offsite mitigation transportation improvements, and that any associated environmental impacts, including any impacts to jurisdictional waters, wetlands and riparian habitat, would be mitigated to less than significant levels with the required conditions of approval.” (CA Opn., at p. 18.)

- The Court of Appeal held: “The secondary environmental impacts of the offsite mitigation measures, including widening of access roadways, were catalogued and discussed in significant detail [in the EIR]. Among potential impacts noted were vegetation removal, shallow excavation and grading along the alignment of the road widening improvements, increased creek sedimentation during construction and the possibility of accidental release of contaminants (e.g., fuels and lubricants) during construction, and temporary and/or permanent disturbance of seasonal wetlands and jurisdictional waters in the vicinity of Americano Creek. Mitigation Measures E.8a-E.8p and E.9 were specifically proposed to address these secondary impacts.” (CA Opn., at pp. 19-20.)
- In rejecting CARRQ’s argument “that the Final EIR contained no evidence of either the extent or nature of the impacts of the roadway widening on Americano Creek or the efficacy of the mitigation measures,” the Court stated: “Exhibit A to the Board of Supervisor’s [sic] resolution certifying the Final EIR included discussion of the secondary impacts resulting from implementing offsite transportation improvements and the related mitigation measures described in Section IV.E (“Transportation and Traffic”) of the draft EIR. With respect to Americano Creek, the draft EIR discussed potentially significant secondary hydrology and water quality issues arising from implementation of offsite transportation improvements, including increases in sedimentation, the potential need for new or modified storm drains or culverts where roadway crossings occurred, or potential accidental release of construction-related hazardous materials to soil and/or storm water. While



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noting that analysis of specific offsite impacts could not be completed until design work for the exact alignment and structural improvements of the proposed widening was undertaken, and that subsequent detailed environmental analysis and County approval would be required, the draft EIR assessed the likely range of anticipated environmental impacts, and preliminary mitigation measures to reduce those potential environmental impacts. Vegetation removal, shallow excavation and grading along the new roadway alignment were identified as likely impacts. Mitigation Measure E.8b, reflecting “current engineering practice and the accepted standard of care to mitigate potential impacts from unique geological conditions along the roadway alignments” required that grading and construction specifications for the roadway widening “implement best management practices ... to reduce or eliminate soil erosion during construction” and incorporation of such measures into a storm water pollution prevention plan for the proposed roadway widening (required as Mitigation Measure E.8c). (CA Opn., at pp. 20-21, fn. omitted.)

- “Mitigation Measure E.8b required a “design level geotechnical investigation ... to identify site specific geologic conditions and geotechnical constraints and develop adequate engineering design criteria and remedies to reduce the potential for slope instability from cutting and filling of adjacent slopes along the roadway alignments.” The draft EIR considered secondary impacts on biological resources and found that mitigation measures identified to mitigate potential impacts to biological resources from the proposed Quarry Project (including jurisdictional waters and wetlands impacts), would also be relevant and applicable for mitigating impacts associated with the roadway widening improvements. Mitigation Measure E.8e required Barella to conduct a formal wetland delineation in accordance with the 1987 Corps of Engineers Wetlands Delineation in Manual and have it verified by the U.S. Army Corps of Engineers. Wetlands permits and compliance with the Clean Water Act were required if the Corps of Engineers determined that any jurisdictional waters were impacted. Barella was further required to compensate for the loss of any jurisdictional wetlands.” (CA Opn., at p. 21.)⁵

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⁵ It is worth noting that another adopted Condition of Approval provides in pertinent part: “Avoid all potential jurisdictional wetlands and riparian habitat located along

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- Finally, the Court of Appeal rejected project opponent CARRQ’s contention “that [the EIR’s] recognition that further detailed analysis would be required under specific roadway improvement plans and designs constitutes improper deferral of mitigation.” (CA Opn. at p. 22.) After reciting the applicable law, and upholding the EIR’s mitigation as not being impermissibly deferred, the Court held as follows: “We find the [EIR’s] identification and discussion of potential secondary environmental impacts to be sufficient ... and we find substantial evidence in the record to support the conclusion reached by the County that any such impacts could be mitigated to less than significant levels.” (CA Opn., at p. 23.)

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2. **The DSEIR’s Updated Environmental Analysis Shows Barella’s Proposed Modified Mitigation Measures Would Not Have New Significant Or More Severe Environmental Impacts Than Those Previously Analyzed In The FEIR, And Would Actually Reduce Environmental Impacts**

The further “detailed environmental analysis” of the specific secondary impacts of the road widening improvements contemplated by the FEIR is now possible, and has been undertaken in connection with satisfying the original COAs and in the DSEIR analyzing Barella’s modification requests. For example, more detailed evaluation has now been undertaken that provides the further “site specific” information contemplated on the impacts of the specific Roblar Road alignment and structural improvements that would be required to implement Mitigation Measures MM E.3a and MM E.4a (i.e., COA 59 requiring Roblar Road to be widened to create two 12-foot travel lanes and two 6-foot wide paved bicycle lanes). The secondary environmental impacts of the original mitigation measures now shown to be infeasible have been further quantified, and can be (and have been) compared to the impacts of the modified off-site transportation improvements now being proposed by the DSEIR and Barella, i.e., a 32-foot paved road (with 11-foot travel lanes and 4-foot paved shoulders) with one-foot wide shoulder backing at edge of pavement. More specifically, the DSEIR has now compared the secondary environmental impacts of the adopted Modified Alternative 2 and its relevant Stony Point/Roblar Road intersection and Roblar Road widening mitigation measures (both as they are currently required to be implemented and as previously analyzed in the EIR), with the secondary impacts of Barella’s proposed modified measures, and its analysis has determined that the modified Project would not have any new or substantially more severe impacts than the Project as previously approved. To the contrary, it will have a lesser impervious footprint and lesser environmental impacts in virtually all areas. (SDEIR, *passim*.)

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the roadway alignments, as feasible.” (COA 75.) Barella’s requested modifications would implement COA 75.

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The modified mitigation measures sought by Barella would not have new impacts not previously discussed in the original EIR. As noted by the Court of Appeal, and confirmed by a review of the EIR itself, the original DEIR contained a significantly detailed discussion providing “an assessment of the likely range of potential environmental impacts that would be anticipated with the identified roadway widening improvements, and preliminary mitigation measures to reduce environmental impacts.” (DEIR at IV.E-41.) The analysis appeared most prominently in the 9-page subsection at the end of the 50-page Transportation and Traffic chapter entitled “Secondary Impacts Resulting From Implementing Off-Site Transportation Mitigation Measures,” although additional relevant details appeared elsewhere in the EIR. The 9-page discussion identified, disclosed and analyzed potential impacts in nine distinct areas: Land Use and Agricultural Resources, Geology and Soils, Hydrology and Water Quality/Hazardous Materials, Biological Resources, Transportation and Circulation, Air Quality/Noise, Aesthetics, and Cultural Resources. (AR2:501-510.)

The Original EIR analyzed both the nature and extent of potential roadway-widening impacts in all these areas, and specifically contemplated that Americano Creek could be directly impacted through required realignment and culverting. The original EIR’s water quality discussion stated that “stripping of vegetation and disturbance of soils along the roadway alignment [during construction] could result in sedimentation that would affect surface water quality in local watercourses” and that accidental releases of hazardous materials during construction could also affect watercourses along the roadway alignments. (AA2:503.) “Americano Creek crosses Roblar Road three times, and follows closely and roughly parallel to Roblar Road for several hundred feet in the project site vicinity. ... *Consequently, the proposed roadway widening of Roblar and Pepper Road may directly impact portions of Americano Creek, necessitating the alteration of this creek through realignment and/or culverting ...*” (*Ibid*, *emph. added*; see also AR2:387D [showing relation of creek to Roblar Road near project site]; 2:426-427 [extensive discussion of Americano Creek alignment and characteristics].) The EIR further disclosed that “proposed widening of Roblar and Pepper Roads would incrementally increase the amount of impervious surface along the roadway (net increase of approximately 11 acres along Roblar Road...) and therefore, increase the amount of storm water runoff from the roadways, and increasing peak flows to local watercourses and hence potential flooding and bank erosion.” (AR2:503.)⁶

⁶ Given the large distribution area, and number of watercourses among which distribution would occur, the net increase was deemed insignificant; however, mitigation measures were nonetheless set forth to ensure potential temporary water quality and drainage impacts associated with construction would be less than significant. (AR2:503-504 [requiring filing of Notice of Intent with RWQCB and preparation and submittal of SWPPP, in compliance with statewide NPDES General Construction Permit and specifying BMPs to control contamination, and listing a number of feasible BMPs; further requiring adherence of roadway-widening storm

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Regarding potential geology and soils impacts, the EIR noted: *“In some areas (i.e., along Roblar Road adjacent to the proposed site) fills necessary to achieve the wider road width could encroach into Americano Creek, requiring specialized slope stability measures and revetment.”* (AR2:502, *emph. added.*) As noted by the Court of Appeal, such potential issues were addressed by mitigation requiring implementation of best management practices (BMPs) to reduce or eliminate soil erosion during construction, which are required as part of the grading and construction specifications and SWPPP required for the roadway widening. (*Ibid.*)

Regarding potential impacts of recommended road-widening to biological resources and jurisdictional waters, the original EIR identified affected vegetative communities, the close proximity of much of the western half of Roblar Road to Americano Creek, and noted that “seasonal wetlands are present near Roblar Road along what may have been the remnants of the previous natural meander of Americano Creek.” (AR2:504 [citing Golden Bear Biostudies, 2003].) It further noted “[a]rroyo willow riparian woodlands, dominated in varying degrees by several willow species and rushes, occur on the Roblar Road alignment in association with Americano Creek....” (*Ibid.*; see AR2:425 [further description of potentially impacted habitat].) Accordingly, the original EIR disclosed: *“Depending on the roadway design and extent of disturbance, the identified roadway widening improvement would have the potential to result in temporary and/or permanent impacts to jurisdictional waters of Americano Creek located in the vicinity of Roblar Road (including any associated potential jurisdictional wetlands)....”* (AR2:504, *emph. added.*; see also AR2:423 [DEIR Figure IV.D-1 graphically depicting existing vegetation and water-associated features, including Americano Creek alignment and known wetlands, in vicinity of project site].) The impacts to Americano Creek of the road-widening mitigation measure are thus nothing new, and were always anticipated and disclosed; further, the currently proposed modifications will only serve to reduce the extent of such impacts. (E.g., 2018 DSEIR, pp. 3.1-6 – 3.1-7, 3.2-6.)

Citing the USFWS Draft Potential Range of the CTS and two other studies (Fawcett, 2007, CDFG, 2008), the original EIR noted that while no reports had documented or identified breeding habitat along Roblar Road, there was nonetheless a potential for impacts on Salamander upland and migration habitat, and also on CRLF breeding habitat, *inter alia*. (AR2:504-505; *id.* at 505 [“Americano Creek provides potential aquatic habitat (including breeding habitat) for the CRLF.”]) The above analyses were revisited and refined by experts when County prepared the Recirculated EIR portions; preparers contemplated certain CTS breeding ponds near Roblar Road, and refined mitigation measures to pinpoint the scope of preconstruction surveys along Roblar Road, in accordance with a USFWS

drain system to all applicable County and Sonoma County Water Agency drainage and flood control standards, and proper sizing to accommodate storm flows and prevent project area and downstream flooding.]

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programmatic biological opinion and a published conservation strategy. (AR4:1693, 1694-1695.) Again, Barella’s currently proposed modifications would not result in any new or more severe impacts in these areas. (DSEIR, pp. 3.3-2 – 3.3-10.)

The original DEIR also disclosed the locations of agricultural/Williamson Act contract lands along Roblar Road (DEIR Figures IV.A-4 and IV.A-8), highlighting the obvious potential for any road widening beyond right-of-way limits to impact such properties, and *noted that Barella would be responsible for acquiring and conveying any necessary property to the County and that this requirement might make the road widening measure infeasible.* (See DEIR at IV.E-34.) As a result of the subsequent more detailed analysis called for by the original EIR, private, agriculturally zoned lands adjacent to Roblar Road are now known to occur within the swath of land that was previously assumed (based on the EIR) to constitute a 50-to-60-foot County prescriptive right of way. Notwithstanding their zoning designation or actual boundary lines, such properties may or may not actually or potentially be used or suitable for farming or grazing, due to existing topographical features, terrain and fences designed to keep livestock off of Roblar Road.

In sum – and contrary to the recent comments of some Project opponents, but as confirmed by the Court of Appeal’s decision upholding its sufficiency under CEQA – the original FEIR contained a rather extensive analysis of the mitigation measure calling for widening of Roblar Road and its associated secondary impacts (including impacts on Americano Creek and adjacent habitat, etc.), and contained comprehensive and appropriately-detailed disclosures and analyses of both the nature and extent of its potential impacts and their mitigation. No new or different environmental impacts than those previously identified and discussed have come to light as a result of the additional, more detailed and “granular” site-specific analysis of required off-site transportation improvements that has now occurred. What has come to light is the FEIR’s mistaken assumption as to the width of available prescriptive right-of-way, a reconsideration of the likelihood that federal and resource agencies’ will prefer to minimize impacts to wetlands and other jurisdictional waters,⁷ and the fact that a 32-foot road (1-4-11 – 11-4-1 configuration) could be built with substantially fewer adverse secondary environmental impacts,

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⁷ When there is a proposed discharge that would result in direct impacts to wetlands and other waters of the U.S., the resource agencies with jurisdiction over such resources require that all appropriate and practicable steps be taken to avoid and minimize impacts to aquatic resources. Since the 32-foot road would mitigate the potential truck/bicycle safety impacts to a less-than-significant level and would have reduced direct and secondary adverse impacts on wetlands and other waters than the 40-foot road, the 32-foot road would better comply with the resource agencies requirement to avoid and minimize impacts to wetlands and other waters to the extent practicable.

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while still mitigating to a less-than-significant level the potential truck/bicycle safety impacts that prompted the original road-widening measure.⁸

While significantly reducing the adverse impacts that would have been caused by a 40-foot road, Barella’s modification calling for a 32-foot wide road leaves in place the mitigation measures previously provided to address the impacts of road widening in wetlands, waters, habitat and species. Numerous detailed and stringent mitigation measures and specific performance standards were set forth in the original EIR and committed to by the County; such measures were clearly designed to address the identified secondary impacts of the roadway-widening measure, and (as held by the Court of Appeal) substantial evidence supported their efficacy.

Such continuing measures include (without limitation):

- Conduct a formal wetland delineation under the standards of the *1987 Corps of Engineers Wetland Delineation Manual*, and have it verified by the Corps.
- If the Corps and/or CDFG determine potentially affected waters are jurisdictional, obtain and implement all conditions of a CWA Section 404 permit, a [Fish and Game Code] Section 1603 Streambed Alteration Agreement, and/or a [CWA] Section 401 water quality certification from the RWQCB.
- Compensate for any loss of jurisdictional wetlands by creating, restoring or enhancing jurisdictional waters either on-site at a 2:1 ratio, or off-site within the local watershed at a 3:1 ratio (or at ratios as otherwise agreed with the permitting agencies), or by contributing funds to an existing or new restoration project preserved in perpetuity.
- Avoid all potential jurisdictional wetlands and habitat to the extent feasible, through pre-construction protection measures including exclusionary fencing and dust control.
- Implement take minimization and avoidance measures for CRLF and CTS derived from the Programmatic Biological Opinion for impacts to CRLF (USFWS, 1999) and required formal consultation with and a Biological Opinion from USFWS for actions affecting CRLF and CTS.

⁸ See footnote 2 of this letter with respect to contrary conclusion in the DSEIR; substantial evidence supports a determination that impacts can be reduced to a less-than-significant level with the proposed modifications to the project’s mitigation measures.



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(AR2:505-507.)

The above mitigation measures – which were all fully upheld by the Court of Appeal against all of CARRQ’s challenges, and which Barella does *not* seek to modify – incorporate specific performance standards (e.g., quantified mitigation ratios), require adherence to federal and state standards, and require consultation with various federal and state agencies in accordance with established regulations. County’s conclusion that the DEIR’s identified mitigation measures would reduce the roadway-widening measure’s secondary impacts to less-than-significant (AR1:28-29 [Finding 3.1(a)]; 78-95 [Exhibit A CEQA findings on secondary impacts]) was also supported by substantial evidence in the record, as is the DSEIR’s current conclusion to the same effect.

B. Subsequent Analysis And Evidence Has Shown The Mitigation Measures Barella Seeks To Modify, Which Were Recognized As Potentially Infeasible By The FEIR, Are Actually Infeasible Unless Modified As Sought

Initially, the original DEIR’s conservative analysis was that the above-identified (and robust) mitigation measures “would likely mitigate all potential effects to a less than significant level” but it nonetheless treated secondary impacts as potentially significant and unavoidable because it contemplated “subsequent detailed environmental analysis” “may disclose additional impacts and/or identify additional mitigation measures[.]” (AR2:509.) “Subsequent detailed environmental analysis” was contemplated by the DEIR primarily due to the uncertainty that existed at the time the DEIR was drafted regarding “the specific alignment and structural improvements that may be required along Roblar [Road.]” (AR2:501; see 509.) Expert evidence submitted later in the review process showed the required roadway-widening improvements could feasibly be fully implemented within what was represented (albeit *mistakenly*) by the EIR to be County’s existing 50-foot right of way. (AR20:10158 [10/19/10 letter from Carlenzoli, BKF Engineers].) As indicated above, this information was significant not because of environmental impacts per se, but primarily because the DEIR expressly recognized that the need to acquire a substantial amount of private property outside of the County’s existing “prescriptive right-of-way” in order to widen a public road would potentially render the mitigation measure *infeasible*. (See, e.g., *Napa Citizens, supra*, 91 Cal.App.4th at 363-364 [need for extensive right-of-way takings from adjacent properties was among factors rendering previously adopted mitigation measures requiring extensive transportation infrastructure improvements infeasible].) Similar to the situation in the *Napa Citizens* case, the DEIR here *expressly recognized* that the Roblar Road widening measure intended to address bicycle/pedestrian and traffic safety (MM E.3a and MM E.4a) *could be infeasible* due to: lack of funding or planning; need to take land from adjacent private to provide sufficient right-of-way width due to constraints posed by existing topography, utilities, drainage and other factors; and need for the applicant alone to fund, implement and dedicate the

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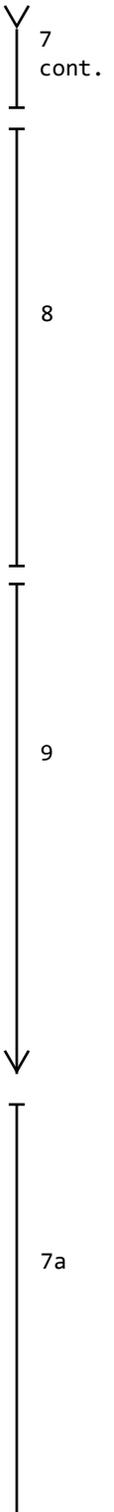
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improvements (which would obviously run afoul of legal substantial nexus/rough proportionality requirement). (DEIR, at IV.E-34.)⁹

As noted above, in the course of the required further detailed study of the specific roadway alignment, certain mistaken factual assertions in the EIR’s analysis have now come to light; the modified mitigation measures now under consideration were proposed by Barella to address and rectify these and a small number of COAs that are infeasible as currently written. In this regard, substantial evidence placed into the administrative record by Barella’s experts with his application materials, and during the course of the current application process, supports the existence of factual circumstances that the relevant case law (discussed above) squarely holds present “legitimate” reasons for changing (or even deleting) previously adopted mitigation measures. (*Napa Citizens, supra*, 91 Cal.App.4th at 358 [“It is also true that mistakes can be made and must be rectified, and that the vision of a region’s citizens or its governing body may evolve over time.”].) Such relevant facts shown by substantial evidence in the administrative record here include:

- Based on its reliance on Giovannetti, 2008, the EIR *mistakenly assumed* existing County right-of-way widths on Roblar Road of 50 and 60 feet, which (based on evidence placed in the record) would have been sufficient to implement the 40 feet (36 feet paved) of roadway and shoulders called for by the roadway-widening mitigation measure in the EIR; however, upon further evaluation, there is evidence that the actual prescriptive right-of-way width on the relevant portion of Roblar Road is, in fact, substantially less than that assumed by the FEIR, thus potentially requiring the taking of a substantial amount of private property adjoining Roblar Road (and far greater expense and time consumption) to implement the measure as now written. Further, the record evidence shows Barella’s diligent efforts to acquire additional property for right-of-way

⁹ With such concerns ostensibly dispelled by the time the original Final EIR was considered, County’s experts were satisfied (1) that the measure was feasible, and (2) that it would have no unknown and unaddressed secondary environmental impacts. (See AR7:3191-3194 [10/19/10 memo by FEIR preparer ESA, attached hereto, noting that under adopted modified alternative, “all roadway widening improvements on Roblar Road to meet current County road design standards would be implemented within boundaries of the prescriptive right-of-way” and “all potential significant secondary impacts associated with those improvements would be mitigated to a less than significant level with implementation of the measures identified in the EIR.”]; see also AR8:3737, 3812-3814 [Board hearing testimony].) Those assertions are only half right, as the measure as originally written and imposed turns out to be infeasible, although the conclusion that its secondary impacts were adequately addressed remains correct.



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purposes at the high end of market value have been all rebuffed by unwilling sellers, demonstrating such voluntary acquisition to be infeasible. (See Correspondence between Barella and Property Owners dated June 23, 2017, July 11, 2017, June 6, 2018, June 13, 2018, and June 19, 2018, attached hereto.)

- Current County “standards” for road design as applied to Roblar Road were also inaccurately stated in the original EIR as 12-foot wide travel lanes, whereas County’s General Plan and AASHTO (see, e.g., 2020 General Plan’s Glossary, at page GL-1) actually call for 11-foot wide travel lanes; additionally 5-foot shoulders (rather than 6 feet paved) also meet actual County “standards” for Roblar Road. *The DSEIR, County’s Public Works department, and the BPAC all now appear to recognize this by endorsing 11-foot travel lanes, with 5-foot shoulders (with 4 feet paved and one foot of rock backing) as sufficient to mitigate truck/bicycle safety impacts.*
- The original road-widening mitigation measure’s call for the provision of Class II Bike facilities is also not a County “standard,” in the sense that it is not required by the County’s General Plan to be provided by Barella. Particularly in light of the low speeds that quarry trucks would ever reach over this relatively short stretch of Roblar Road (the speed limit for which is currently 45 mph) the very low actual documented weekly bicycle usage, and the Road’s low accident rate, and as confirmed by the expert opinion of Barella’s qualified traffic safety engineer, Frank Penry, mitigation measures including appropriate signage, and 4 foot *paved* shoulders outside the travel lanes would sufficiently mitigate all potential safety impacts from bicycle/pedestrian/quarry truck interactions (i.e., the only impacts with a constitutional “nexus” to Barella’s project) to a “less than significant” level. Moreover, such improvements will vastly improve roadway and safety conditions over the relevant 1.6-mile roadway segment as compared to the currently existing condition without the Quarry Project and its associated mitigations. Fortunately, the DSEIR now also appears to recognize these facts regarding the lack of necessity for the 40-foot road widening measure (if not its unworkability and infeasibility).
- Since the FEIR’s certification, additional “mitigation” for any risks to bicyclists has also been provided by the new State



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law (Three Feet For Safety Act) codified in Vehicle Code §§ 21750, 21760. This serves as an *additional* “layer” of protection, in addition to the ample dimensions provided by the 11-foot travel lanes and 4-foot paved shoulders now recommended in the DSEIR. (See October 2018 Roblar Road Quarry Bicycle and Truck Clearance Exhibit, BKF Engineers, attached hereto [also showing ample space for 3-foot clearance provided by currently proposed road design without quarry trucks having to leave travel lane].) It should be noted that the Mark West Quarry continues to operate in the County with much narrower roads than those proposed by Barella. (See 10/23/18 Mark West Quarry Bicycle and Truck Clearance Exhibit, BKF Engineers.)

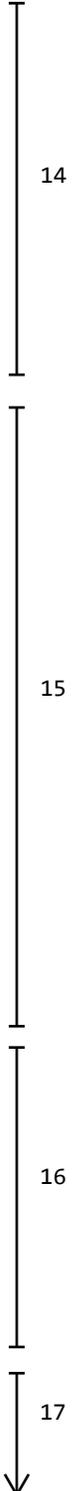
- Concerning the issue of legal feasibility, and elaborating on the constitutional “rough proportionality” requirements discussed above that are applicable to the imposition of ad hoc mitigation measures, (but not explicitly discussed in the original FEIR or DSEIR, or in the DSEIR), they preclude requiring a project applicant to pay for improvements beyond those reasonably necessary to mitigate for his project’s adverse impacts. (14 Cal. Code Regs, § 15126.4(a)(4)(B).) The FEIR’s 40-foot road-widening mitigation measure is therefore also legally infeasible because substantial record evidence (in the form of a qualified traffic safety engineer’s fact-based opinion, Public Works’ opinion, and the DSEIR itself) supports that 11-foot wide travel lanes (instead of the 12 feet called for in the original EIR) and 4-foot wide paved shoulders, as opposed to the 6-foot wide paved bicycle lanes called for in the EIR, would fully suffice to mitigate the quarry project’s bicycle/pedestrian/traffic safety impacts to a “less than significant” level.¹⁰

¹⁰ Again, the County, its EIR preparers, and the BPAC all appear to now agree on this. Nonetheless, for the record (and edification of certain project opponents) it should be pointed out that while the County might *desire* a greater amenity to be provided for bicyclists’ use, a developer *cannot* constitutionally be *required* (through the imposition of CEQA mitigation measures or otherwise) to provide such amenities as a condition of the issuance of development permit – no matter how desirable – if they are not “roughly proportional” to the improvements needed to mitigate *his individual project’s* adverse impacts. (14 Cal. Code Regs., §§ 15126.4(a)(4)(A), (B); *Nollan v. California Coastal Com’n* (1987) 483 U.S. 825, 837; *Dolan v. City of Tigard* (1994) 512 U.S. 374, 391.)

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- Low accident rate statistics over the last decade for Roblar Road which are part of the administrative record also support the lack of need for roadway improvements of the 40-foot width specified in the existing measure. For example, Roblar Road collision data known to date shows only one crash involving a bicyclist over the 10-year review period; the collision rate for the 10-year period was only half the statewide average for a two-lane rural road; and of the 25 total vehicle crashes, 19 were single vehicle crashes, and were due to excessive speed, rather than interactions with other vehicles.
- Substantial evidence shows that the wider-than-necessary roadway improvements called for in FEIR mitigation measures MM E.3a and MM E.4a are *economically* and *environmentally infeasible* – and thus extremely undesirable from a policy standpoint, after reasonably balancing the competing legal, environmental or social policies – because they would create substantially more impervious surface and require more extensive destruction and filling of (and mitigating for) linear drainage features on *both* sides of Roblar Road than would a modified measure constitutionally calibrated to proportionately address and mitigate the Project’s safety impacts. Substantial evidence shows that this extent of fill to waters and wetlands is not only unnecessary to accommodate the lesser road widening improvements that would adequately mitigate the Project’s traffic safety impacts to a “less than significant” level, but such unnecessary fill would also be disfavored by the relevant federal and state resources agencies (ACE, USFWS, RWQCB).
- As noted above, in addition to posing issues of economic, practical, legal, social, and environmental infeasibility, wider-than-necessary roadway improvements requiring the taking of additional private lands for public road right-of-way could also potentially adversely and unnecessarily impact to a greater degree adjacent agricultural lands under Williamson Act contracts, another potential impact of concern stated in the DEIR. (The modifications proposed by Barella obviously lessen any such impacts, as well.)
- With respect to Mitigation Measure MM E.1 addressing the Project’s traffic LOS impacts at the Roblar Road/Stony Point intersection, substantial expert evidence in the record demonstrates (and the DSEIR now acknowledges) that the



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proposed modifications – geometric changes including increasing northbound left-turn storage length to 100 feet, and adding a southbound left turn lane of 45 feet (with signalization and phasing as specified) – would mitigate all Project impacts to “less than significant” and result in LOS A at the intersection. Moreover, the evidence shows that the original measure (as is the case with the excessive widening of Roblar Road) would necessitate the destruction of a greater area of roadside linear drainage features and/or undeveloped ground constituting potential biotic habitat, and/or the taking of a greater amount of private property than the modified measure (which calls only for alterations to previously paved or rocked areas) – also making the original measure *environmentally, economically and socially* infeasible, as well as *unnecessary*.

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The above factors, all supported by substantial expert and record evidence, clearly constitute “legitimate” reasons for *modifying* previously adopted mitigation measures MM E.3a (and the derivative MM E.4a) and MM E.1. Expert evidence shows the original measures are infeasible, impractical and/or unnecessary, and that substitution of (a) a modified MM E.3a calling for 11-foot travel lanes, 4-foot wide paved shoulders, and 5-foot total shoulders (including both rocked and paved areas) would mitigate all safety impacts that prompted the original road-widening mitigation measure to a “less-than-significant” level, and (b) a modified MM E.1 would mitigate all traffic safety and LOS impacts that prompted the original mitigation measure to “less-than-significant.” Expert evidence shows the proposed modified measures, while being just as effective at mitigating the environmental impacts to which they were addressed to a less-than-significant level, would also (1) be substantially less expensive and time consuming, (2) have substantially fewer secondary environmental impacts than would result from implementation of the original measures, and (3) be more acceptable to the federal and state resources agencies whose approvals must be obtained. What follows is a brief summary of the proposed modifications to these measures, and an explanation of how these modifications would ultimately be beneficial:

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- **Condition 44:** A revision to condition 44 is necessary to bring it into conformance with DSEIR Mitigation Measure 3.4-1. which changed the configuration of the Roblar Road and Stony Point Road intersection. The configuration approved in 2010 was based on an old County design which is now infeasible based on the fact that such design would intrude on roadside ditches which are now potential habitat for red legged frogs and California Tiger Salamanders. Mitigation Measure 3.4-1 minimizes impacts to this sensitive habitat. Additionally, Condition 44 placed the entire burden for improving the intersection based on the old County design on the applicant. This shift in economic responsibility, from a fair share allocation to sole fiscal responsibility, was imposed by the County late in 2010 without any

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discussion in the County Staff report, the public hearing, or advance notice to the applicant. The result was a patent violation of the *Nollan/Dolan* nexus and proportionality tests. Were that condition carried forward at this time it would result in an unconstitutional taking. (*Nollan v. California Coastal Commission* (1987) 483 U.S. 825; *Dolan v. City of Tigard* (1994) 16 512 U.S. 374.)

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- **Condition 120:** Condition 120 required the applicant to dedicate a conservation easement over an unrelated 243-acre ranch owned by the applicant as mitigation for cancelling a then-effective Williamson Act contract on the mining site of 70 acres. (Mitigation A-4 May 2008 DEIR.) In lieu of the dedication, the applicant chose to allow the Williamson Act contract over the mining site to expire, thus rendering the dedication of a conservation easement for mitigation unnecessary. The deletion of the requirement for the dedication is correctly noted on page 3.7-4 of the DSEIR. Such deletion is also noted in the "Project Description" section of Exhibit "E" to the 2010 Resolution of Approval (Compare against the "Project Description" accompanying the April 1, 2010 and December 17, 2009 draft conditions of approval which contained the dedication requirement). Notwithstanding the deletion of the mitigation requirement in 2010, Condition 120 was mistakenly included in the 2010 list of conditions. Condition 120 should be deleted in recognition of that mistake, and the fact that such mitigation is no longer needed. To the extent that the dedication could have served as mitigation for conversion of the mining site to a non-agricultural use, a 244-acre dedication for the temporary loss of 70 acres of non-prime grazing land would not satisfy the rigors of the *Nolan/Dolan* constitutionality requirements, as cited above. It should also be noted that, upon reclamation, the site will return to grazing.

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Condition 101: As currently written, Condition 101 precludes grading or land disturbance within 50 feet of the tops of banks of waterways, except for stream crossings. (DSEIR, pp. 2-22 through 2-26.) It is critical that Condition 101 be modified since any reconstruction and widening of Roblar Road west of the quarry driveway will violate Condition 101 as it is currently written. The history behind this is that Condition 101 is a holdover from when Alternative 2 included Access Road 1. Access Road 1 was proposed in order to avoid the widening and reconstruction of Roblar Road along a certain portion of Roblar Road, west of the originally proposed quarry driveway, where Americano Creek lies immediately adjacent to and south of Roblar Road. Access Road 1 would have bypassed this area, crossing Ranch Tributary before intersecting Roblar Road, thus eliminating impacts of road widening on Americano Creek. The Access Road 1 crossing of Ranch Tributary was, in fact, the reason Condition 101 included the words "except for stream crossings." When the County Board of Supervisors rejected Access Road 1 (because it would have traversed lands encumbered by an Open Space easement), the resulting approved project required that Roblar

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Road be reconstructed and widened for a distance of about 1.6 miles west from the original quarry driveway. As discussed in Barella’s application and elsewhere, the required reconstruction and widening of Roblar Road adjacent to Americano Creek cannot be completed without grading and disturbing land within 50 feet of the top of bank of Americano Creek. Accordingly, Barella proposes that the first sentence of Condition 101 be modified as follows (**new text in bold underline**): “

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Except for stream crossings **and the proposed realignment of Americano Creek**, no grading or land disturbance shall occur within 50 feet of the top of banks of the waterways, **as feasible**.

The requested text changes simply allow for the required reconstruction and widening of Roblar Road along Americano Creek, as required for the project as approved by the Board. And as noted in DSEIR Impacts 3.3-1, 3.3-2, and 3.3-3, 3.3-4, 3.3-5, 3.3-6, and 3.3-7, Barella’s proposed realignment and enhancement of Americano Creek in this area, with associated mitigation, will not result in any new or substantially more severe impacts to wetlands and riparian areas, special status reptiles or amphibians, special status birds, badgers, special-status bats, or special-status fish. In summary, the requested modification of Condition 101 will allow for Roblar Road to be widened and reconstructed along Americano Creek as required, and will not result in any new or substantially more severe environmental impacts. In contrast, Condition 101 as currently written would violate the Board-approved reconstruction and widening of Roblar Road along Americano Creek.

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- **Condition 133:** Condition 133 requires avoidance of “all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on the valley floor adjacent to Americano Creek) of the property, except as shown in the Applicant’s plans for relocation of Americano Creek, specifically the drawing by BKF Engineers, “Americano Creek Relocation” dated September 1, 2017 and the “Conceptual Planting Plan for Realigned Americano Creek” prepared by Ted Winfield, Ph.D., dated August 21, 2017. (See DSEIR, p. S-6, Impact 3.3-1.) Meanwhile, the DSEIR requires the installation of construction fencing around the two seasonal wetlands identified on [Final EIR] Figure IV.D-1, to protect these features from all construction and operation activities.¹¹ (DSEIR, p. S-6.) The upgrading of Roblar Road, under either scenario, would directly impact a portion of the

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¹¹ The DSEIR also requires fencing of the North Pond, as identified as one of the two seasonal wetlands shown on [Final EIR] Figure IV.D-1. Although construction and operation of the wider roadway will avoid impacting the North Pond, Barella is proposing measures to enhance this pond to improve its suitability as breeding habitat for the California tiger salamander.

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large wetland that is included in the “seasonal wetlands on the valley floor adjacent to Americano Creek” shown on [Final EIR] Figure IV.D-1. This mitigation measure should be revised to acknowledge that the roadway improvements are required to mitigate a separate traffic impact, and that it is not necessary to avoid all impacts to these biotic resource in order to reach a conclusion of less-than-significance. In light of the above, the underlined portion of the third sentence of the mitigation measure should be revised (revisions shown in **bold**) to read “ except **for secondary improvements described herein, and** as shown in the Applicant’s plans for the relocation of Americano Creek **including related roadway improvements**, specifically the drawing....” These text changes will make this mitigation measure feasible.

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III. CONCLUSION

The original mitigation measures Barella has proposed to modify are now known and have been shown to be infeasible, impractical and unnecessary to mitigate any project impact to a “less than significant” level. The modified measures will mitigate Project impacts to a “less-than-significant” level and have lesser adverse secondary environmental impacts than the original measures. Based on these factual circumstances, governing law within the applicable legal and regulatory framework fully supports both modifying the Project’s mitigation measures as discussed above, and the conservative CEQA analysis being conducted by County through its Subsequent or Supplemental EIR should so recognize, to the extent it does not already do so.

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Thank you for the opportunity to comment on the DSEIR, and for the County’s consideration of these matters.

Very truly yours,

MILLER STARR REGALIA

Arthur F. Coon

Arthur F. Coon

AFC:klw
encls. attachments

cc: Sonoma County Board of Supervisors
Verne Ball
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Geoff Coleman
Stephen Butler
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Memorandum

date 10/19/10
 to Scott Briggs, Ph.D., Environmental Review Division Manager
 Sonoma County Permit and Resource Management Department
 from Paul Mitchell, ESA
 subject Roblar Road Quarry Alternative Haul Route Alignment

Background

In order to mitigate certain potentially significant traffic safety and bicycle/pedestrian conflicts along certain truck haul routes for the proposed Roblar Road Quarry, the May 2008 Draft EIR Mitigation Measures E.3a/E.4a identified improving the entire approximate 6.5-mile length of Roblar Road, and approximately 3.25 miles of Pepper Road (between Mecham Road and Stony Point Road) to meet current County road design standards. The Draft EIR Impact E.8 determined that construction and implementation of these off-site transportation improvements may result in their own potentially significant temporary and long-term environmental impacts. Consequently, the Draft EIR identified a number of mitigation measures (E.8a through E.8p) to mitigate those off-site effects to the extent feasible.

In addition, the Draft EIR identified and analyzed a project alternative (Alternative 2) that largely reduced the extent of overall roadway widening required by Mitigation Measures E.3a/E.4a. Specifically, Alternative 2 proposed to route all quarry haul traffic to/from the west on Roblar Road and avoid the use of Roblar Road east of the project site, avoid the use of Pepper Road east of Mecham Road, and included two new temporary private off-road segments ("Access Road 1," extending through the adjacent Wilson property; and "Access Road 2," extending through the Neve property) – see Figures V-1 through V-11 in the Draft EIR. As such, Alternative 2 limited the need for improving Roblar Road to an approximate one-mile segment west of the project site, and precluded the need for improving all other portions of Roblar Road, or any part of Pepper Road. Accordingly, Alternative 2 was identified to have considerably less significant short- and long-term secondary impacts associated with the off-site road improvements than would occur with the proposed project.¹

Modification to Alternative Haul Route Alignment

This memorandum describes a potential modification to the alignment of a segment of the Alternative 2 haul route, and discusses the associated changes in the potential environmental impacts with that modification. Under the modification, all operational and design aspects of Alternative 2 would occur as originally described in the EIR with two exceptions. First, under the modification, "Access Road 1" would not be constructed. As a consequence, all quarry haul trucks would enter/exit the quarry site via the access point that was originally

¹ Impact and Mitigation Measure E.8 and Alternative 2 from the Draft EIR were updated appropriately in the June 2010 Recirculated Draft EIR to also address the recent identification of the California tiger salamander in the project vicinity.

proposed by the project (i.e., on Roblar Road approximately 1,200 feet northeast of the existing driveway access to the project site). Accordingly, an additional approximate 0.6-mile segment of Roblar Road would be improved under this modified alternative, resulting in a total approximate 1.6-mile segment of Roblar Road being improved (i.e., between the proposed quarry access road entrance and "Access Road 2"). Secondly, under this modified alternative, all roadway widening improvements on Roblar Road to meet current County road design standards would be implemented within boundaries of the prescriptive right-of-way and the Roblar Road Quarry project site.

It should be noted that while this modification would increase the length of Roblar Road that would need to be improved (by an additional 0.6 miles) compared to the originally proposed Alternative 2 analyzed in the EIR, the total length of public roadway widening that would occur under this modification would be far less than that which would be required as mitigation under the originally proposed project (i.e., total of 1.6 miles under this modified alternative, versus a total of approximately ten miles under the project). It should also be noted that while improving an additional 0.6-mile segment of Roblar Road under this modification would result in site-specific temporary and long-term environmental impacts along this segment, those effects were previously evaluated and mitigated in Impact E.8 in the EIR. Given the extent and nature of the proposed off-site improvements under this modified alternative, all potential significant secondary impacts associated with those improvements would be mitigated to a less than significant level with implementation of the measures identified in the EIR. In addition, this modification would avoid those site-specific environmental effects under Alternative 2 along the off-road "Access Road 1" alignment, since under this modification that segment would not be constructed.

The following describes the principal differences in physical and environmental characteristics between the modification being considered compared to originally proposed Alternative 2, and the applicability of the EIR mitigation measures to mitigate specific environmental effects.

Land Use: The modified alternative would avoid the potential compatibility conflicts of constructing "Access Road 1" with the Open Space District's conservation easement on the Wilson property, that would otherwise be encountered under the original Alternative 2 alignment. Furthermore, limiting improvements on the 1.6-mile segment Roblar Road to within the County's prescriptive right-of-way would avoid potential impacts to adjacent agricultural land along the segment, including the Wilson property and other lands currently under a Williamson Act contract along the segment.

Geology, Soils and Seismicity: Potential geologic/seismic effects of improving the Roblar Road were previously evaluated in Impact E.8 in the EIR, including the additional 0.6-mile segment that would be improved under this modified alternative; as well as evaluated in the Alternatives section in the EIR. As discussed in Impact E.8, steep slopes are located adjacent to sections of Roblar Road, including the rocky outcrop on the north side of Roblar Road across from the southeast corner of the project site. The EIR acknowledged that the proposed roadway widening could require upslope cuts in the underlying bedrock or looser soil materials to achieve required slope stability, downslope fill to support the increased road width, and that blasting may be required to remove rock for grading. Road cut slopes and fill slopes must achieve a required "factor of safety" (the point at which a slope is considered stable) for seismic conditions (earthquake) and non-seismic conditions (i.e. failures driven by gravity under saturated conditions). In order to limit the extent of the roadway construction to within the prescriptive right-of-way, and to achieve the required factors of safety, a detailed geotechnical feasibility and design study must be conducted to develop site-specific engineering design criteria and approaches (e.g., retaining

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structures/walls). The implementation of Mitigation Measure E.8b would ensure that such a geotechnical investigation is conducted and the required factors of safety achieved. As a result, potential impacts to geological conditions along the modified Alternative 2 haul route alignment would be mitigated to a less than significant level.

Hydrology and Water Quality: Potential hydrology/water quality effects of improving the Roblar Road were previously evaluated in Impact E.8 in the EIR, including the additional 0.6-mile segment that would be improved under this modified alternative; as well as evaluated in the Alternatives section in the EIR. Americano Creek crosses under Roblar Road via culverts at two locations along the additional 0.6 mile segment (approximately 400 feet upstream and 2,000 feet downstream of the existing project site access road, respectively), and follows closely and roughly parallel to Roblar Road for several hundred feet in the project site vicinity. On the other hand, the modified alternative would avoid the crossing of Ranch Tributary and other miscellaneous drainages within the Wilson property that would otherwise occur with the originally proposed Alternative 2 alignment. In any case, implementation of Storm Water Pollution Prevention Plan (SWPPP) and its BMPs during construction (as indicated in Mitigation Measure E.8c) and requirement that the proposed storm drain system for the roadway widening improvements be designed in accordance with all applicable County and Sonoma County Water Agency (SCWA) drainage and flood control design standards (as indicated in Mitigation Measure E.8d) would ensure potential temporary and long-term effects of hydrology and water quality from these roadway improvements would be less than significant.

Biological Resources: Potential biological resource effects of improving the Roblar Road were previously evaluated in Impact E.8 in the EIR, including the additional 0.6-mile segment that would be improved under this modified alternative; as well as evaluated in the Alternatives section in the EIR. As indicated above, the additional 0.6-mile segment that would be improved under this modified alternative alignment both crosses, and follows closely to, Americano Creek and its riparian habitat. However, in contrast to the original Alternative 2 haul route alignment, the additional 0.6 mile segment would not cross Ranch Tributary and other drainages on the Wilson property. Both the modified alignment and the original Alternative 2 alignment are located in the vicinity of seasonal wetlands. As identified in the EIR for the original Alternative 2 alignment, conducting a formal wetland delineation and compensating for the loss of jurisdictional wetlands, avoidance as feasible, and other measures to protect the wetland and riparian habitat (similar to Mitigation Measures E.8e and E.8f in the EIR) would reduce impacts to wetlands and riparian habitats along the modified alignment to a less-than-significant level.

As refined most recently in the Recirculated Draft EIR, construction and grading activities of the Alternative 2 haul route could encounter special status wildlife species such as California tiger salamander (CTS), California red-legged frog (CRLF), foothill yellow-legged frog (FYLF) and northwestern pond turtle, and aquatic habitat that may support one or more of these species occurs in association with Americano Creek. These potential impacts would also exist along the modified Alternative 2 haul route. However, the implementation of measures to minimize and avoid take of CTS and CRLF and additionally benefit pond turtles and FYLF, including the training for construction personnel for these species, and monitoring by a USFWS-approved biologist within 100 feet of creek corridors and aquatic habitat that could support CRLF (as indicated in Mitigation Measure E.8h in the EIR) would reduce potential impacts to the species along the modified Alternative 2 haul route alignment to a less than significant level.

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The modified Alternative 2 haul route alignment would avoid comparatively more annual grasslands that provide badger habitat (i.e., on the Wilson property) than the original Alternative 2 haul route alignment. However, in any case, the implementation of Mitigation D.5 prior to ground-clearing activities, would ensure potential impacts to badgers along the modified alternative alignment would be mitigated to a less-than-significant level.

Transportation and Circulation: The modified Alternative 2 haul route alignment would result in quarry haul trucks travelling on Roblar Road for an additional 0.6 miles compared to the original Alternative 2 haul route alignment. However, this modified alternative would improve the entire 1.6-mile segment that would be used by quarry truck traffic to meet County road design standards. Consequently, as with the original Alternative 2 haul route, potential impacts to traffic safety and bicycle/pedestrian conflicts under the modified alternative haul route would be mitigated to less than significant.

Given that an additional 0.6 miles of Roblar Road would be improved under the modified Alternative 2 haul route, temporary congestion impacts on Roblar Road would be incrementally longer than those that would be encountered under the original Alternative 2. However, the implementation of traffic control measures would similarly reduce temporary construction related effects on transportation to a less than significant level.

Air Quality and Noise: The modified alternative would result in all project quarry haul trucks entering and exiting at the originally proposed access point to the project site, and hence, to/from the west along Roblar Road along the modified haul route alignment. This would result in a minor shift in the distribution of the quarry haul trucks on Roblar Road adjacent to the project site compared to the original Alternative 2. However, resulting diesel particulate matter (DPM) concentrations and associated potential carcinogenic health risk from DPM at nearby study receptors would continue to be less than significant. In addition, from a noise perspective, the modified haul route alignment would not result in any additional road segments that would have a significant project impact or significant contribution to cumulative noise level increases compared to the original Alternative 2 haul route.

Conclusion

The modification to Alternative 2 described above would not result in any new significant or substantially more severe environmental impacts than already analyzed in the EIR and Recirculated EIR prepared for this project. Accordingly, no additional environmental review is required for approval of the modified Alternative 2.

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JOHN AND ANDREA BARELLA
496 JASMINE LANE
PETALUMA, CA 94952

June 23, 2017

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John and Barbara Shelling Trust
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Kenneth A & C Wilson Trust
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Petaluma, CA 94952

Re: *Roblar Road Quarry/Roblar Road Right of Way Improvements*

Dear Property Owners:

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I am writing to you on behalf of myself, and my wife Andrea, in connection with the road widening improvements associated with the approval of the Roblar Road Quarry (the "Quarry"). As all of you are likely aware, my wife and I were applicants for the Roblar Road Quarry which was approved by the Board of Supervisors on December 14, 2010, by way of Resolution No. 10-0903.

In approving the Roblar Road Quarry project, the Board of Supervisors ("Board") recognized that there might be insufficient right of way between the existing fence lines on Roblar Road to complete the road improvements which were otherwise required as a condition of the project. Recognizing this, the Board made a Statement of Overriding Considerations under the California Environmental Quality Act ("CEQA") determining that specific economic, legal, social, technological and other benefits of the project outweighed any unmitigated road or other impacts associated with the Quarry's approval. This Statement of Overriding Considerations sanctioned buildout of the project even if Roblar Road could not, due to right of way constraints, be improved to specifications otherwise designated by the County's Department of Public Works.

Regardless, in the spirit of being good neighbors and in the spirit of fulfilling project conditions to the letter, my wife and I are reaching out to each of you to determine whether you would be willing to sell any of your respective lands abutting Roblar Road for the purpose of improving Roblar Road to the exact specifications imposed by the County's Department of Public Works in connection with the Quarry's approval.

Would you please advise me and Andrea, in writing, whether each or any of you would be willing to sell a small strip of your respective lands abutting Roblar Road which may be necessary to comply with the exact letter of the County Public Works' conditions? We request that you respond within 14 days of the date of this letter or we shall assume that one or more of

Property Owners
June 23, 2017
Page 2

you are unwilling to voluntarily convey, for just compensation, any portion of your right of way to my wife and me for purposes of completing previously identified road improvements.

Should you need additional time to consider this matter, we request that you respond, in writing, within 14 days, indicating that you need additional time and the time needed to consider this offer. My wife and I are willing to pay fair market value for any property acquired from any of you for the purpose of further widening Roblar Road. This widening will benefit both your neighborhood and the community at large. In the event that one or more of you are unwilling to voluntarily part with a portion of your land bordering Roblar Road, three other possibilities will arise.

First, as many of you may be aware, my wife and I have submitted an application for minor modifications to some of the conditions imposed on the Quarry by the Board in 2010. With respect to the conditions relating to the improvement of Roblar Road, my wife and I are now proposing to realign the road and the creek in a southerly direction which would avoid any need to acquire any of your respective properties for purposes of widening Roblar Road. The proposed project modifications relating to Roblar Road not only would avoid the necessity for acquiring a small portion of your respective properties, but, based on communications with all of the resource agencies consulted, will achieve a superior environmental benefit both for the creek and the ongoing use and maintenance of Roblar Road, as well as mitigate Roblar Road impacts to an insignificant level. We hope that you can support our efforts and those of the resource agencies in this regard.

The second possibility is that the Board does not approve the modifications to the realignment of Roblar Road and the creek, in which case, the County may simply rely on its previously adopted Statement of Overriding Considerations and approve buildout of the Quarry, notwithstanding the fact that insufficient right of way may be available to complete, to the letter of the conditions, previously identified Roblar Road improvements.

Third, absent approval of our requested minor modifications to project conditions, the County may determine that since the road widening improvements were imposed upon the Quarry project as mitigation measures under CEQA, the County may have an obligation, pursuant to its adopted Mitigation Monitoring Program, to condemn the requisite portions of your land. This alternative would, of course, involve both you and the County in condemnation litigation in order to complete the Quarry project.

We know that the approval and buildout of the Quarry has been, and continues to be, a long and arduous and, at some times, contentious proceeding, notwithstanding the fact that the Roblar Quarry has been designated as a quarry site by the County since the adoption of its original ARM plan in 1982. While the County has worked hard to satisfy its commitments to transition gravel mining from the Russian River terraces and instream mining of the Russian River and its tributaries in favor of replacing locally needed hard rock through the mining of hard rock quarries, such transition has been subject to past and ongoing delays, as evidenced by the Roblar Quarry approval. We now hope that each of you, as neighbors, can embrace broader community environmental and economic goals and put the ongoing dispute to rest.

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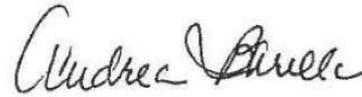
Property Owners
June 23, 2017
Page 3

We have been good neighbors in the past and will continue to be so in the future. Currently, suitable road aggregate is being brought in by barge from Canada with associated greenhouse gas, truck and other associated impacts. The ultimate development of the Roblar Road Quarry will reduce all of these impacts and further long range County planning goals which have been in place for 35 years. We hope that each of you can join with us in the spirit of cooperation by putting aside any past differences in the interests of completing this necessary, critical and long overdue project.

Andrea and I thank you very much for your consideration of our request.

Very truly yours,


John Barella


Andrea Barella

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cont.

- c: Shirlee Zane, Chair, Sonoma County Board of Supervisors
- David Rabbitt, 2nd District Supervisor, Sonoma County Board of Supervisors
- Jennifer Barrett, Deputy Director-Planning, Sonoma County PRMD
- Blake Hillegas, Planning Supervisor, Sonoma County PRMD
- Jeffrey Brax, Chief Deputy County Counsel, Office of the Sonoma County Counsel
- Arthur F. Coon, Esq.
- Stephen K. Butler, Esq.

July 11, 2017

John and Andrea Barella
496 Jasmine Lane
Petaluma, California 94952

Shirley Zane
Sonoma County Board of Supervisors
575 Administration Drive, Room 100A
Santa Rosa, California 95403

David Rabbitt
Sonoma County Board of Supervisors
575 Administration Drive, Room 100A
Santa Rosa, California 95403

RE: Roblar Road Quarry

Dear Mr. & Mrs. Barella, Supervisor Zane, Supervisor Rabbitt:

This responds to the June 23, 2017 letter of Mr. and Mrs. Barella to us and three other property owners, which was also copied to Ms. Zane and Mr. Rabbit. First, we note the June 23 letter does not specify the exact location or amount of our land adjoining Roblar Road in which you express interest, nor does it offer any specific price for it. Accordingly, we assume it was written primarily to serve as leverage as part of the Quarry owners negotiations with Sonoma County to avoid their compliance with the permit conditions which are referred to in the letter. We believe the June 23 letter to us and the other property owners, since it lacks these specific terms, is insufficient for this purpose. However, we believe Sonoma County should enforce its previously adopted permit conditions on any future operation of the Quarry project, and we write now to express our hope our officials will do so.

While we opposed the permitting of the Quarry Operation, the Board of Supervisors in 2010 eventually approved the project subject to permit conditions necessary to protect the safety of the Sonoma County residents and their environment. We encourage the current Board of Supervisors to enforce any attempts to weaken or change these conditions. To our mind, the proposed modifications to these permits cannot, as the letter asserts, be "minor", otherwise we would not have been sent the letter of June 23. We request Ms. Zane and Mr. Rabbitt and our County officials to continue to insist on these permit conditions to protect our land, water, and public safety.

Sincerely,

Ronald Wilson
Kathy Wilson

Ronald and Kathy Wilson

cc: Jennifer Barrett, Deputy Director – Planning, Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Jeffrey Brax, Chief Deputy County Counsel, Office of the Sonoma County Counsel
Claudia McKnight
John & Barbara Shelling Trust
Kenneth A & C Wilson Trust

*e mailed
Butler
Briggs*

Y
*
* 27 cont.
*

Roblar Road Quarry
 U.S. Army Corps of Engineers Permit Application
 Corps File No. 2009-00147N

BLOCK 25

ADJACENT PROPERTY OWNERS

Assessor's Parcel Numbers	Ownership
024-090-030 024-090-032	Jerome & June Norwitt Trust 5709 Roblar Road Petaluma, CA 94952
025-120-003	Robert W. Thompson Trust 4995 Canfield Road Petaluma, CA 94952
025-120-023	Kathryn & Robert Thompson 6245 Roblar Road Petaluma, CA 94952
027-080-004 027-210-007	Claudia McKnight 5000 Canfield Road Petaluma, CA 94952
027-080-005	John & Barbara Shelling Trust 8064 Washington Ave. Sebastopol, CA 95475
027-080-006	County of Sonoma 575 Administration Drive, #117a Santa Rosa, CA 95403
027-080-009 027-080-010	Barella Family LLC 496 Jasmine Lane Petaluma, CA 94952
027-200-003	Joseph W. & Kathleen M. Tresch 1170 Walker Road Petaluma, CA 94952
022-290-005	Louis & Raelene Neve 295 Rock Rose Lane Petaluma, CA 94952-6409
027-210-006	Marissa K Walsh, Morgan Wilson, Howard K Wilson & Gary D Wilson 1570 Tomales Road Petaluma, California 94952
027-210-005 022-300-010	Ronald E & K Wilson Trust 9420 Valley Ford Rd Petaluma, CA 94952
022-290-008 022-290-007	Kenneth A & C Wilson Trust 1570 Tomales Road Petaluma, California 94952

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cont.

LAW OFFICES OF
CLEMENT, FITZPATRICK & KENWORTHY
INCORPORATED

3333 MENDOCINO AVENUE, SUITE 200

SANTA ROSA, CALIFORNIA 95403

FAX: 707 546-1360

TELEPHONE: (707) 523-1181

STEPHEN K. BUTLER

June 6, 2018

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Claudia McKnight
5000 Canfield Road
Petaluma, CA 94952

Ronald E & K Wilson Trust
9420 Valley Ford Road
Petaluma, CA 94952

John and Barbara Shelling Trust
8064 Washington Avenue
Sebastopol, CA 95475

Kenneth A & C Wilson Trust
1570 Tomales Road
Petaluma, CA 94952

Re: *Roblar Road Quarry/Roblar Road Right of Way Improvements/Offer to Purchase Land for Right of Way*

Dear Property Owners:

We are writing to you on behalf of John and Andrea Barella, in connection with the road widening improvements associated with the approval of the Roblar Road Quarry (the "Quarry"). As all of you are aware, John and Andrea were applicants for the Roblar Road Quarry which was approved by the Board of Supervisors on December 14, 2010, by way of Resolution No. 10-0903.

In approving the Roblar Road Quarry project, the Board of Supervisors ("Board") recognized that there might be insufficient right of way between the existing fence lines on Roblar Road to complete the road improvements to Roblar Road which were otherwise required as a condition of the project. Recognizing this, the Board made a Statement of Overriding Considerations under the California Environmental Quality Act ("CEQA") determining that specific economic, legal, social, technological and other benefits of the project outweighed any unmitigated road or other impacts associated with the Quarry's approval. This Statement of Overriding Considerations sanctioned buildout of the project even if Roblar Road could not, due to right of way constraints, be improved to specifications otherwise designated by the County's Department of Public Works.

Regardless, in the spirit of being good neighbors and in the spirit of fulfilling project conditions to the letter, John and Andrea reached out to each of you by way of correspondence dated June 23, 2017, to determine whether each of you would be willing to sell any of your respective lands abutting Roblar Road for the purpose of improving Roblar Road to the exact

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cont.

Roblar Road Property Owners
 June 6, 2018
 Page 2

specifications imposed by the County's Department of Public Works in connection with the Quarry's approval. Such offer was, at that time, responded to by way of deafening silence other than Ronald and Kathy Wilson's letter of July 11, 2017, which rejected the offer. The purpose of this letter is to reiterate the Barellas' offer and to provide greater detail regarding such offer.

Would you please advise us, in writing, whether each or any of you would be willing to sell a small strip of your respective lands abutting Roblar Road which may be necessary to comply with the exact letter of the County Public Works' conditions? We request that you respond within 14 days of the date of this letter or we shall assume that one or more of you are unwilling to voluntarily convey, for just compensation, any portion of your right of way to the Barellas for purposes of improving Roblar Road to previously identified County Road Standards.

The terms of the Barellas' offer follows as to each of you:

<i>Name</i>	<i>APN</i>	<i>Area to be Purchased*</i>	<i>Dollar Amount**</i>
Claudia McKnight	027-080-004	.28 x 8,000 sq. ft.	\$ 2,240.00
	027-210-007	.28 x 32,000 sq. ft.	\$ 8,960.00
			Total \$11,200.00
John and Barbara Shelling Trust	027-080-005	.28 x 15,000 sq. ft.	Total \$4,200.00
Ronald E & K Wilson Trust	027-210-005	.28 x 29,700 sq. ft.	\$ 8,316.00
	022-300-010	.28 x 55,000 sq. ft.	\$15,400.00
			Total \$23,716.00
Kenneth A & C Wilson Trust	022-290-008	.28 x 63,800 sq. ft.	\$17,864.00
	022-290-007	.28 x 20,900 sq. ft.	\$ 5,852.00
			Total \$23,716.00

*One acre is equal to 43,560 square feet

**\$12,000 per acre or .28 square feet

The foregoing offer was based on recent independent appraisal information which identified property values in your area between \$4,800 and \$11,200 per acre. The independent appraisal, not commissioned by the Barellas, was based on eight comparables with a median value of \$7,800 per acre. The offer made here is more than the highest end of the range. Please note that the only contingency in this offer is that the project only requires the acquisition of either the lands of the Ronald E & K Wilson Trust or the lands of the Kenneth A & C Wilson Trust, not both. Accordingly, if either the Ronald E & K Wilson Trust or the Kenneth A & C Wilson Trust accepts the Barellas' offer as set forth herein, then the offer to the other shall be considered immediately withdrawn.

Should you need additional time to consider this matter, we request that you respond, in writing, within 14 days, indicating that you need additional time and the time needed to consider this offer. The Barellas have offered to pay fair market value for any property acquired from any of you for the purpose of further widening Roblar Road. This widening is intended to benefit

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 cont.

Roblar Road Property Owners
June 6, 2018
Page 3

both your neighborhood and the community at large. In the event that one or more of you are unwilling to voluntarily part with a portion of your land bordering Roblar Road, three options remain.

First, as all of you are aware, the Barellas have submitted an application for minor modifications to some of the conditions imposed on the Quarry by the Board in 2010. With respect to the conditions relating to the improvement of Roblar Road, the Barellas are now proposing to realign the road and the creek in a southerly direction which would avoid any need to acquire any of your respective properties for purposes of widening Roblar Road. The proposed project modifications relating to Roblar Road not only would avoid the necessity for acquiring a small portion of your respective properties, but, based on communications with all of the resource agencies consulted, will achieve a superior environmental benefit both for the creek and the ongoing use and maintenance of Roblar Road, as well as mitigate Roblar Road traffic/bicycle safety impacts to an insignificant level. We continue to hope that you can support the Barellas' efforts and those of the resource agencies in this regard. Alternatively, should you continue to oppose a modified Quarry project and disregard its environmental benefits and file suit to litigate any modified Quarry project, the Barellas intend to build out the Quarry in accordance with the 2010 Board approvals.

The second option is that the Board does not approve the modifications to the realignment of Roblar Road and the creek, in which case, the County may simply rely on its previously adopted Statement of Overriding Considerations and the Barellas will continue buildout of the Quarry, notwithstanding the fact that insufficient right of way may be available to complete, to the letter of the current conditions, previously identified Roblar Road improvements.

The third option, absent approval of the Barellas' requested minor modifications to project conditions, is that the County may determine that since the road widening improvements were imposed upon the Quarry project as mitigation measures under CEQA, the County may have an obligation, pursuant to its adopted Mitigation Monitoring Program, to condemn the requisite portions of your land. This alternative would, of course, involve both you and the County in condemnation litigation in order to obtain the land which the Barellas have offered to buy as set forth above.

We know that the approval and buildout of the Quarry has been, and continues to be, a long and arduous and, at some times, contentious proceeding, notwithstanding the fact that the Roblar Quarry has been designated as a quarry site by the County since the adoption of its original ARM plan in 1982. While the County has worked hard to satisfy its commitments to transition County gravel production from the Russian River terraces and instream mining of the Russian River and its tributaries in favor of replacing locally needed hard rock through the mining of hard rock quarries, such transition has been subject to past and ongoing delays, as evidenced by the Roblar Quarry approval and your past, and apparently ongoing, opposition. We continue to hope that each of you, as neighbors, can embrace broader community environmental, fire recovery and economic goals and put the ongoing dispute to rest.

The October 2017 fires created tragic havoc upon Sonoma County and resulted in the damage or destruction of thousands of residential and commercial structures. The rebuilding of

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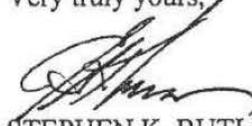
Roblar Road Property Owners
June 6, 2018
Page 4

our community requires not only overburden for soil remediation resulting from the fires, but also construction grade aggregate to rebuild our stricken community. You now have another opportunity to partner with the broader community and further both State and County goals to have a State required local supply of aggregate or choose to oppose these benefits in favor of a perceived defense of your insular enclave to the detriment of both the Barellas and the community at large.

The Barellas have been good neighbors and community supporters in the past and will continue to be so in the future. Currently, suitable road aggregate is being brought in by barge from Canada with associated greenhouse gas, truck and other impacts. The ultimate development of the Roblar Road Quarry will reduce all of these impacts and further long range County planning goals which have been in place for 35 years. We hope that each of you can join with us in the spirit of cooperation by putting aside any past differences in the interests of completing this necessary, critical and long overdue project.

We and the Barellas thank you very much for your consideration of the offers set forth herein.

Very truly yours,


STEPHEN K. BUTLER

SKB/pd

- c: James Gore, Chair, Sonoma County Board of Supervisors
- David Rabbitt, 2nd District Supervisor, Sonoma County Board of Supervisors
- Shirlee Zane, 3rd District Supervisor, Sonoma County Board of Supervisors
- Susan Gorin, 1st District Supervisor, Sonoma County Board of Supervisors
- Lynda Hopkins, 5th District Supervisor, Sonoma County Board of Supervisors
- Jennifer Barrett, Deputy Director-Planning, Sonoma County PRMD
- Blake Hillegas, Planning Supervisor, Sonoma County PRMD
- Verne Ball, Deputy County Counsel, Office of the Sonoma County Counsel
- Arthur F. Coon, Esq.
- John and Andrea Barella

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cont.

Via Certified, Return Rec.
RECEIVED

JUN 22 2018

**CLEMENT, FITZPATRICK &
KENWORTHY**

June 19, 2018

Steven Butler
Clement Fitzpatrick and Kenworthy
3333 Mendocino Ave., Suite 200
Santa Rosa, CA 95403

Ms. Shirley Zane
Shirlee.Zane@sonoma-county.org

Mr. David Rabbitt
David.Rabbitt@sonoma-county.org

Mr. James Gore
James.Gore@sonoma-county.org

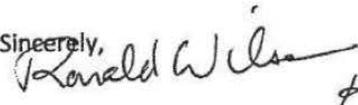
Ms. Susan Gorin
Susan.Gorin@sonoma-county.org

Ms. Lynda Hopkins
Lynda.Hopkins@sonoma-county.org

Mr. Butler and Supervisors:

This responds to your June 6, 2018 inquiry on behalf of Mr. and Mrs. Barella to us and three other property owners, which was also copied to Ms. Zane, Mr. Rabbitt, Mr. Gore, Ms. Gorin and Ms. Hopkins.

Like the earlier, June 23, 2017 letter of the Barella's to us on the same subject, we assume it was written primarily to serve as leverage as part of the Quarry owners' negotiations with the County of Sonoma to avoid compliance with existing or possible future permit conditions for the Quarry. To our mind, the proposed modifications sought by the Quarry owners (which are referred to but not described in your letter) to the existing permit are not, as you represent, "minor". We expect and understand that they will and should require review under the California Environmental Quality Act and further consideration by the Sonoma County Board of Supervisors. After this impartial review and consideration has taken place, we expect to be in an informed position to consider your inquiry.

Sincerely,


Ronald and Kathleen Wilson

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cont.

cc: Jennifer Barrett, Deputy Director - Planning , Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Verne Ball, Deputy County Counsel, Office of the Sonoma County Counsel

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John Barella

From: John Schelling <johnschelling@hotmail.com>
Sent: Wednesday, June 13, 2018 4:27 PM
To: j2barella@gmail.com
Subject: Re: Roblar Road Quarry - Offer To Purchase Land

Hi John,

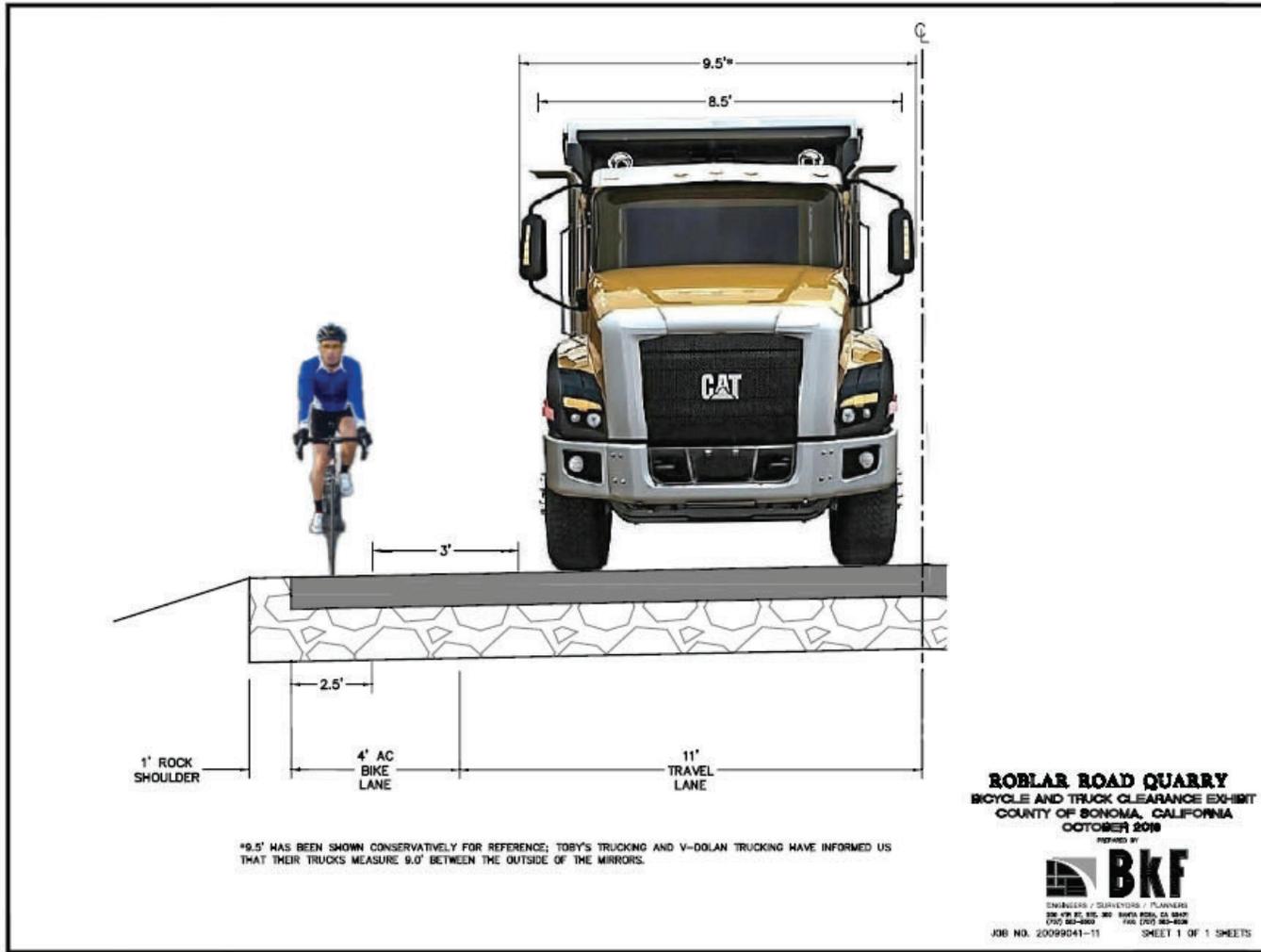
Thank you for your offer. We are not interested in selling any of our portion of the Steinbeck Ranch at this time.

Regards,
John

John Schelling, Jr.
John And Barbara Schelling Trust
johnschelling@hotmail.com
707-326-4313



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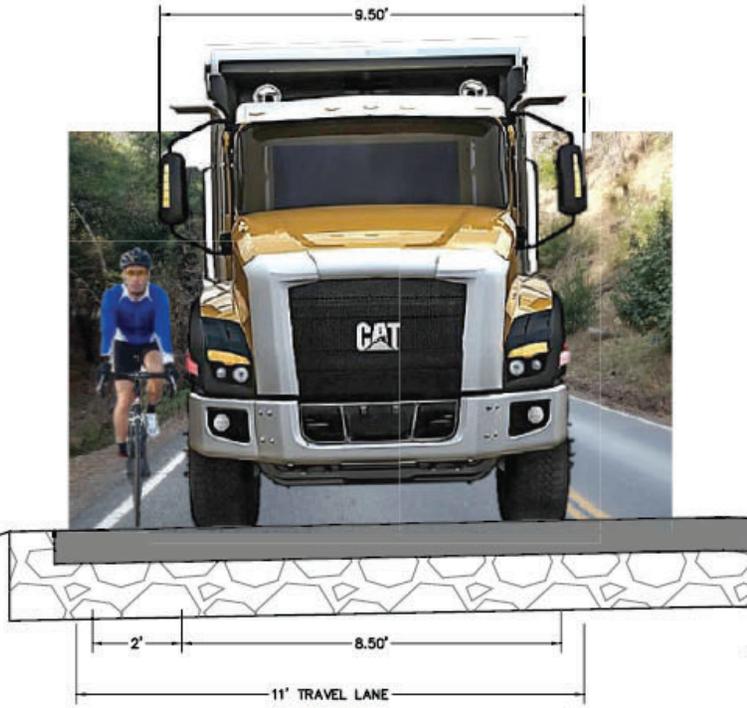


Plot Oct 25, 2018 at 11:54am



Plot Oct 28, 2018 at 9:44am

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MARK WEST QUARRY
 BICYCLE AND TRUCK CLEARANCE EXHIBIT
 COUNTY OF SONOMA, CALIFORNIA
 OCTOBER 2018



DESIGNED BY
BKF
 ENGINEERS / SURVEYORS / PLANNERS
 200 W. ST. STE. 200 SANTA ROSA, CA 95407
 (707) 532-8800 FAX (707) 532-8208
 JOB NO. 20099041-11 SHEET 1 OF 1 SHEETS

Letter E. Arthur Coon, Millar Starr Regalia (Attorney Representing the Applicant)

- E-1 This comment introduces the topics to be covered in the remainder of the comment letter. Please see the following responses. No changes are required in the Draft SEIR.
- E-2 The commenter has identified and provided analysis of the relevant legal precedents regarding deletion or modification of previously adopted mitigation measures, and has stated the basic requirements for mitigation measures. No changes are required in the Draft SEIR. Please see Master Response 1.
- E-3 While the Applicant contends that the mitigation measures and Conditions of Approval he seeks to modify are infeasible, the County has not reached this conclusion. Should the County Board of Supervisors decide to approve the proposed modifications, it will do so only after making findings to support that decision, including, if warranted, findings of infeasibility of those previously adopted measures.
- E-3a Please see Master Response 1.
- E-4 The commenter has identified and provided analysis of the relevant legal precedents and statutes regarding the definition of “infeasibility” under CEQA. Please see the response to Comment E-3.
- E-5 This comment recounts details of the Court of Appeal decision upholding the 2010 Final EIR, and does not comment on the current Draft SEIR. It therefore does not require a response. No changes are required in the Draft SEIR.
- E-5a Please see the response to comment C-22.
- E-5b The Applicant has not proposed to modify Condition of Approval 75 (which implements 2010 Final EIR Mitigation Measure E.8f).
- E-6 This comment recounts details of the Court of Appeal’s decision finding that the 2010 Final EIR’s analysis of secondary impacts of road widening was adequate, as well as the fact that Mitigation Measures E.8a through E8.p, which address these impacts, are all in effect (as Conditions of Approval 70-85). The commenter is correct that road widening would be fully mitigated, and is thus incorrect that reducing road width will lessen impacts. With regard to the commenter’s contention that a 32-foot wide roadway would be equally effective as the currently-required 40-foot wide roadway in mitigating bicycle, pedestrian, and traffic safety impacts, please see Master Response 1. With respect to the incorrect statement that the reason for this application is a mistake in the original 2010 Final EIR regarding the available right of way, please see response to comment C-22.
- E-6a Please see Master Response 1. The intent of the comment is unclear, but to the extent the commenter is suggesting that regulatory impediments with other agencies make the

current Use Permit infeasible, that has not been shown. In addition, the Applicant has stated that he intends to go forward with the original Use Permit if the modification is not approved.

E-6b Please see Master Response 1.

E-7 The commenter is correct that the 2010 Final EIR concluded that Impact E.8, addressing secondary impacts of haul route upgrades, could remain significant and unavoidable. However, 2010 Final EIR analysis of Alternative 2 concluded that Mitigation Measures E.8 a-p could all be feasibly implemented along a much shorter roadway that would require upgrading, and that for this alternative Impact E.8 would be reduced to less than significant. The same conclusion was reached for Modified Alternative 2 in the 2010 ESA memorandum (ESA, 2010). The findings adopted by the Sonoma County Board of Supervisors in approving Modified Alternative 2 also demonstrate that Impact E.8 would be reduced to less than significant.

As discussed in Master Response 1, the 2010 Final EIR also concluded that Impacts E.3 (addressing bicycle and pedestrian safety) and E.4 (addressing traffic safety) could remain significant and unavoidable because of the uncertainty regarding the feasibility of Mitigation Measure E.3a/E.4a, the measure requiring widening of roadways along the haul route. The 2010 Final EIR, however, also found that for Alternative 2, these impacts would be reduced to less than significant because the mitigation measure was found to be feasible for the shorter length of road requiring upgrade, and this conclusion was also reached for Modified Alternative 2 in the 2010 ESA memorandum (ESA, 2010). In approving Modified Alternative 2 in 2010, the Sonoma County Board of Supervisors adopted findings that both impacts E.3 and E.4 would be reduced to less than significant with implementation of the mitigation measures specified in the 2010 Final EIR, including Mitigation Measure E.3a/E.4a.

Therefore, the commenter's noting of the 2010 Final EIR conclusion that these impacts could remain significant and unavoidable because of questions about the feasibility of mitigation measures does not apply to the project that the Board of Supervisors elected to approve, that is, Modified Alternative 2. The Board of Supervisors elected not to approve the project that required that override. The improvements required under the current Use Permit are limited, and in approving the project with these improvements, no finding was ever made by the Board of Supervisors that any of these measures would or could be infeasible. Please see also the response to comment C-21.

E-7a Please see the response to the prior comment, comment E-7. The document cited in this comment is included as an attachment to this comment letter and labeled comment E-26. It is also referenced in the Draft SEIR and in Chapter I, Introduction, of this Final SEIR as ESA, 2010.

E-8 The commenter's assertion of infeasibility of the road widening geometry prescribed in Mitigation Measure E.3/E4 is based on their contention that the actual width of the right-of-way is less than the presumed width used as a basis for the 2010 Final EIR analysis. At

the time of the approval of the 2010 Final EIR, it was understood that the Applicant would need to acquire additional right of way. Condemnation is frequently required to build roads to safety standards. Mitigation Measure 3.4-3 acknowledges that condemnation may be required. Moreover, the current modification proposal would also require the Applicant to acquire some right of way. The commenter's assertion has not been established by a formal land survey, and no finding of infeasibility has yet been made by the Sonoma County Board of Supervisors. Furthermore, the Applicant's offers of purchase of land from his neighbors along Roblar Road for this purpose (comment letter D) call into question that the prescribed road width is in fact infeasible, the absence of a positive response to these offers notwithstanding. Please see the response to comment E-3.

E-9 Please see response to the prior comment, comment E-8.

E-10 The commenter is incorrect in stating that the applicable standard from the Sonoma County General Plan and AASHTO are for 11-foot wide travel lanes with 5-foot wide shoulders on Roblar Road, not 12-foot wide travel lanes with 6-foot wide paved shoulders (total 40-foot wide roadway) as currently required in Condition/Mitigation Measure 49 and Condition 59. As noted in the response to comment C-23, Roblar Road along the 1.6-mile segment that will be used by Quarry haul trucks has a prima facie speed limit of 55 mph and actual speeds approaching 60 mph; as noted in Draft SEIR Table 3.4-1 in Section 3.4, Transportation and Traffic, current weekday average daily traffic is 1,705 vehicles, and, as shown in Table MR1-1 in Master Response 1, with the addition of Quarry haul trucks, average daily traffic can be expected to increase to over 2,000 vehicles per day.

The following is excerpted from the General Plan 2020 Glossary, incorrectly cited by the commenter.

For [2-lane major and minor rural collector] roads with design speeds of less than 40 mph and volumes under 250 vehicles per day, the standard road width is 22 feet. Road width for maximum speed (60 mph) and volume (over 2,000 vehicles per day) is 40 feet.

Expected conditions on Roblar Road with the addition of Quarry haul trucks fits the criteria requiring the higher (i.e. 40-foot wide roadway) standard; there is no basis to contend that road widening should meet only the lower standard without a design exception.

Table 6-5 of AASHTO's "A Policy on Geometry of Highways and Roads," also shows that the recommended roadway width for rural collector roads with design volume over 1,500 vehicles per day and design speed of 55 mph or more is 40 feet.

Please see also Master Response 1.

E-11 The commenter is incorrect in stating that the current speed limit on the relevant section of Roblar Road is 45 mph. West of Orchard Station Road, the prima facie speed limit is 55 mph. The commenter is also incorrect that a Class II bikeway on Roblar Road is not required to be provided by the Applicant: Condition/Mitigation Measure 49, not the General Plan, requires the Applicant to upgrade the 1.6-mile segment of Roblar Road as follows:

49. Prior to the commencement of mining, the Applicant shall obtain easements/right of way (if necessary) and improve Roblar Road (between the on-site project access road and Access Road 2) to meet current County road design standards, including, but not limited to, two 12-foot wide vehicle travel lanes and two six-foot wide [paved] shoulders with traffic index of 10.5, and associated striping/signage to meet Class II bike facilities.

The requirement for paved shoulder width and striping/signage requirement are consistent with the standards for Class II bikeways contained in the 2010 Sonoma County Bicycle and Pedestrian Plan.

Please see also Master Response 1.

E-12 The Three Feet for Safety Act is cited in the Draft SEIR on page 3.4-4, in the discussion of the Regulatory Setting for Transportation and Traffic. The drawings referred to are included as attachments to this letter and labeled comment E-28. Please see Master Response 1. The commenter also references the Mark West Quarry. As noted in the Draft SEIR (page 3.4-11, footnote 3) approval of the Mark West Quarry expansion project required a Statement of Overriding Considerations.

E-13 Please see Master Response 1. With regard to the question of the adequacy of the Applicant's proposed road widening design to mitigate the bicycle safety impact, please see Master Response 1.

E-14 The comment describes the existing condition of roadway safety on Roblar Road. The 2010 Final EIR, and the current Draft SEIR, properly examine the traffic safety impacts of the project after implementation, that is, with the addition of several hundred haul trucks each day that the Quarry operates. Specifically, the Draft SEIR examines the different impacts on traffic safety of the previously approved road widening design with the currently proposed one, with the addition to current traffic volume of Quarry haul trucks. This forms the basis for the conclusion in the Draft SEIR that the proposed roadway design would result in a substantially more severe impact to road safety, compared to the project as approved. Please see also Master Response 1.

E-15 As noted in the response to comment E-7, mitigation measures addressing secondary impacts associated with roadway widening were determined to be feasible and effective in reducing these impacts to less than significant for Modified Alternative 2. The Applicant seeks to avoid the costs of implementing the current Use Permit, but has not provided evidence that to do so would be infeasible. See also the response to comment E-6a.

- E-16 The secondary impact of road widening on agricultural lands was found to be less-than-significant for Modified Alternative 2. Please see the response to comment E-7.
- E-17 The Draft SEIR finds, in Impact 3.4-2, that the Applicant's proposed design for intersection signalization and upgrade would result in a significant impact to bicycle safety. Mitigation measure 3.4-2, requiring wider paved shoulders than specified in the Applicant's proposed design, would reduce this impact to less than significant. As noted in footnote 2 on page 2-8 of the Draft SEIR, the 2005 IS/MND for the County's intersection signalization and upgrade design identified mitigation measures to reduce potential impacts to wetlands and special status species to less than significant. Please see also the response to comment C-9.
- E-18 Any decision to modify existing mitigation measures/Conditions of Approval by the Board of Supervisors will only be made after findings are made, based on the whole record, that support that decision.
- E-19 Please see response to comment C-19.
- E-20 Please see response to comment C-19. Please note that offsets continue to be contemplated by Mitigation Measure 3.4-1.
- E-21 Please see response to comment C-26.
- E-22 Please see the response to comment C-14.
- E-23 Please see the response to comment C-14.
- E-24 Please see the response to comment C-16.
- E-24a Please see the response to comment C-5.
- E-25 This comment summarizes several of the points raised in the previous comments. Please see the responses above.
- E-26 This document is referenced in comment E-7a. It is also referenced in the Draft SEIR and in Chapter I, Introduction, as ESA, 2010.
- E-27 This comment contains correspondence between the Applicant and the Applicant's attorneys, and neighbors of the Quarry project site who own property along Roblar Road. This correspondence is also contained in comment letter D. Please see the response to comment D-1.
- E-28 These drawings are referenced in comment E-12. Please see the response to that comment. Please see also the footnote regarding the Mark West Quarry in the Draft SEIR, on page 3.4-11, footnote 3.

From: [Nancy Graalman](#)
To: [David Rabbitt](#); [Susan Gorin](#); [Shirlee Zane](#); [James Gore](#); [Lynda Hopkins](#)
Subject: OPPOSING John Barella's /Roblar Quarry request for Changes to UPE16-0058
Date: Friday, October 26, 2018 11:20:19 AM

Supervisors:

The 2010 approval for this project remains one of the most egregious actions by the County of Sonoma when considering the environmental, quality of life, safety and ethical standards that were breached. The economic justification for the approval will forever taint Sonoma County for giving away infrastructure and natural resource assets (including easements purchased with taxpayer money) to enrich one man and his company.

1

My organization Defense of Place became strong advocates for the work of CARRQ during its courageous campaign to oppose the project; to this day, in other campaigns around the country we cite the quarry's eventual approval as an example of what can go wrong when even previously designated conservation easements are shattered by political pressure.

2

Without a doubt, Defense of Place knew that the developer would be back for more and more favors even as the details and impacts of the quarry become increasingly dire.

Thus it is that we join CARRQ in opposing the proposed change requests to the UPE16-0058 as described in the SEIR.

3

The request for the narrower road is, in a word, absurd, when contemplating the competition for space between a bicyclist and one of the 600 gravel trucks coming and going each day. Add in the cars for which that road means home, work and school, and the image of a disaster is unavoidable.

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In addition, we oppose the realignment of Americano Creek. The "sanctioned" assault on this creek and its habitats will also forever remain an affront to the environmental values of Sonoma County. No mitigation or promised years of restoration can cure what will most likely be the demise of the natural ecology of the creek and its environs.

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The approval of the Roblar quarry project brought a loss of trust that the county will defend rural communities, Open Space and conservation easements, and Sonoma County values. Please do not allow the developer to continue his attempts to profit from the loss of Roblar Valley by granting any more advantages.

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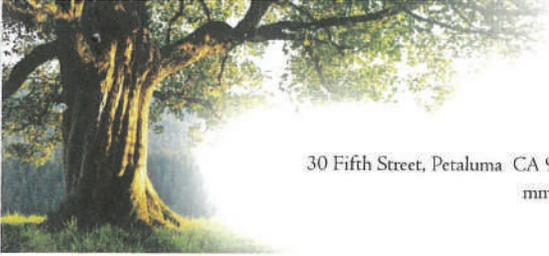
Cordially,
Nancy Graalman
Director
Defense of Place
415. 515. 1616

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Letter F. Nancy Graalman, Director, Defense of Place

- F-1 This comment does not address the proposed modification to the Use Permit Conditions of Approval or the environmental analysis contained in the Draft SEIR. The commenter's opposition to the Quarry project is noted.
- F-2 The commenter's opposition to the proposed modifications to the Use Permit Conditions of Approval is noted.
- F-3 Impacts to bicycle and traffic safety are analyzed in Draft SEIR Section 3.4, Traffic and Transportation: see Impacts 3.4-3 and 3.4-4. The Draft SEIR concludes that, even with the prescribed mitigation, these impacts would remain significant and unavoidable. Please see also Master Response 1.
- F-4 Hydrologic impacts associated with the proposed relocation of Americano Creek into a new, constructed channel, are discussed in Draft SEIR section 3.2, Hydrology and Water Quality, Impact 3.3-1, and found to be less than significant. Biological impacts associated with creek relocation are discussed in Draft SEIR section 3.3, Biological Resources, in impacts 3.3-1 through 3.3-7. One of the Biological Resources impacts, Impact 3.3-1, would be less-than-significant with implementation of Mitigation Measure 3.3.1 (see also response to comment C-14); the other Biological Resources impacts would be less than significant without mitigation.
- F-5 The commenter's opposition to the proposed modifications to the Use Permit Conditions of Approval is noted.



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October 26, 2018

ATTN: Chris Seppeler
Blake Hillegas
Natural Resources Division
Permit Sonoma
County of Sonoma Permit and Resource Management Department
2550 Ventura Avenue
Santa Rosa, California 95403-2829
By UPS and by email to Blake Hillegas

Members of Sonoma County Board of Supervisors
By e-mail

RE: Supplemental Environmental Impact Report
Proposed Project: Roblar Road Quarry
Site Address: 7175 Roblar Road, Petaluma
APN: 027-080-009 and 027-080-010

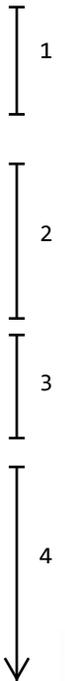
Dear County of Sonoma Permit and Resource Management Department and members of the Sonoma County Board of Supervisors:

Citizens Advocating for Roblar Road Quality (“CARRQ”) has reviewed the Supplemental EIR (SEIR) for this project and provides the following comments and attached evidence on both the SEIR and the project for your consideration.

After over a decade of consideration by the County of this project, one thing is certain: when the Quarry begins operations its traffic impacts on the western part of Sonoma County will be catastrophic. Roblar Road, as well as miles of Valley Ford Highway and Pepper Road leading back to Highway 101 will become little more than haul routes dedicated to the service of a for-profit industrial gravel operation. These are public roads which are now part of the unique scenic and natural resources of Sonoma County. This project, if approved, will put an abrupt end to that for the next twenty years. That this is true can hardly be questioned from facts disclosed in the SEIR itself, which states:

“...the Quarry would cause an increase in truck traffic on Roblar Road (i.e., an average of about 27 one-way trips per hour [about 302 per day], and a peak of about 43 one-way trips per hour [about 480 per day]). SEIR p. 3.4-8

That means according to the County’s own experts that a Quarry based gravel truck will run over Roblar Road, Valley Ford Highway, and Pepper Road on average every TWO minutes, every



working day, every month, every year, for the next twenty years. This is **not** in dispute. Just do the math: according to the SEIR over nearly **two million** gravel trucks will clog the County's main arteries to its Pacific coast during the life of the project (302 trips x 300 days x 20 years = 1,812,000 gravel truck hauls). If the County intends to convert the primary tourist routes that its citizens and visitors use to access Sonoma's unmatched Pacific Coast into a transportation nightmare, it can hardly choose a better way.

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We acknowledge, however, that there are some that justify this nightmare on the grounds that the County's construction industry will shave a few cents, or perhaps even many cents, off its purchase of a ton of gravel over those next twenty years. We strongly disagree with this rationale. But putting that disagreement aside, **IF** the County determines to approve this project, the County should at the very least ensure that the roads on which it chooses to impose this traffic morass meet safety and design standards that can accommodate the volume of gravel trucks such approval would unleash. The existing permit issued by the County to the Quarry Developer at least does that. However, the SEIR shows that the modifications to the permit now proposed by the Quarry Developer do not. Indeed, there is no question, no debate at all, that if the modifications are allowed Roblar road will not meet these safety standards. The SEIR itself finds that significant and unavoidable environmental impacts will occur if the County allows Quarry operations to escape the conditions of the existing county permit for the Quarry. The SEIR, written by the County's own staff and experts, describes these impacts as follows:

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Impact 3.4-3 The proposed substantial increase in truck traffic on Roblar Road, which does not fully meet current roadway design standards including class II bikeway standards, could introduce potential bicycle safety hazards.

Impact 3.4-4: The proposed substantial increase in truck traffic on Roblar Road, which does not fully meet current roadway design standards and/or has limited sight distance, could introduce potential traffic safety hazards.

The accompanying expert opinion of Traffic Expert Mr. Daniel Smith (Exhibit 1) finds (a) the safety risk to be even greater than stated in the SEIR and (b) that the SEIR itself shows the current permit conditions could be satisfied by the use of a modest amount of additional property presently owned by the Quarry owner and the one adjoining landowner who has cooperated in the past with the Quarry owner to design Quarry haul routes and mitigation efforts.

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CAARQ hereby opposes the proposed modifications to permit conditions 49 and 59, as well as conditions 101-133 of the existing permit because to allow them (a) would be a policy decision averse to the interest of County residents and members of the public, and (b) would force the County into the approval of a knowingly unsafe and negligently designed public road that would pose risks of liability to the County and to county tax payers, and (c) would violate California law because the SEIR fails to show that these current permit conditions ensuring safety are infeasible. We discuss each reason here briefly.

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First, the SEIR concedes that to allow the proposed modifications will create a county road unsafe for motorists, bicyclists, and anyone unfortunate enough to be present near its haul route. Such approval would sacrifice the safety of residents and visitors for the advantage of the for-

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profit operations of the Quarry without any showing that current permit conditions are economically infeasible. The SEIR fails to demonstrate these permit conditions could not be feasibly be met without unreasonably diminishing the expected profits of the permitted Quarry enterprise. The SEIR does not address this issue and presents no information regarding the amount of those expected profits over the twenty-year life of the project. Unless this is known, there is no basis to believe that compliance the County’s existing permit conditions would have a significant impact on them. While the SEIR refuses to address the issue, it is reasonable to assume, however, that these profits will be in the millions of dollars (see accompanying expert opinion of expert professional economist Michael Kavanaugh, attached as Exhibit 2.) Mr. Kavanaugh conservatively estimates the likely profit of an enterprise which mines the currently permitted amount of 11.4 million tons of gravel at more than twenty million dollars. The SEIR itself is completely silent on the likely economic impact on this gravel operation if the County stands by its present permit conditions.

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Second, the County faces potential liability by refusing to stand by the permit conditions that make the road safe. (See expert opinion of Daniel Smith so stating, Ex. 1). The SEIR makes it clear the modifications to the existing permit, if allowed, can pose “a significant” safety risk to motorists and bicyclists. Accordingly, it is highly likely that people will be killed or injured on this road if the modifications are approved. Since these safety consequences are clear from the County’s own SEIR, it is likely the County will face liability if it changes its existing permit conditions.

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Finally, the modifications to the existing permit do not meet the standards imposed by the California Environmental Quality Act (CEQA). Modifications to safety conditions of an existing permit can only be based on evidence that compliance with them is economically infeasible or unjustly burdensome to the project. (See Citizens of Goleta Valley v. Board of Supervisors (1988) (“Goleta I”) 197 Cal.App.3d 1167) The SEIR does not present any evidence at all to show the developer’s compliance with the conditions 49 or 59 are economically or otherwise infeasible. See also Lincoln Place Tenants Assn. v. City of Los Angeles (2005) 130 Cal.App.4th 1491, 1508-1509), Napa Citizens for Honest Government v. Napa County Board of Supervisors (1st Dist. 2001) 91 Cal. App. 4th 342 [110 Cal. Rptr. 2d 579]. Instead, the SEIR merely mouths what the Quarry claims- that it cannot obtain right of way at a price that its lawyers deem “just compensation”. Based on that claim, the proposed modifications would relocate Americano Creek and still, having moved it, still result in a haul route that complies with permit conditions. Since the SEIR does not show that compliance with the existing permit conditions are economically or otherwise infeasible, the SEIR cannot serve as a basis for approval of modifications which erode the County’s current safety requirements.

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We do not further directly address in these comments our objections based on (a) policy or (b) potential liability grounds. While vitally important, the reasons underlying these objections should be apparent to a casual, impartial observer. One does not change permit conditions to make something unsafe which would otherwise be safe. One does not create liability for oneself by changing permit conditions, when without such change, there would be no liability. However, given the long permitting history of the County with this gravel operation, we appreciate that there may be some County officials who remain partial to the development of gravel mining at this site and location, even if it means accommodating a request to alter the existing permit.

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Accordingly, we devote the remainder of these comments to a more extensive explanation of why the SEIR is legally insufficient to support approval of the proposed modifications under CEQA.

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There are six basic reasons.

First, the County’s history of consideration of the various access roads which have been proposed for this project - which resulted in the current permit conditions after the certification of an EIR in 2010 – show that there has been no sudden and unforeseen development sufficient to warrant a change in those conditions. Instead, the issue of access and right of way have been discussed for over a decade. The SEIR states that at the time the County issued the permit in question the developer represented that he could meet its conditions and obtain any necessary right of way to do so. Indeed, as late as August 19, 2016, after the modifications had already been proposed, the County official who co-authored the SEIR stated the project could and would acquire right of way to widen substantial portions of Roblar Road from the owners of the land adjacent to the Quarry property and Roblar Road.

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Second, the SEIR itself shows the proposed modifications to the existing conditions will make the project unsafe and constitute a significant and unavoidable environmental impact.

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Third, CEQA requires here that any modification to the existing permit conditions must be supported by substantial evidence that shows compliance with these conditions is economically or otherwise infeasible given the expected economic returns of the enterprise.

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Fourth, the SEIR makes no showing, as required, of such infeasibility.

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Fifth, evidence in the County’s record of consideration of this project (which is NOT discussed in the SEIR) shows at least the possibility that the permit conditions could be economically and feasibly met by the developer. None of this evidence in the County’s record for the project, though clearly known to the County, is discussed in the SEIR.

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Sixth, the SEIR does not demonstrate that the relocation of American Creek is necessary nor does it show why it should not be found to conflict with other laws and County ordinances.

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We now address each of these six reasons:

I. The history of the County’s consideration of this Project and the various access roads which have been proposed for this project - which resulted in the current permit conditions after the certification of an EIR – show that there has been no sudden and unforeseen development sufficient to modify those conditions.

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Several years ago, Applicant applied to develop and operate a gravel mine in the Roblar Road Area of Sonoma County. As required under the California Environmental Quality Act (CEQA), Sonoma County through its Permit and Resource Management Department (PRMD) conducted and completed an Environmental Impact Report (EIR) regarding the proposed projects impacts on the environment and public safety. The EIR recommended and Sonoma County required



through the permit at issue here the project to meet certain conditions of approval to mitigate the environmental impacts it would cause.

The approval of the haul route using Roblar Road by gravel operations was contentious. The haul road was initially designed to go east down Roblar Road to Stony Point Road. After protest, the haul route was then later designed to go west down Roblar Road, and then down Valley Ford Highway to hit Pepper Road and continue towards Stony Point Road and Highway 101. In approximately 2009 the developer's attorneys proposed still another alternative haul route (which they called Access Road one) to bypass the section of Roblar Road along Roblar Creek and then continue west along Roblar Road to intersect with Valley Ford Highway, and eventually Pepper Road. The alternative haul route using Access Road One to bypass Americano Creek was designed to pass through land immediately adjacent to the developer's quarry property, which was owned by Kenneth Wilson and Clairette Wilson (hereinafter KWilson). KWilson cooperated in this plan and allowed the use of his property for this alternative haul route. Proceedings were held before Planning Commission and the Board of Supervisors to consider the alternative haul route passing through the KWilson property in late 2010. However, after protest, the Board of Supervisors determined NOT to approve the haul route through the KWilson property because the land was also subject to a County held conservation easement. The haul route then reverted to the one which is under consideration by the present SEIR.

At or about the same time it became clear the developer would need to mitigate the project's effects on endangered species. Kenneth Wilson and project developer proposed they do so in another location in land owned by KWilson next the Quarry. After proceedings before many county agencies, including the Board of Supervisors, in December 2010 the Board of Supervisors allowed the Quarry to create a mitigation preserve on the KWilson property, even though it was subject to a County conservation easement. CAARQ objected to the creation mitigation preserve and filed suit in Sonoma County Superior Court to block it. The developer's attorney was successful in dismissing this suit on several grounds, which included the assertions that CAARQ did not name Kenneth and Clairette Wilson as indispensable parties to the lawsuit, since they owned the land on which the Quarry's mitigation preserve was to be located. This dismissal was upheld by the First District Court of Appeal in an unpublished opinion in 2012.

In December 2010, after years of review, the Sonoma County Board of Supervisors certified the EIR for this project and in conjunction with that certification approved the project subject to conditions of approval designed to mitigate the proposed project's environmental and public safety impacts as identified in the final EIR. These conditions of approval contain permit conditions Nos. 49 and 59 and 101-133. It is these conditions which the developer seeks to change on the grounds they unnecessary or infeasible.

Following certification of the EIR, CARRQ in 2011 filed a petition in Sonoma County Superior Court challenging the sufficiency of the certified EIR and the Board of Supervisors approval of the project, alleging, among other things, that the EIR and the resulting permit conditions failed to mitigate the environmental impacts of the project. Applicant opposed this lawsuit claiming the EIR was adequate and its analysis of environmental impacts sufficient. CARRQ prevailed in Sonoma County Superior Court and the trial court issued an injunction to halt the project in 2012. The First District Court of Appeal then reversed this decision in 2014 on the grounds that

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the EIR had adequately addressed the environmental impacts of the project, leaving in place the Board of Supervisor’s certification of the EIR and the conditions of approval of the project. At no time in this litigation, did the Quarry’s attorneys challenge the feasibility of the mitigation measures or the conditions of approval for the project, including conditions 44, 49 and 59, 101, and 133. Instead, the Quarry waited until approximately July, 2016, six years after the County imposed the conditions of approval, to claim they are unnecessary or infeasible.

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CEQA Guidelines Section 15163(a) indicates that a Supplement to an EIR, rather than a Subsequent EIR, may be prepared if:

New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:

The project will have one or more significant effects not discussed in the previous EIR;

Significant effects previously examined will be substantially more severe than shown in the previous EIR;

Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

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While the SEIR states that “The County has conducted a review of the Applicant’s proposed modifications to the Use Permit COA, and has determined that they have the potential for new or substantially more severe significant impacts” the SEIR nowhere shows or demonstrates facts showing existence of “new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified.”

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2. The proposed modifications to the existing conditions will make the project unsafe and constitute a significant and unavoidable environmental impact

The SEIR states “ The Use Permit requires the Applicant to make improvements to Roblar Road from the Quarry entry to Access Road 2. These improvements include widening Roblar Road to provide two 12-foot-wide vehicle travel lanes with 6-foot-wide paved shoulders, 2-foot-wide rock shoulders, and associated striping to meet Class II bicycle facilities. The Applicant, citing their inability to obtain the necessary right-of-way, instead proposes to construct improvements to Roblar Road that would include two 11-foot-wide vehicle travel lanes, two 3-foot-wide paved shoulders, and two 2-foot-wide rock shoulders; and not include Class II bicycle lanes.

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As a result, the SEIR states the “ total paved width would be reduced from 36 to 28 feet” a reduction of width of between 20/25%. The SEIR concludes this reduction, in combination with a massive increase in truck traffic, will have an unavoidable and significant environmental impact stating each as follows:

Impact 3.4-3 The proposed substantial increase in truck traffic on Roblar Road, which does not fully meet current roadway design standards including class II bikeway standards, could introduce potential bicycle safety hazards.

Impact 3.4-4: The proposed substantial increase in truck traffic on Roblar Road, which does not fully meet current roadway design standards and/or has limited sight distance, could introduce potential traffic safety hazards.

The report of expert Daniel Smith further illustrates and elaborates on this safety hazard and is attached as Exhibit 1 and incorporated here by reference.

3. CEQA requires that any modification to the existing permit conditions, since they will cause substantial environmental impacts, must be supported by substantial evidence that shows compliance with the existing permit conditions is economically or otherwise infeasible.

The modification of any mitigation condition based on a previously certified EIR requires evidence that it is infeasible. After certifying an EIR, an agency may not approve a project subject to conditions of approval and later delete or modify those conditions without substantial evidence to support such modification in a supplemental EIR. Napa Citizens for Honest Government and Lincoln Place establish that once a project EIR is certified an agency can legally change mitigation or permit conditions only if:

- The agency undertakes a supplemental EIR to analyze and discuss these proposed changes;
- The agency finds the conditions of approval imposed after the certification of the original EIR are infeasible;
- The agency supports such finding of infeasibility through substantial evidence;
- The agency makes a finding of overriding considerations if the modifications to the conditions of approval will result in unmitigated environmental impacts as discussed and analyzed in the subsequent or supplemental EIR.

Since both Napa Citizens and Lincoln Place require this standard of review, we discuss each briefly below.

In Napa Citizens for Honest Government v. Napa County Board of Supervisors (1st Dist. 2001) 91 Cal. App, 4th 342 [110 Cal. Rptr. 2d 579], petitioners challenged Napa County’s approvals for an updated specific plan and subsequent EIR addressing the development of an unincorporated area south of the City of Napa.



“When an earlier-adopted mitigation measure has been deleted, the deference provided to governing bodies with respect to land use planning decision must be tempered by the presumption that the governing body adopted the mitigation measure in the first place only after due investigation and consideration. We therefore hold that a governing body must state a legitimate reason for deleting an earlier-adopted mitigation measure and must support that statement of reason with substantial evidence. If no legitimate reason for the deletion has been stated, or if the evidence does not support the governing body’s finding, the land use plan, as modified by the deletion or deletions, is invalid and cannot be enforced. [¶] *** In other words the measure cannot be deleted without showing that it is infeasible.”

In Lincoln Place Tenants Association v. City of Los Angeles (2d Dist. 2005) 130 Cal. App. 4th 1491 [31 Cal. Rptr.3d 353], the Court of Appeal extended the holding in Napa Citizens by and concluded that elimination of mitigation measure from a previously certified EIR required substantial evidence of the measure’s infeasibility. Following Napa Citizens, the Lincoln Place court stated:

“because an initial determination a mitigation measure is infeasible must be included in the EIR and supported by substantial evidence it is logical to require a later determination a mitigation measure is infeasible be included in a supplemental EIR and supported by substantial evidence”.

The law regarding enforceability is clear: the fact that compliance with a condition of approval may be more expensive or less profitable is insufficient to demonstrate that the condition is not economically feasible. What is required is evidence that the additional costs or lost profitability as a result of Applicant’s compliance with the permit conditions are sufficiently severe as to render it impractical to proceed with the project.

For a private project, like this one, a finding that a condition imposed on the applicant is economically infeasible requires not just cost data, but also data showing insufficient income and profitability. Burger v. County of Mendocino (1975) 45 Cal.App.3d 322 at 327 (infeasibility claim unfounded absent data on income and expenditures showing project unprofitable). There, the court identified three criteria that should be evaluated when determining whether a project alternative would be economically feasible: (1) estimated income; (2) estimated expenditures; and (3) estimated profitability. Implicit in the court’s finding is the need to conduct a comparative analysis, on the basis of each of these criteria, between the proposed project and project alternatives or the proposed project with and without the recommended mitigation measure to determine whether a particular alternative or measure would render the project economically infeasible.

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In Citizens of Goleta Valley v. Board of Supervisors (1988) (“Goleta I”) 197 Cal.App.3d 1167, the court confirmed the use of the criteria identified by the Burger court, added additional criteria, and stated that proof of an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project.

The Citizens of Goleta Valley Court then set forth five criteria against which a proposed project and project alternative can be compared.^[1] They include the following: (1) total estimated costs; (2) total projected income; (3) total expenses; (4) the change in the per unit cost of a project that results from a project alternative or mitigation measure; and (5) the economic benefits of the project to the community and public at large.

Here the SEIR provides no estimated cost data, projected income, expenses, or change in costs as required under CEQA for the costs of such compliance, as required by Citizens of Goleta Valley.

Assuming there is an argument here that that compliance with each Condition of Approval is legally infeasible, the argument is flawed for the same reason – there is no way of knowing whether the costs and burden imposed on the Applicant are out of proportion to their environmental impacts (See CEQA Guidelines, §15126.4, subd. (a)(4)(B)) until one understands what the costs of those burdens impose on Applicant’s expected income. No such evidence is provided by the SEIR. The record, to CAARQ’s knowledge, shows only a failed attempt to initiate negotiations by offering what the Quarry’s attorneys say is “just compensation”, rather than negotiate to determine whether some of the property adjacent to the Roblar Road haul route may be obtained for an economically feasible price.

Since SEIR presents no evidence of infeasibility under CEQA standards sufficient to establish economic or other infeasibility, the County must reject each of the requested modifications to the four conditions of approval.

4. The SEIR makes no showing, as required under CEQA, that compliance with the conditions of approval Nos 49, 59, 101-133 is infeasible.

The SEIR does not examine or analyze any of the issues which it assumes makes compliance with the permit conditions infeasible. It concedes that at the time the permit conditions were imposed the Quarry represented the necessary right of way could be obtained for compliance. It does not verify any claim that the acquisition of such right of way now is be economically infeasible, and does not analyze or even estimate the expected revenues from currently permitted gravel operations at the site. While no information regarding this Quarry’s likely profits is provided by the SEIR, it is reasonable to assume that likely profits will be in the millions of dollars and the expert opinion of economist Michael Kavanagh, Exhibit 2, supports this assumption.

^[1] In the context of a mitigation measure, the analysis would involve evaluating the project, with and without the proposed mitigation, against these criteria.



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All the SEIR says about infeasibility is to repeat the claim that the Quarry cannot obtain right of way. The SEIR does so in these statements:

The SEIR states: "With respect to Roblar Road to the west under the approved alternative, the applicant had asserted that he could obtain sufficient right of way to widen the 1.6-mile segment of Roblar Road and that condemnation would not be required. Based on that assumption, which has turned out to be incorrect, the Board of Supervisors originally found Modified Alternative 2 to be feasible without the significance finding and override with respect to Impact E.3 that otherwise would have been required. Thus, with the original approval, implementation of Mitigation Measure E.3a (which was the basis for Conditions/Mitigation Measures 49 and 59) would improve Roblar Road to provide two 12-foot-wide vehicle travel lanes, two six-foot-wide paved shoulders, two two-foot-wide unpaved (rock) shoulders, and associated striping/signage to meet Class II bike facility standards." SEIR p 3.4-9

The SEIR states: "Specifically, the Applicant states that the Roblar Road prescriptive right-of-way (ROW) is not wide enough to accommodate the specified road width, that it is unable to obtain sufficient land to expand the required ROW, and that the proximity of Americano Creek and other wetlands along the road constrains road widening." SEIR p 2-10.

The SEIR states: "The applicant indicates he has had appraisals done and has submitted evidence that he has made written offers to land owners at what the Applicant claims is above market value. Thus far, the Applicant reports that neighbors have not agreed to the sale of any of the land needed to accommodate road widening and at least one neighbor is waiting to see the outcome of the proposed Use Permit modification before entering into any negotiations. The applicant also has suggested that it is impractical and unnecessary to construct the full width roadway improvement, although the Applicant's technical comments are not based on County standards or the applicable traffic counts and projected traffic for the road."

Other than this discussion, the SEIR does not analyze or present any facts or evidence to show or why compliance with Conditions 49 and 59 are infeasible. Even if the Quarry has indeed offered what he believes is just compensation for a portion of the right of way adjacent to Roblar Road, that is not the standard. The standard is infeasibility. The SEIR states no facts that it is economically infeasible for the Quarry to offer an amount that is feasible, or that the Quarry or its lawyers have engaged in active negotiations to try to do so. On the other hand, the expert report of Daniel Smith states facts showing that that compliance with conditions 49 and 59 could be feasible, as discussed further below.

V. The record of consideration of this project maintained by the County contains evidence and facts which are NOT discussed in the SEIR but which tend to show a likelihood or possibility that the permit conditions 49 and 59 could be economically and feasibly be met.

While the SEIR omits any factual analysis of the claim that compliance with existing permit conditions is infeasible, the record for this project maintained by County contains evidence that that show such compliance could by either possible or likely. Much of this evidence was created



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by the County officials, including the authors of the SEIR. By choosing to ignore it, the SEIR wholly fails as a disclosure document required by CEQA. However, while the SEIR does not address this evidence, we will do so now.

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The evidence chiefly falls into two categories. First, evidence that shows the failure to make efforts to obtain necessary right of way at values that would (given expected profits from the gravel operations) be feasible. Second, evidence that shows that right of way sufficient to comply with existing permit conditions could be obtained from lands already owned by the Quarry and by the adjacent property owner (KWilson) who has cooperated with the Quarry to develop the Quarry in the past. We discuss each in turn:

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a. Evidence that supports finding that the Quarry has failed to make sufficient efforts to obtain right of way to comply with existing permit conditions at values that could be feasible, given the expected profits from the gravel operations.

The SEIR reports that claim that the Quarry has negotiated for right of way by making “written offers to land owners at what the Applicant claims is above market value” and that “neighbors have not agreed to the sale of any of the land needed to accommodate road widening”. The SEIR does not further analyze or state any the facts that would support this claim. We have reviewed a substantial portion of the record maintained by County record for this project. We have found two letters in the record, one dated in 2017 from the developer and the one dated in 2018 from the developer’s attorneys (both attached as Exhibit 3). The SEIR also contains several maps showing the land adjacent to the fourteen separate sections of Roblar Road that will constitute the haul route and identifies the property owners who own the property adjacent to this haul route along each section. (see SEIR, figures 2-7a through 2-7h, also attached as Exhibit 4). Using these maps in the SEIR and Exhibit 3 as a reference, it appears the owners of the adjacent land that could be used for right of way purposes are Ronald and Kathy Wilson, Kenneth and Clairette Wilson, Claudia McKnight and John and Barbara Shelling. The Kenneth and Clairette Wilson properties are noteworthy because it is clear from the SEIR figures 2-7a through 2-7h that the entire length of the Roblar Road haul route runs immediately next to their property after it leaves the property owned by the Quarry. Thus, as supported by the opinion of expert Daniel Smith, all necessary right of way could be obtained from this one property owner, as well as the Quarry itself.

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Exhibit 3 as well as the 2017 letter are addressed to the property owners referenced above. The 2017 letter offers no price for any right of way from any landowners. In the 2018 letter (Exhibit 3) the Quarry’s attorney offers each landowner only what is described as “fair compensation” and offers a specific, take it or leave it, amount to each landowner- varying between approximately \$4,000 and \$24,000, which the 2018 letter says experts have determined to be fair market value. The 2018 letter also makes various claims and assertions as to what may happen if the offers are not accepted at these stipulated prices. (see Exhibit 3, page 3). These include the possibility that the County will condemn the property. None of the claims and assertions or options stated in these letters are analyzed, discussed, or even mentioned by the SEIR.

The record contains the responses of at least one landowner to these letters, attached as Exhibit 5. However, the portions of the record reviewed by CAARQ do not contain any response made by Kenneth Wilson or Clairette Wilson, who own property along the entire length of the haul route after it leaves the Quarry property. While the SEIR is silent on the subject, as far as CAARQ can determine the 2017 and 2018 letters attached as Exhibit 3 are the only written communications or “negotiations” on this subject in the County record for this project.

Under CEQA such cursory, unilateral negotiations do not establish infeasibility. There is likely a price that at least one of these landowners would accept for the right of way necessary to comply with the existing permit. The record does not demonstrate sufficient evidence to show that the parties have attempted sufficient good faith negotiations to determine what that price would be. Once known, it may or may not be economically feasible to meet it. Until that price is determined no such reckoning of its feasibility is possible.

Further, the 2018 written offers for right of way (Exhibit 3) made by the Quarry’s attorney do not include ANY offer for much of this right of way. In fact, the written offer of the developer’s attorney in Exhibit does not appear to make **any** offer to obtain the right of way owned by KWilson on the east side of Roblar and described as Sections 8,9,10 and 11 of Figure 2-7a of the SEIR (since the 2018 offer made to KWilson only involved the land directly across from that owned by Ronald and Kathy Wilson which is shown in Sections 1 through 7 of Figure 2-7a of the SEIR. This alone renders the analysis of infeasibility by the SEIR defective.

Based on Exhibit 3, the highest price offered any landowner to obtain right of way to comply with the County’s permit conditions is less than \$24,000. The County, in the absence of evidence that a higher amount would be economically infeasible, cannot adopt that limitation as their own.

b. Evidence shows that right of way sufficient to comply with existing permit conditions could be obtained from land already owned by the developer and from land owned by an adjacent property owner who has cooperated with the quarry owner to develop the Quarry in the past.

Accordingly, to the extent that additional right of way is required to comply with existing permit and design safety standards, the SEIR in Figures 2-7a-h shows that such right of way can be obtained from land owned by just two property owners. One parcel is owned by the developer/quarry owner himself. The others are owned by Kenneth Wilson and Clairette Wilson or their trust(KWilson). After review of the SEIR, the expert report of Engineer Daniel Smith affirms this is the case. While the Quarry has made an offer to acquire right of way on some of this property (Sections 1-7 on Figure 2-7a) on others it has not. (Sections 8-11)

The County’s record of the approval of this project over the last decade shows that KWilson has cooperated with the Quarry owner in the past to propose alternative Quarry haul routes and to mitigate the harmful effects of the Quarry on endangered species and land owned by KWilson. For example, in 2009/2010 KWilson cooperated to allow the developer to propose an alternative haul route (Access Road One) to run across KWilson’s land. Lengthy discussions and consideration about the wisdom of permitting this haul route then ensued before the Sonoma



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County Planning Commission, the Sonoma County Open Space District and the Sonoma County Board of Supervisors in 2009 and 2010. The haul route was ultimately rejected by the Board of Supervisors. The record of these discussions and considerations that show KWilson cooperated in the creation of proposed alternative haul route is extensive. Relevant portions accompany the paper copy of these comments submitted to the County as Exhibit 9. The SEIR does not discuss this at all.

Further, in 2009/2010 it became clear that the Quarry would have to mitigate its effect on endangered species in order to be approved by the Board of Supervisors. KWilson cooperated with the Quarry to do so by agreeing that a Mitigation Preserve for the Quarry could be located on KWilson land. The approval of this Mitigation Preserve by the County was contentious and involved proceedings before the Sonoma County Open District (see Exhibit 6 which was the public notice in 2010 of the Quarry’s intention to create a Mitigation Preserve) and the Board of Supervisors. The record of these considerations that demonstrate the cooperation of KWilson and the Quarry to create this Mitigation Preserve is extensive. Relevant portions of this record accompany the paper copy of these comments submitted to the County as Exhibit 10. None of this record is discussed in the SEIR.

So, if the right of way required by the County permit **can** be obtained by use of the Quarry developer’s own land and the land owned by the same person who has cooperated in the development of the Quarry in the past, why isn’t it feasible for the developer to obtain and use it? We don’t know and the SEIR doesn’t address the issue. The SEIR does not discuss this issue of feasibility at all.

The SEIR’s silence on this issue is especially remarkable since the co-author of the SEIR asserted on behalf of the County on August 19, 2016 (after the developer had requested modifications to the permit) that the widening of Roblar Road **would** in fact occur on the lands of Kenneth and Clairette Wilson and that the County had conceptual plans to prove it. The assertions are contained in an email of that date from Mr. Blake Hillegas (attached as Exhibit 7) to one of the property owners listed on Exhibit 3 and reads as follows:

“ The Roblar Road widening would occur within the fenceline/right of way on the south side of Roblar and would occur on the Lands of Kenneth and Clairette Wilson on the North Side.

Wee conceptual plans if you would like to see them.”

See email of Blake Hillegas dated August 19, 2016 attached as Exhibit 7.

Consistent with their silence on this issue, the authors of the SEIR do not address the County’s assertion (made after the developers’ initial request for modifications to the permit) that the widening of Roblar road would occur on KWilson Wilson land, nor its timing, nor does it make any reference any to the County’s conceptual plans that show it .

VI. The SEIR does not demonstrate that the relocation of American Creek is necessary nor does it show why it should not be found to conflict with other laws and County ordinances.



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First, as the County has admitted in the October 16, 2018 hearing before the Board of Supervisors, the relocation of American Creek is necessary only if the Quarry cannot feasibly acquire right of way on land on the west side of Roblar Road directly across from where the Creek flows through Quarry property. The SEIR shows this land is owned by either Ms. McKnight or the Shelling Trust.

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There is no showing in the SEIR or in the record reviewed by CAARQ to date that the developer has made any feasible offers to these landowners. Until it is clear from the record that the demand for this property is infeasible, given the expected profits from the Quarry operations, the relocation of Americano Creek with all its attendant environmental impacts is not necessary and should not be approved.

Second, the County has no final jurisdiction over the relocation of a streambed or waterway in California. That jurisdiction rests with the California Department of Fish and Wildlife. The developer must first obtain a California Public Resources Code Section 1600 Streambed Alteration Agreement from that agency. CAARQ has made a Freedom of Information Act Request to the Department of Fish and Wildlife to obtain any application for such an Agreement by the Developer or Quarry. See letters attached as Exhibit 8. CAARQ has been informed by that Department that no such requested records exist. Until such time as such an application is approved the County should defer action on the relocation of Americano Creek.

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Third, the SEIR acknowledges that unless inapplicable, the relocation of Americano creek conflicts with the provisions of Chapter 26A of the County Code. On October 23, 2012, the Board of Supervisors adopted map amendments to the Open Space Element of the General Plan to designate critical habitat for endangered species. While the SEIR assumes, without analysis, that these provisions should not apply, CAARQ respectfully disagrees. The relocation of Americano Creek constitutes an independent and subsequent development that should be governed by the current Open Space element of the General Plan. The SEIR does not states facts that justify any opinion or finding that Chapter 26A regarding setbacks should not apply to the plan to relocate Americano Creek.

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IV. Conclusion:

For the reasons stated above the SEIR is insufficient to serve as basis for approval of the proposed changes to the County's current permit conditions.

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Sincerely,

Michael Molland
on behalf of CAARQ



SMITH ENGINEERING & MANAGEMENT

October 26, 2018

Michael Molland, Molland Law
30 Fifth Street
Petaluma, CA 94952

Subject: Roblar Road Quarry Project Draft Supplemental Environmental Impact Report (SCH # 2004092099)

Dear Mr. Molland:

At your request, I reviewed Draft Supplemental Environmental Impact Report (the "DSEIR") for the Roblar Road Quarry Project (the "Project") in the County of Sonoma (the "County"). My review is with respect to transportation and circulation considerations.

My qualifications to perform this include registration as a Civil and Traffic Engineer in California and 50 years professional practice in this state. I have prepared or commented on Environmental Documents prepared under the California Environmental Quality Act ("CEQA") on similar projects. My professional resume is attached. Technical comments on the DEIR follow:

The DSEIR Fails to Demonstrate that the Conditioned Project Mitigation Is Infeasible Due to Inability to Obtain Necessary Right-Of-Way

A conditioned mitigation of the Roblar Road Quarry Project is that the Applicant improve Roblar Road from the Quarry entry to Access Road 2. These improvements include widening Roblar Road to provide two 12-foot-wide vehicle travel lanes with 6-foot-wide paved shoulders, 2-foot-wide rock shoulders, and associated striping to meet Class II bicycle facilities. Those improvements fully meet current applicable roadway design standards. Now the Applicant claims that an inability to obtain the necessary right-of-way to implement the above mitigation improvements to Roblar Road renders that mitigation infeasible and proposes a lesser design for Roblar Road improvements that, as the DSEIR admits, fails to meet minimum applicable roadway design standards. However,



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the claim of infeasibility of implementing the Roblar Road improvement as conditioned due to inability to obtain necessary right-of-way is not demonstrated. The DSEIR presents no evidence of valid and feasible monetary offers for designated plots of land to be conveyed from current owners and of their rejection of those offers. Instead, the DSEIR preparers apparently accept the Applicant's claim of inability to obtain necessary right-of-way based solely on the Applicant's statement of infeasibility. Furthermore, the land ownership displayed on the various panels of Figure 2-7a through 2-7h indicate that, other than lands already under control of the Applicant's family, right-of-way is needed from trusts of Kenneth and Clarette Wilson. As indicated on DSEIR Figure 2-7a, from Roadway Section 1 through the midpoint of Roadway Section 7, necessary right of way could be obtained on the north side of Roblar Road from trusts of Kenneth and Clarette Wilson. From the midpoint of Roadway Section 7 proceeding northeasterly to the Applicant's own property line in Roadway Section 11, necessary right-of-way could be obtained on the southeast side of Roblar Road from lands also held in the trusts of Kenneth and Clarette Wilson. The Kenneth and Clarette Wilson family has previously been cooperative with the development of the Roblar Road Quarry. Indeed, an early proposal for Quarry access involved a haul road across Kenneth and Clarette Wilson lands toward Valley Ford Road.

The Compromise to Safety Inherent in the Proposed Sub-standard Design Is Significant

Vehicle operators simply do not always drive with their vehicles perfectly positioned along the alignment of the roadway. This is why traffic lanes are wider than the widest vehicles allowed to use them. Gravel haul trucks are typically 8.5 feet wide, but their mirror to mirror width may be as wide as 10 feet. Thus, the 12-foot lane width in the currently required Roblar Road design provides 1.75 feet leeway to either side of the perfect lane-center vehicle positioning before the vehicle body encroaches on the opposed traffic lane or the shoulder area and 1 foot leeway for mirror encroachment. By contrast, the sub-standard design now proposed by the Applicant provides only 1.25 feet of leeway to either side before encroachment by the truck body and only 6 inches leeway before mirror encroachment. This 43 percent reduction in the leeway from perfect alignment for body encroachment and 50 percent reduction in leeway for mirror encroachment. When considered from the naïve and superficial perspective of absolute change in the lane width, the change from 12 to 11 foot lanes (an 8.3 percent reduction) may seem inconsequential, but when one recognizes that this change requires drivers of heavy trucks to be up to 50 percent closer to perfect in maintaining their alignment on the road to avoid hazardous encroachment and conflict, it becomes clear that the reduction in lane width is highly significant.

The proposed change in shoulder width is similarly significant from a safety perspective. In the required design with a combined 8 feet of paved and rock shoulder, a disabled vehicle or one in which a driver pauses to take a cell phone

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call, sort out a dispute among unruly child passengers, a tourist pauses to take in or photograph a scenic view or stops for myriad other reasons, can stop completely off the traveled way.¹ However, in the Applicant's currently proposed sub-standard design with only a combined 5 feet of paved and rock shoulder, almost any light duty passenger vehicle that stops will project for some distance into the travel lane. This difference is clearly consequential for safety.

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The Applicant's sub-standard design is also has significantly detrimental for bicyclist safety. In the required design, with six feet of paved and two feet of rock shoulder on each side has many beneficial effects for bicyclists.

- It allows bicyclists to pass one another without entering the motor vehicle travel lanes.
- It, together with the added traffic lane width of the required design, provides a separation that limits the wind blast effects on bicyclists' stability that near passage by heavy vehicles creates.
- It provides maneuvering space for bicyclists within the shoulder area without encroaching on the motor vehicle traffic lanes to evade gravel spills that DSEIR admits the Quarry hauling trucks will inevitably create.
- It allows the County to designate this segment of Roblar Road as a Class II Bike lane under Caltrans Highway Design Manual.
- It provides adequate space for the occasional large group touring bicycle parties that the limited DESEIR observations document do take place on possibly a weekly basis.

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All of the above are positive safety features of the required design.

By contrast, the Applicant's sub-standard design with only 3 feet of paved shoulder requires bicyclists to maintain a perfect course to avoid encroaching on the motor vehicle travel lanes or going off into the rock shoulder. It provides no room for bicyclists to pass one-another without entering the motor vehicle traffic lanes. It provides little to no separation to mitigate wind buffering effects on bicyclist stability when heavy vehicles pass. It provides no room for bicyclists to avoid spilled gravel or other obstructions without entering the motor vehicle travel lanes or going off into the rougher rock shoulder. It makes the travel of large touring groups less safe. Overall, it makes the potential for hazardous conflict between motor vehicles and bicyclists significantly greater.

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These safety related considerations between the currently required design that conforms to applicable standards and the Applicant's proposed sub-standard

¹ Most current and recent light duty passenger vehicles including vans and pick-ups are less than 7 feet in width.

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design are so substantial that it is unreasonable for the County to modify the conditions of approval under findings of overriding considerations to degrade the mitigation of the Projects impacts to the Applicant's current sub-standard proposal. It is my professional opinion that the County would incur substantial liability should it do so and a probable unfortunate incident should occur attributable to the acceptance of the sub-standard mitigation it once required.

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The Claimed Waiver from Design Standards Based on Prior Accident Experience is Inapplicable and Irrelevant

The DSEIR claims that Roblar Road's low accident experience relative to County and Statewide averages for similar roads establishes a condition for waiving the requirement for conformance to applicable design standards. However, this ignores the controlling fact that the Quarry Project would significantly alter the volume and character of traffic on the road. The original EIR, which the DSEIR reiterates, would add an average of 302 heavy truck trips per day and a peak of 480 heavy truck trips per day – 27 trips per hour and 43 trips per hour peak – (totals that we are convinced are understated), These changes in heavy truck traffic disclosed in the DSEIR change the entire character of traffic on the affected segment of Roblar Road. The changes in truck traffic disclosed in the original DEIR and DSEIR, would increase average overall weekday traffic by 17.8 percent and increase average weekday truck traffic by 855 percent, with heavy truck traffic becoming 17.3 instead of 2.3 percent of overall traffic. On peak days according to data disclosed the DEIR and DSEIR, heavy truck traffic would increase by 1300 percent over existing truck traffic. These massive changes in the character of traffic on Roblar Road, which would continue over a 20-year period, invalidate any comparison to prior statistics of traffic collision experience.

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Creek Channel Relocaton Issues Are Irrelevant to Roadway Design

The County should not be deluded that the proposed to relocate Americano Creek is specific to infeasibility of the required roadway design to comply with Approval Condition 101. The Applicant's proposed sub-standard roadway design necessitates the same creek relocation as would the required roadway design that complies with applicable design standards. We also note that the requested modification to Approval Condition 133, while unrelated to Roblar Road conditions, by inserting the words "as feasible" guts the intended protections of that condition for the convenience of the applicant.

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Conclusion

This completes my comments on the Roblar Road Quarry Road DSEIR. For reasons stated above, the DSEIR's analysis is unreasonable, inadequate and does not support changing the required design of Roblar Road to a sub-standard one under findings of overriding considerations.

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Sincerely,

Smith Engineering & Management
A California Corporation



Daniel T. Smith Jr., P.E.



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SMITH ENGINEERING & MANAGEMENT

DANIEL T. SMITH, Jr.
President

EDUCATION

Bachelor of Science, Engineering and Applied Science, Yale University, 1967
 Master of Science, Transportation Planning, University of California, Berkeley, 1968

PROFESSIONAL REGISTRATION

California No. 21913 (Civil) Nevada No. 7969 (Civil) Washington No. 29337 (Civil)
 California No. 938 (Traffic) Arizona No. 22131 (Civil)

PROFESSIONAL EXPERIENCE

Smith Engineering & Management, 1993 to present. President.
 DKS Associates, 1979 to 1993. Founder, Vice President, Principal Transportation Engineer.
 De Leuw, Cather & Company, 1968 to 1979. Senior Transportation Planner.
 Personal specialties and project experience include:

Litigation Consulting. Provides consultation, investigations and expert witness testimony in highway design, transit design and traffic engineering matters including condemnations involving transportation access issues; traffic accidents involving highway design or traffic engineering factors; land use and development matters involving access and transportation impacts; parking and other traffic and transportation matters.

Urban Corridor Studies/Alternatives Analysis. Principal-in-charge for State Route (SR) 103 Feasibility Study, a 35-mile freeway alignment study north of Sacramento. Consultant on I-280 Interstate Transfer Concept Program, San Francisco, an AA/EIS for completion of I-280, demolition of Embarcadero freeway, substitute light rail and commuter rail projects. Principal-in-charge, SR 238 corridor freeway/expressway design/environmental study, Hayward (Calif.) Project manager, Sacramento Northeast Area multi-modal transportation corridor study. Transportation planner for I-80N West Terminal Study, and Harbor Drive Traffic Study, Portland, Oregon. Project manager for design of surface segment of Woodward Corridor LRT, Detroit, Michigan. Directed staff on I-80 National Strategic Corridor Study (Sacramento-San Francisco), US 101-Sonoma freeway operations study, SR 92 freeway operations study, I-880 freeway operations study, SR 152 alignment studies, Sacramento RTD light rail systems study, Tasman Corridor LRT AA/EIS, Fremont-Warm Springs BART extension plan/EIR, SRs 70/99 freeway alternatives study, and Richmond Parkway (SR 93) design study.

Area Transportation Plans. Principal-in charge for transportation element of City of Los Angeles General Plan Framework, shaping nations largest city two decades into 21st century. Project manager for the transportation element of 300-acre Mission Bay development in downtown San Francisco. Mission Bay involves 7 million gsf office/commercial space, 8,500 dwelling units, and community facilities. Transportation features include relocation of commuter rail station; extension of MUNI-Metro LRT; a multi-modal terminal for LRT, commuter rail and local bus; removal of a quarter mile elevated freeway; replacement by new ramps and a boulevard; an internal roadway network overcoming constraints imposed by an internal tidal basin; freeway structures and rail facilities; and concept plans for 20,000 structured parking spaces. Principal-in-charge for circulation plan to accommodate 9 million gsf of office/commercial growth in downtown Bellevue (Wash.). Principal-in-charge for 64 acre, 2 million gsf multi-use complex for FMC adjacent to San Jose International Airport. Project manager for transportation element of Sacramento Capitol Area Plan for the state governmental complex, and for Downtown Sacramento Redevelopment Plan. Project manager for Napa (Calif.) General Plan Circulation Element and Downtown Riverfront Redevelopment Plan, on parking program for downtown Walnut Creek, on downtown transportation plan for San Mateo and redevelopment plan for downtown Mountain View (Calif.), for traffic circulation and safety plans for California cities of Davis, Pleasant Hill and Hayward, and for Salem, Oregon.

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FRANK R. LANSING, P.E., SAN FRANCISCO, CA

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Transportation Centers. Project manager for Daly City Intermodal Study which developed a \$7 million surface bus terminal, traffic access, parking and pedestrian circulation improvements at the Daly City BART station plus development of functional plans for a new BART station at Colma. Project manager for design of multi-modal terminal (commuter rail, light rail, bus) at Mission Bay, San Francisco. In Santa Clarita Long Range Transit Development Program, responsible for plan to relocate system's existing timed-transfer hub and development of three satellite transfer hubs. Performed airport ground transportation system evaluations for San Francisco International, Oakland International, Sea-Tac International, Oakland International, Los Angeles International, and San Diego Lindberg.

Campus Transportation. Campus transportation planning assignments for UC Davis, UC Berkeley, UC Santa Cruz and UC San Francisco Medical Center campuses; San Francisco State University; University of San Francisco; and the University of Alaska and others. Also developed master plans for institutional campuses including medical centers, headquarters complexes and research & development facilities.

Special Event Facilities. Evaluations and design studies for football/baseball stadiums, indoor sports arenas, horse and motor racing facilities, theme parks, fairgrounds and convention centers, ski complexes and destination resorts throughout western United States.

Parking. Parking programs and facilities for large area plans and individual sites including downtowns, special event facilities, university and institutional campuses and other large site developments; numerous parking feasibility and operations studies for parking structures and surface facilities; also, resident preferential parking .

Transportation System Management & Traffic Restraint. Project manager on FHWA program to develop techniques and guidelines for neighborhood street traffic limitation. Project manager for Berkeley, (Calif.), Neighborhood Traffic Study, pioneered application of traffic restraint techniques in the U.S. Developed residential traffic plans for Menlo Park, Santa Monica, Santa Cruz, Mill Valley, Oakland, Palo Alto, Piedmont, San Mateo County, Pasadena, Santa Ana and others. Participated in development of photo/radar speed enforcement device and experimented with speed humps. Co-author of Institute of Transportation Engineers reference publication on neighborhood traffic control.

Bicycle Facilities. Project manager to develop an FHWA manual for bicycle facility design and planning, on bikeway plans for Del Mar, (Calif.), the UC Davis and the City of Davis. Consultant to bikeway plans for Eugene, Oregon, Washington, D.C., Buffalo, New York, and Skokie, Illinois. Consultant to U.S. Bureau of Reclamation for development of hydraulically efficient, bicycle safe drainage inlets. Consultant on FHWA research on effective retrofits of undercrossing and overcrossing structures for bicyclists, pedestrians, and handicapped.

MEMBERSHIPS

Institute of Transportation Engineers Transportation Research Board

PUBLICATIONS AND AWARDS

Residential Street Design and Traffic Control, with W. Homburger *et al.* Prentice Hall, 1989.

Co-recipient, Progressive Architecture Citation, *Mission Bay Master Plan*, with I.M. Pei WRT Associated, 1984.

Residential Traffic Management, State of the Art Report, U.S. Department of Transportation, 1979.

Improving The Residential Street Environment, with Donald Appleyard *et al.*, U.S. Department of Transportation, 1979.

Strategic Concepts in Residential Neighborhood Traffic Control, International Symposium on Traffic Control Systems, Berkeley, California, 1979.

Planning and Design of Bicycle Facilities: Pitfalls and New Directions, Transportation Research Board, Research Record 570, 1976.

Co-recipient, Progressive Architecture Award, *Livable Urban Streets, San Francisco Bay Area and London*, with Donald Appleyard, 1979.

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Michael Kavanaugh
Research Economist

11544 24th Ave, NE
Seattle WA. 98125

October 26, 2018
<m.kavanaugh@att.net>

By email:

Law Offices
Michael Molland
<mmolland@mollandlaw.com>

And

Sue Buxton
<sbuxton59@gmail.com>

Re: report on expected return to equity over 20 years

Dear Mr. Molland and Ms. Buxton:

I have completed my economic analysis of the expected return to equity (profits) available from twenty (20) years of development of the Stony Point rock quarry. I have formed an opinion using the assumptions and data stated below. I find that over a 20-year period the quarry is likely to provide a revenue stream of \$191.25 million and experience a 10.6% return to equity. This results in a \$20.27 million return to equity.

I developed this opinion using methods of analysis that are used widely in the economics profession and applied these methods using conservative assumptions about the price of rocks and the quantities of rocks sold. I believe my opinions are stated to a reasonable degree of certainty under the standards of my profession.

The key variables in the analysis are: the quantity of rock likely to be sold; the price of the rock sold; and, the return to equity (equity's share).

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1.0 Quantity of rock

I estimate the quantity of rock mined at 15 million tons over a twenty (20) year period. This estimate is based on measures reported in the Supplemental Environmental Impact Report (EIR) and readily available factors for converting Cubic yards to tons.

The (EIR) states that 11.4 million cubic yards (CY) of rock are likely to be mined over a 20-year period.

“Under the approved Modified Alternative 2, all aspects of the on site quarry characteristics and operations will be identical to that originally proposed, including the maximum per mitted production rate (570,000 CY per year), total volume of aggregate that could be mined (11.4 million CY over the 20-year use permit)...”

Available references indicate that a CY weighs more from 1.2 to 1.45 tons.¹ For purposes of this analysis, I convert the EIR’s 11.4 million cubic yards to millions of tons using a conversion factor of 1.3. So the estimated tonnage is 15 million tons. To the extent that rock from this quarry is nearer to the upper end of the conversion from cubic yards to tons (i.e. 16.5 million tons), then 15 million tons will understate the tonnage removed from this quarry and this will impart a conservative influence on revenue and profit estimates.

2.0 Price of rock.

Price data for a ton of rock is available from the nearby Stony Point Quarry. See Table 1. It shows that price per ton varies but clusters in the range of \$10.80 to \$15 per ton. For purposes of this analysis, I price rock using a central amount of - \$12.75. Again, to the extent the rock from this quarry commands a premium, then the use of \$12.75/ton is a conservative influence on revenue estimates. The revenue estimate is:

\$12.75 per ton (x) 15 million tons = \$191.25 million.

¹ See http://www.dansdirtandgravel.com/material_calculator.htm “1 Cubic Yard of Gravel can weigh between 2,400 to 2,900 lbs. or up to one and a half tons approximately”.

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3.0 Equity's share.

The return to equity, often referred to as profits, is less than the \$191.25 million revenue stream because there are other claims to this revenue stream. These claims arise from the other factors of production including but not limited to a variety of labor, administrative, financial services and taxes.

A widely accepted method to determine the return to equity (i.e. to make an estimate of profit) is to use the capital asset pricing model (CAPM).² CAPM has three components: a risk-free rate, a risk premium and a measure of project risk (often referred to as *Beta*).

I selected:

- An expected risk-free rate by considering the return on U.S. Treasury bills in light of current conditions;
- An expected risk premium by considering the average amount by which stock market returns exceed the return on U.S. Treasury bills over a long time horizon; and
- A Beta of one by assuming that the development of the quarry entails average risks.

Expected risk-free rate. In my opinion the better indicator of an expected risk-free return is the average return over a long period of time on 91-day U.S. Treasury bills. These bills are obligations of the U.S. government and bear no default risk. Since they are redeemed in ninety-one days they have almost no unanticipated inflation risk. A long-term average of U.S. Treasury bill rates is 3.5%.³ Since the last quarter of 2008, however, U.S. Treasury bill rates have been below their average level. Of late, they have begun to return to their pre-2008 levels.

For purposes of this assignment, I use a risk-free rate of 2.5% to estimate the return to equity using CAPM.

² The developer of CAPM was awarded 1990 Nobel Prize in Economics.

³ See Damodarian, Aswarth, Historical Returns Stocks Bonds, Bills, U.S. Companies. (See the table appended to this letter.)

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Expected risk premium. The annual risk premium fluctuates widely. I favor using a data series with many observations. Ibbotson pioneered the creation and use of a large data series on historical returns in U.S. common stocks.⁴ This series is now available from New York University.⁵ This data set supports a premium of 8.1%.

The equity return for a remunerative project of average risk is: 10.6 %
 (8.1% + 2.5%) * 1 = 10.6 %.
 (Risk premium + risk free rate) * Beta = Equity return.

4.0 Estimate of expected profit

I find that over a 20-year period the quarry is likely to provide a revenue stream of \$191.25 million and experience a 10.6% return to equity. This results in a \$20.27 million return to equity.

Respectfully

mkavanaugh

Michael Kavanaugh

Attachments

1. Table 1: Price of Rock
2. Table US Financial Markets Returns
3. Resume

⁴ See: Stocks, Bonds, Bills and Inflation, Yearbooks, Ibbotson Associates

⁵ See: Damodarian, Aswarth, *ibid.*

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cont.

Table 1: Price of rock

Product	\$/Ton	ref.
3/8 Chip	35	1
3/4 class 2 recycled base	15.5	2
1 -1/2 sub-base	12	3
7/16 minus fines	13	4
3/4 minus sub base	10.8	5

<http://stonypointrockquarry.com/product/3-8%E2%80%B3-chip/>

<http://stonypointrockquarry.com/product/3-4%E2%80%B3-class-2-recycled-base/>

<http://stonypointrockquarry.com/product/1-1-2%E2%80%B3-aggregate-subbase/>

<http://stonypointrockquarry.com/product/7-16%E2%80%B3-minus-quarry-fines/>

<http://stonypointrockquarry.com/product/3-4%E2%80%B3-aggregate-subbase%E2%80%A8/>

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Table 2 US Financial Markets Returns

Year	Historical returns: Stocks & T-Bill	
	<i>S&P 500 (includes dividends)</i>	<i>3-month T-Bill</i>
1928	43.81%	3.08%
1929	-8.30%	3.16%
1930	-25.12%	4.55%
1931	-43.84%	2.31%
1932	-8.64%	1.07%
1933	49.98%	0.96%
1934	-1.19%	0.32%
1935	46.74%	0.18%
1936	31.94%	0.17%
1937	-35.34%	0.30%
1938	29.28%	0.08%
1939	-1.10%	0.04%
1940	-10.67%	0.03%
1941	-12.77%	0.08%
1942	19.17%	0.34%
1943	25.06%	0.38%
1944	19.03%	0.38%
1945	35.82%	0.38%
1946	-8.43%	0.38%
1947	5.20%	0.57%
1948	5.70%	1.02%
1949	18.30%	1.10%
1950	30.81%	1.17%
1951	23.68%	1.48%
1952	18.15%	1.67%
1953	-1.21%	1.89%
1954	52.56%	0.96%
1955	32.60%	1.66%
1956	7.44%	2.56%
1957	-10.46%	3.23%
1958	43.72%	1.78%

1959	12.06%	3.26%
1960	0.34%	3.05%
1961	26.64%	2.27%
1962	-8.81%	2.78%
1963	22.61%	3.11%
1964	16.42%	3.51%
1965	12.40%	3.90%
1966	-9.97%	4.84%
1967	23.80%	4.33%
1968	10.81%	5.26%
1969	-8.24%	6.56%
1970	3.56%	6.69%
1971	14.22%	4.54%
1972	18.76%	3.95%
1973	-14.31%	6.73%
1974	-25.90%	7.78%
1975	37.00%	5.99%
1976	23.83%	4.97%
1977	-6.98%	5.13%
1978	6.51%	6.93%
1979	18.52%	9.94%
1980	31.74%	11.22%
1981	-4.70%	14.30%
1982	20.42%	11.01%
1983	22.34%	8.45%
1984	6.15%	9.61%
1985	31.24%	7.49%
1986	18.49%	6.04%
1987	5.81%	5.72%
1988	16.54%	6.45%
1989	31.48%	8.11%
1990	-3.06%	7.55%
1991	30.23%	5.61%
1992	7.49%	3.41%
1993	9.97%	2.98%
1994	1.33%	3.99%
1995	37.20%	5.52%
1996	22.68%	5.02%
1997	33.10%	5.05%

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1998	28.34%	4.73%
1999	20.89%	4.51%
2000	-9.03%	5.76%
2001	-11.85%	3.67%
2002	-21.97%	1.66%
2003	28.36%	1.03%
2004	10.74%	1.23%
2005	4.83%	3.01%
2006	15.61%	4.68%
2007	5.48%	4.64%
2008	-36.55%	1.59%
2009	25.94%	0.14%
2010	14.82%	0.13%
2011	2.10%	0.03%
2012	15.89%	0.05%
2013	32.15%	0.07%
2014	13.52%	0.05%
2015	1.38%	0.21%
2016	11.77%	0.51%
2017	21.64%	1.39%

Average

1928-2017	11.53%	3.44%
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Long term Risk Premium (11.53-3.44) 8.09%
 Twenty- five year risk free 2.50%
 Opportunity Cost = premium + risk free 10.59%

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MICHAEL KAVANAUGH
Research Economist

E-mail: M.Kavanaugh@att.net

513 827 4231 (cell)
206 588 2018

11544 24th Ave. NE
Seattle, WA 98125

PRESENT POSITION: Private Practice since 1985
Seattle, Washington 7/2018 to present
Volcano, Hawaii 2008 - 2018
Batavia, Ohio 1993-2008
Washington, DC 1985-1993

PREVIOUS POSITIONS:

- Senior Economist, ICF Incorporated, 1983-85, Washington, D.C.
- Research Director, Public Interest Economics, 1976-1983, Washington, D.C. and San Francisco, CA.
- Assistant Professor, Northern Kentucky University, 1975-76

EDUCATION:

- PhD., Economics, University of Cincinnati, 1975
- BA. Economics, Xavier University, 1970

EXPERIENCE

- An independent research economist with years of experience;
- A national expert in the economic aspects of environmental enforcement and policies for controlling pollution;
- Experienced in regional economic analysis;
- Experienced in the use of economic indices;
- Experienced in valuing damages to persons, households, and commercial enterprises;
- Experienced in assessing natural resource damages; and,
- An author of groundwater management and climate change papers.

Short descriptions of selected projects follow.

ECONOMICS & FINANCE

I applied economics to many of the environmental changes of the last thirty years including:

- Estimating the ability of defendants to pay a penalty and the financial effects of penalties in enforcement cases;
- Estimating the benefits of cleaner beaches and rivers;

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- Developing methods to determine the effects of water quality policies on agricultural output, employment and income;
- Developing methods to estimate the benefits of preserving groundwater quality;
- Advised on the adequacy of financial assurance mechanisms;
- Estimating expected and realized benefits of irrigation projects; and,
- Critiquing efforts to regulate effluents from several industries.

Designed and used financial after-tax, cash flow models to:

- Measure the ability to pay a penalty and the effects of penalties on financial position;
- Estimate the economic benefit gained by entities that violate law and regulation; and,
- Estimate the burden on the residential sector from municipal compliance with law and regulation.

Provided expert economic and litigation support services to the United States (and others) in Clean Water Act, Clean Air Act, Superfund, RCRA and groundwater quality cases.

Exxon Valdez – Estimated the employment and income effects from spending the civil settlement. The work involved characterizing the options in the restoration plan in term of input/output models.

For an environmental group, wrote a declaration on the economic studies needed to establish that a spillover effect was reasonably certain to result from a National Marine Fishery Service proposal to allow an expansion of the Hawaii-based fishing fleet. In the absence of a spillover effect, the expansion of the Hawaii-based fleet would jeopardized an endangered turtle species.

Natural resource damage assessments

- Ohio River – valued public resource damages from spills from tugs and barges. The work combined results from Natural Resource Damage Assessment models, studies of the costs of reducing risks to drinking water, and restoration costs.
- Kailua Beach State Park – valued a three-mile beach based on recreational use and estimated the damage from wastewater treatment plant effluent. The work involved reviewing, updating and synthesizing a variety of studies that valued recreation.

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- Florida Beaches – valued beach closures from pollution at several beaches. The work involved extensive use of the Natural Resource Damage Assessment models for coastal and marine environments.

Energy & Environment

- Commented on economic impacts to employment and structures of planned, utility-scale photovoltaic projects in Southern California.
- Conducted several analyses of U.S. energy industry to estimate current and future energy production and consequences in wetlands and in the North Aleutian Basin.
- Estimated the cost effectiveness of technologies to control produced water discharges in wetlands.
- Estimated the impact of produced water controls on production, royalties and returns from coal bed methane production.
- Estimated the change in rates needed to pay for adopting cooling water intake controls at a nuclear power plant.
- Advised environmental groups on methods to fund the WV acid mine drainage reclamation fund.
- Design team member to size and fund the Superfund.
- Estimated onshore economic impacts of outer continental shelf oil and gas development in California.
- Examined the efficiency and equity of federal leasing policies for oil and gas on public lands

Global Climate

- Estimated current and future greenhouse gas emissions by fuel, sector and region. The work involved estimating long-term energy using an economic model based on prices, income and combustion technology.
- Estimated greenhouse gas emissions by jets at altitude by region and the change in emissions from adopting advanced jet technology.
- Modeled current and future emission from the US automobile fleet under various assumptions about future fuel efficiency.

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- Analyzed the benefits of substituting hydrocarbon propellants for CFC propellants in aerosol products. The results showed the same level of consumer satisfaction could be obtained without CFCs and without increasing prices.

Publications since 2007

None

Federal Court Trial Testimony since July 2013

Sierra Club v. Virginia Electric and Power Company d/b/a Dominion Virginia Power; United States District Court for the Eastern District of Virginia, Richmond, Virginia Civil Case No. 2:15-CV-112-RAJ-DRM-JAG (6/16)

Deposition Testimony since July 2013

Little Hocking Water Association v. Dupont (5/14) 2:09-cv-010BI-GCS-NMK

Ohio Valley Environmental Coalition, et al. v. Consol of Kentucky, Inc., (10/14) cv: 2:13-5005

PennEnvironment and Sierra Club v. PPG, Inc. et al. (1/15) 2:12-cv-00342-RCM

Hawai'i Wildlife Fund, Sierra Club - Maui Group, Surfrider Foundation, and West Maui Preservation Association v. County of Maui (5/15) Civil Case No. 12-00198 SOM, BMK

California Communities Against Toxics v. Armorcast Products Company, Inc. et al. (10/15) Civil Case No. Case No. 2:14-cv-05728-PA-FFM

Sierra Club v. Virginia Electric and Power Company d/b/a Dominion Virginia Power; United States District Court for the Eastern District of Virginia, Richmond, Virginia (5/16) Civil Case No. 2:15-CV-112-RAJ-DRM-JAG

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JOHN AND ANDREA BARELLA
496 JASMINE LANE
PETALUMA, CA 94952

June 23, 2017

Claudia McKnight
5000 Canfield Road
Petaluma, CA 94952

Ronald E & K Wilson Trust
9420 Valley Ford Road
Petaluma, CA 94952

John and Barbara Shelling Trust
8064 Washington Avenue
Sebastopol, CA 95475

Kenneth A & C Wilson Trust
1570 Tomales Road
Petaluma, CA 94952

Re: *Roblar Road Quarry/Roblar Road Right of Way Improvements*

Dear Property Owners:

I am writing to you on behalf of myself, and my wife Andrea, in connection with the road widening improvements associated with the approval of the Roblar Road Quarry (the "Quarry"). As all of you are likely aware, my wife and I were applicants for the Roblar Road Quarry which was approved by the Board of Supervisors on December 14, 2010, by way of Resolution No. 10-0903.

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In approving the Roblar Road Quarry project, the Board of Supervisors ("Board") recognized that there might be insufficient right of way between the existing fence lines on Roblar Road to complete the road improvements which were otherwise required as a condition of the project. Recognizing this, the Board made a Statement of Overriding Considerations under the California Environmental Quality Act ("CEQA") determining that specific economic, legal, social, technological and other benefits of the project outweighed any unmitigated road or other impacts associated with the Quarry's approval. This Statement of Overriding Considerations sanctioned buildout of the project even if Roblar Road could not, due to right of way constraints, be improved to specifications otherwise designated by the County's Department of Public Works.

Regardless, in the spirit of being good neighbors and in the spirit of fulfilling project conditions to the letter, my wife and I are reaching out to each of you to determine whether you would be willing to sell any of your respective lands abutting Roblar Road for the purpose of improving Roblar Road to the exact specifications imposed by the County's Department of Public Works in connection with the Quarry's approval.

Would you please advise me and Andrea, in writing, whether each or any of you would be willing to sell a small strip of your respective lands abutting Roblar Road which may be necessary to comply with the exact letter of the County Public Works' conditions? We request that you respond within 14 days of the date of this letter or we shall assume that one or more of

Property Owners
June 23, 2017
Page 2

you are unwilling to voluntarily convey, for just compensation, any portion of your right of way to my wife and me for purposes of completing previously identified road improvements.

Should you need additional time to consider this matter, we request that you respond, in writing, within 14 days, indicating that you need additional time and the time needed to consider this offer. My wife and I are willing to pay fair market value for any property acquired from any of you for the purpose of further widening Roblar Road. This widening will benefit both your neighborhood and the community at large. In the event that one or more of you are unwilling to voluntarily part with a portion of your land bordering Roblar Road, three other possibilities will arise.

First, as many of you may be aware, my wife and I have submitted an application for minor modifications to some of the conditions imposed on the Quarry by the Board in 2010. With respect to the conditions relating to the improvement of Roblar Road, my wife and I are now proposing to realign the road and the creek in a southerly direction which would avoid any need to acquire any of your respective properties for purposes of widening Roblar Road. The proposed project modifications relating to Roblar Road not only would avoid the necessity for acquiring a small portion of your respective properties, but, based on communications with all of the resource agencies consulted, will achieve a superior environmental benefit both for the creek and the ongoing use and maintenance of Roblar Road, as well as mitigate Roblar Road impacts to an insignificant level. We hope that you can support our efforts and those of the resource agencies in this regard.

The second possibility is that the Board does not approve the modifications to the realignment of Roblar Road and the creek, in which case, the County may simply rely on its previously adopted Statement of Overriding Considerations and approve buildout of the Quarry, notwithstanding the fact that insufficient right of way may be available to complete, to the letter of the conditions, previously identified Roblar Road improvements.

Third, absent approval of our requested minor modifications to project conditions, the County may determine that since the road widening improvements were imposed upon the Quarry project as mitigation measures under CEQA, the County may have an obligation, pursuant to its adopted Mitigation Monitoring Program, to condemn the requisite portions of your land. This alternative would, of course, involve both you and the County in condemnation litigation in order to complete the Quarry project.

We know that the approval and buildout of the Quarry has been, and continues to be, a long and arduous and, at some times, contentious proceeding, notwithstanding the fact that the Roblar Quarry has been designated as a quarry site by the County since the adoption of its original ARM plan in 1982. While the County has worked hard to satisfy its commitments to transition gravel mining from the Russian River terraces and instream mining of the Russian River and its tributaries in favor of replacing locally needed hard rock through the mining of hard rock quarries, such transition has been subject to past and ongoing delays, as evidenced by the Roblar Quarry approval. We now hope that each of you, as neighbors, can embrace broader community environmental and economic goals and put the ongoing dispute to rest.

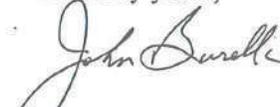
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Property Owners
June 23, 2017
Page 3

We have been good neighbors in the past and will continue to be so in the future. Currently, suitable road aggregate is being brought in by barge from Canada with associated greenhouse gas, truck and other associated impacts. The ultimate development of the Roblar Road Quarry will reduce all of these impacts and further long range County planning goals which have been in place for 35 years. We hope that each of you can join with us in the spirit of cooperation by putting aside any past differences in the interests of completing this necessary, critical and long overdue project.

Andrea and I thank you very much for your consideration of our request.

Very truly yours,



John Barella



Andrea Barella

- c: Shirlee Zane, Chair, Sonoma County Board of Supervisors
- David Rabbitt, 2nd District Supervisor, Sonoma County Board of Supervisors
- Jennifer Barrett, Deputy Director-Planning, Sonoma County PRMD
- Blake Hillegas, Planning Supervisor, Sonoma County PRMD
- Jeffrey Brax, Chief Deputy County Counsel, Office of the Sonoma County Counsel
- Arthur F. Coon, Esq.
- Stephen K. Butler, Esq.

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LAW OFFICES OF
CLEMENT, FITZPATRICK & KENWORTHY
INCORPORATED

3333 MENDOCINO AVENUE, SUITE 200
SANTA ROSA, CALIFORNIA 95403
FAX: 707 546-1360

TELEPHONE: (707) 523-1181

STEPHEN K. BUTLER

June 6, 2018

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Claudia McKnight
5000 Canfield Road
Petaluma, CA 94952

Ronald E & K Wilson Trust
9420 Valley Ford Road
Petaluma, CA 94952

John and Barbara Shelling Trust
8064 Washington Avenue
Sebastopol, CA 95475

Kenneth A & C Wilson Trust
1570 Tomales Road
Petaluma, CA 94952

Re: *Roblar Road Quarry/Roblar Road Right of Way Improvements/Offer to Purchase
Land for Right of Way*

Dear Property Owners:

We are writing to you on behalf of John and Andrea Barella, in connection with the road widening improvements associated with the approval of the Roblar Road Quarry (the "Quarry"). As all of you are aware, John and Andrea were applicants for the Roblar Road Quarry which was approved by the Board of Supervisors on December 14, 2010, by way of Resolution No. 10-0903.

In approving the Roblar Road Quarry project, the Board of Supervisors ("Board") recognized that there might be insufficient right of way between the existing fence lines on Roblar Road to complete the road improvements to Roblar Road which were otherwise required as a condition of the project. Recognizing this, the Board made a Statement of Overriding Considerations under the California Environmental Quality Act ("CEQA") determining that specific economic, legal, social, technological and other benefits of the project outweighed any unmitigated road or other impacts associated with the Quarry's approval. This Statement of Overriding Considerations sanctioned buildout of the project even if Roblar Road could not, due to right of way constraints, be improved to specifications otherwise designated by the County's Department of Public Works.

Regardless, in the spirit of being good neighbors and in the spirit of fulfilling project conditions to the letter, John and Andrea reached out to each of you by way of correspondence dated June 23, 2017, to determine whether each of you would be willing to sell any of your respective lands abutting Roblar Road for the purpose of improving Roblar Road to the exact

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Roblar Road Property Owners
 June 6, 2018
 Page 2

specifications imposed by the County's Department of Public Works in connection with the Quarry's approval. Such offer was, at that time, responded to by way of deafening silence other than Ronald and Kathy Wilson's letter of July 11, 2017, which rejected the offer. The purpose of this letter is to reiterate the Barellas' offer and to provide greater detail regarding such offer.

Would you please advise us, in writing, whether each or any of you would be willing to sell a small strip of your respective lands abutting Roblar Road which may be necessary to comply with the exact letter of the County Public Works' conditions? We request that you respond within 14 days of the date of this letter or we shall assume that one or more of you are unwilling to voluntarily convey, for just compensation, any portion of your right of way to the Barellas for purposes of improving Roblar Road to previously identified County Road Standards.

The terms of the Barellas' offer follows as to each of you:

<i>Name</i>	<i>APN</i>	<i>Area to be Purchased*</i>	<i>Dollar Amount**</i>
Claudia McKnight	027-080-004	.28 x 8,000 sq. ft.	\$ 2,240.00
	027-210-007	.28 x 32,000 sq. ft.	\$ 8,960.00
			<i>Total \$11,200.00</i>
John and Barbara Shelling Trust	027-080-005	.28 x 15,000 sq. ft.	<i>Total \$4,200.00</i>
Ronald E & K Wilson Trust	027-210-005	.28 x 29,700 sq. ft.	\$ 8,316.00
	022-300-010	.28 x 55,000 sq. ft.	\$15,400.00
			<i>Total \$23,716.00</i>
Kenneth A & C Wilson Trust	022-290-008	.28 x 63,800 sq. ft.	\$17,864.00
	022-290-007	.28 x 20,900 sq. ft.	\$ 5,852.00
			<i>Total \$23,716.00</i>

*One acre is equal to 43,560 square feet

**\$12,000 per acre or .28 square feet

The foregoing offer was based on recent independent appraisal information which identified property values in your area between \$4,800 and \$11,200 per acre. The independent appraisal, not commissioned by the Barellas, was based on eight comparables with a median value of \$7,800 per acre. The offer made here is more than the highest end of the range. Please note that the only contingency in this offer is that the project only requires the acquisition of either the lands of the Ronald E & K Wilson Trust or the lands of the Kenneth A & C Wilson Trust, not both. Accordingly, if either the Ronald E & K Wilson Trust or the Kenneth A & C Wilson Trust accepts the Barellas' offer as set forth herein, then the offer to the other shall be considered immediately withdrawn.

Should you need additional time to consider this matter, we request that you respond, in writing, within 14 days, indicating that you need additional time and the time needed to consider this offer. The Barellas have offered to pay fair market value for any property acquired from any of you for the purpose of further widening Roblar Road. This widening is intended to benefit

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Roblar Road Property Owners
June 6, 2018
Page 3

both your neighborhood and the community at large. In the event that one or more of you are unwilling to voluntarily part with a portion of your land bordering Roblar Road, three options remain.

First, as all of you are aware, the Barellas have submitted an application for minor modifications to some of the conditions imposed on the Quarry by the Board in 2010. With respect to the conditions relating to the improvement of Roblar Road, the Barellas are now proposing to realign the road and the creek in a southerly direction which would avoid any need to acquire any of your respective properties for purposes of widening Roblar Road. The proposed project modifications relating to Roblar Road not only would avoid the necessity for acquiring a small portion of your respective properties, but, based on communications with all of the resource agencies consulted, will achieve a superior environmental benefit both for the creek and the ongoing use and maintenance of Roblar Road, as well as mitigate Roblar Road traffic/bicycle safety impacts to an insignificant level. We continue to hope that you can support the Barellas' efforts and those of the resource agencies in this regard. Alternatively, should you continue to oppose a modified Quarry project and disregard its environmental benefits and file suit to litigate any modified Quarry project, the Barellas intend to build out the Quarry in accordance with the 2010 Board approvals.

The second option is that the Board does not approve the modifications to the realignment of Roblar Road and the creek, in which case, the County may simply rely on its previously adopted Statement of Overriding Considerations and the Barellas will continue buildout of the Quarry, notwithstanding the fact that insufficient right of way may be available to complete, to the letter of the current conditions, previously identified Roblar Road improvements.

The third option, absent approval of the Barellas' requested minor modifications to project conditions, is that the County may determine that since the road widening improvements were imposed upon the Quarry project as mitigation measures under CEQA, the County may have an obligation, pursuant to its adopted Mitigation Monitoring Program, to condemn the requisite portions of your land. This alternative would, of course, involve both you and the County in condemnation litigation in order to obtain the land which the Barellas have offered to buy as set forth above.

We know that the approval and buildout of the Quarry has been, and continues to be, a long and arduous and, at some times, contentious proceeding, notwithstanding the fact that the Roblar Quarry has been designated as a quarry site by the County since the adoption of its original ARM plan in 1982. While the County has worked hard to satisfy its commitments to transition County gravel production from the Russian River terraces and instream mining of the Russian River and its tributaries in favor of replacing locally needed hard rock through the mining of hard rock quarries, such transition has been subject to past and ongoing delays, as evidenced by the Roblar Quarry approval and your past, and apparently ongoing, opposition. We continue to hope that each of you, as neighbors, can embrace broader community environmental, fire recovery and economic goals and put the ongoing dispute to rest.

The October 2017 fires created tragic havoc upon Sonoma County and resulted in the damage or destruction of thousands of residential and commercial structures. The rebuilding of



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Roblar Road Property Owners
June 6, 2018
Page 4

our community requires not only overburden for soil remediation resulting from the fires, but also construction grade aggregate to rebuild our stricken community. You now have another opportunity to partner with the broader community and further both State and County goals to have a State required local supply of aggregate or choose to oppose these benefits in favor of a perceived defense of your insular enclave to the detriment of both the Barellas and the community at large.

The Barellas have been good neighbors and community supporters in the past and will continue to be so in the future. Currently, suitable road aggregate is being brought in by barge from Canada with associated greenhouse gas, truck and other impacts. The ultimate development of the Roblar Road Quarry will reduce all of these impacts and further long range County planning goals which have been in place for 35 years. We hope that each of you can join with us in the spirit of cooperation by putting aside any past differences in the interests of completing this necessary, critical and long overdue project.

We and the Barellas thank you very much for your consideration of the offers set forth herein.

Very truly yours,



STEPHEN K. BUTLER

SKB/pd

- c: James Gore, Chair, Sonoma County Board of Supervisors
- David Rabbitt, 2nd District Supervisor, Sonoma County Board of Supervisors
- Shirlee Zane, 3rd District Supervisor, Sonoma County Board of Supervisors
- Susan Gorin, 1st District Supervisor, Sonoma County Board of Supervisors
- Lynda Hopkins, 5th District Supervisor, Sonoma County Board of Supervisors
- Jennifer Barrett, Deputy Director-Planning, Sonoma County PRMD
- Blake Hillegas, Planning Supervisor, Sonoma County PRMD
- Verne Ball, Deputy County Counsel, Office of the Sonoma County Counsel
- Arthur F. Coon, Esq.
- John and Andrea Barella

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cont.

July 11, 2017

John and Andrea Barella
496 Jasmine Lane
Petaluma, California 94952

Shirley Zane
Sonoma County Board of Supervisors
575 Administration Drive, Room 100A
Santa Rosa, California 95403

David Rabbitt
Sonoma County Board of Supervisors
575 Administration Drive, Room 100A
Santa Rosa, California 95403

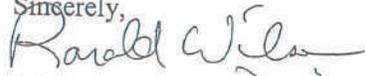
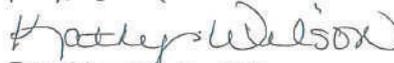
RE: Roblar Road Quarry

Dear Mr. & Mrs. Barella, Supervisor Zane, Supervisor Rabbitt:

This responds to the June 23, 2017 letter of Mr. and Mrs. Barella to us and three other property owners, which was also copied to Ms. Zane and Mr. Rabbitt. First, we note the June 23 letter does not specify the exact location or amount of our land adjoining Roblar Road in which you express interest, nor does it offer any specific price for it. Accordingly, we assume it was written primarily to serve as leverage as part of the Quarry owners negotiations with Sonoma County to avoid their compliance with the permit conditions which are referred to in the letter. We believe the June 23 letter to us and the other property owners, since it lacks these specific terms, is insufficient for this purpose. However, we believe Sonoma County should enforce its previously adopted permit conditions on any future operation of the Quarry project, and we write now to express our hope our officials will do so.

While we opposed the permitting of the Quarry Operation, the Board of Supervisors in 2010 eventually approved the project subject to permit conditions necessary to protect the safety of the Sonoma County residents and their environment. We encourage the current Board of Supervisors to enforce any attempts to weaken or change these conditions. To our mind, the proposed modifications to these permits cannot, as the letter asserts, be "minor", otherwise we would not have been sent the letter of June 23. We request Ms. Zane and Mr. Rabbitt and our County officials to continue to insist on these permit conditions to protect our land, water, and public safety.

Sincerely,



Ronald and Kathy Wilson

cc: Jennifer Barrett, Deputy Director – Planning, Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Jeffrey Brax, Chief Deputy County Counsel, Office of the Sonoma County Counsel
Claudia McKnight
John & Barbara Shelling Trust
Kenneth A & C Wilson Trust

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cont.

June 19, 2018

Steven Butler
Clement Fitzpatrick and Kenworthy
3333 Mendocino Ave., Suite 200
Santa Rosa, CA 95403

Ms. Shirley Zane
Shirlee.Zane@sonoma-county.org

Mr. David Rabbitt
David.Rabbitt@sonoma-county.org

Mr. James Gore
James.Gore@sonoma-county.org

Ms. Susan Gorin
Susan.Gorin@sonoma-county.org

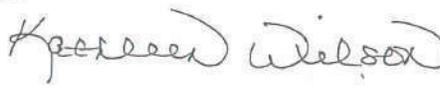
Ms. Lynda Hopkins
Lynda.Hopkins@sonoma-county.org

Mr. Butler and Supervisors:

This responds to your June 6, 2018 inquiry on behalf of Mr. and Mrs. Barella to us and three other property owners, which was also copied to Ms. Zane, Mr. Rabbitt, Mr. Gore, Ms. Gorin and Ms. Hopkins.

Like the earlier, June 23, 2017 letter of the Barella's to us on the same subject, we assume it was written primarily to serve as leverage as part of the Quarry owners' negotiations with the County of Sonoma to avoid compliance with existing or possible future permit conditions for the Quarry. To our mind, the proposed modifications sought by the Quarry owners (which are referred to but not described in your letter) to the existing permit are not, as you represent, "minor". We expect and understand that they will and should require review under the California Environmental Quality Act and further consideration by the Sonoma County Board of Supervisors. After this impartial review and consideration has taken place, we expect to be in an informed position to consider your inquiry.

Sincerely,

Ronald and Kathleen Wilson

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cont.

cc: Jennifer Barrett, Deputy Director - Planning , Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Verne Ball, Deputy County Counsel, Office of the Sonoma County Counsel

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2-14



IV-142

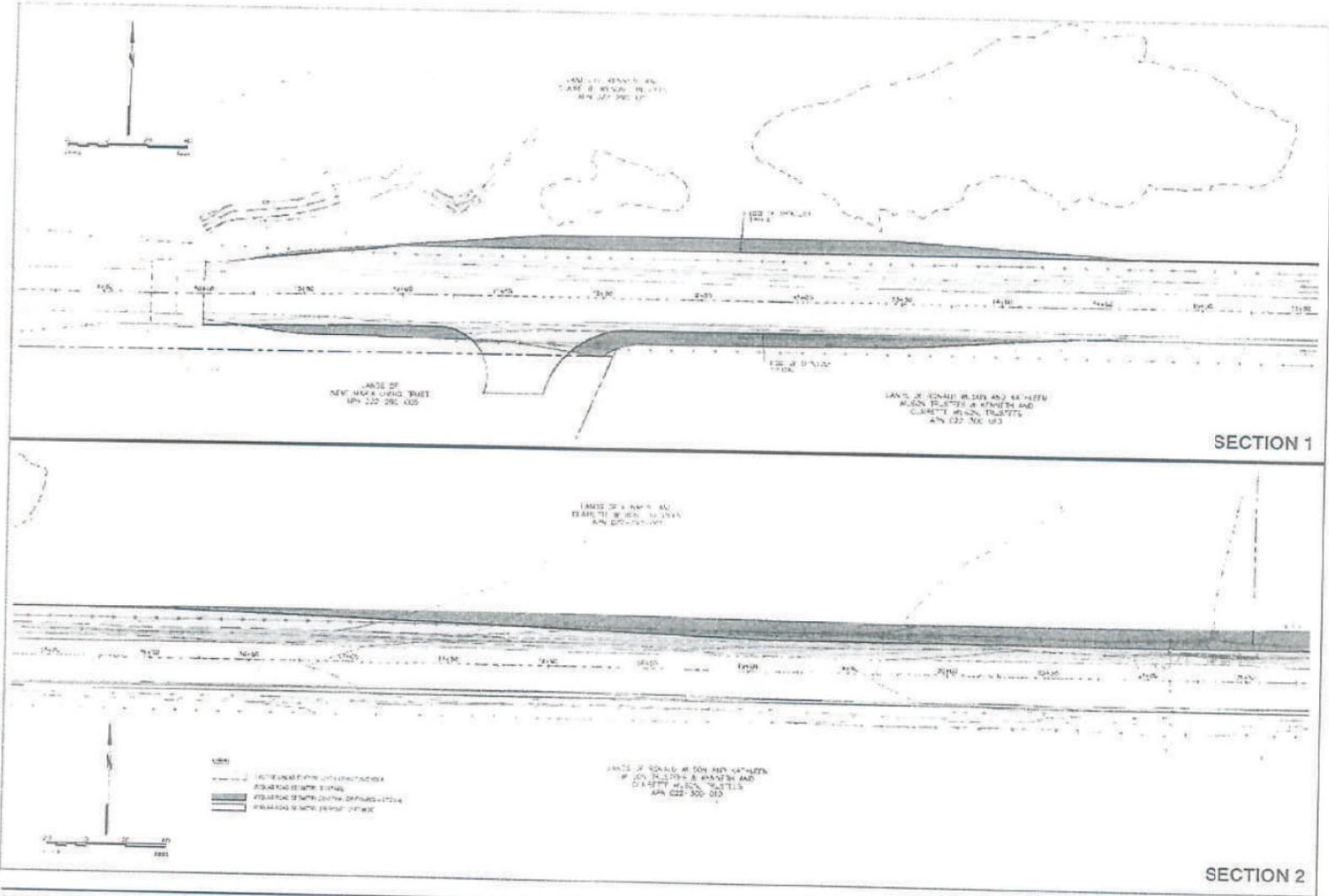
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Roblar Road Quarry - 160752

Figure 2-7a
Index Map to Proposed Roblar Road Improvements Figures



2-15

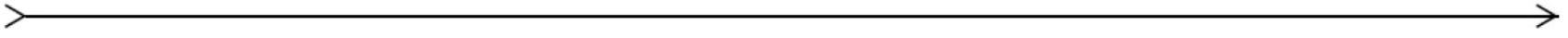


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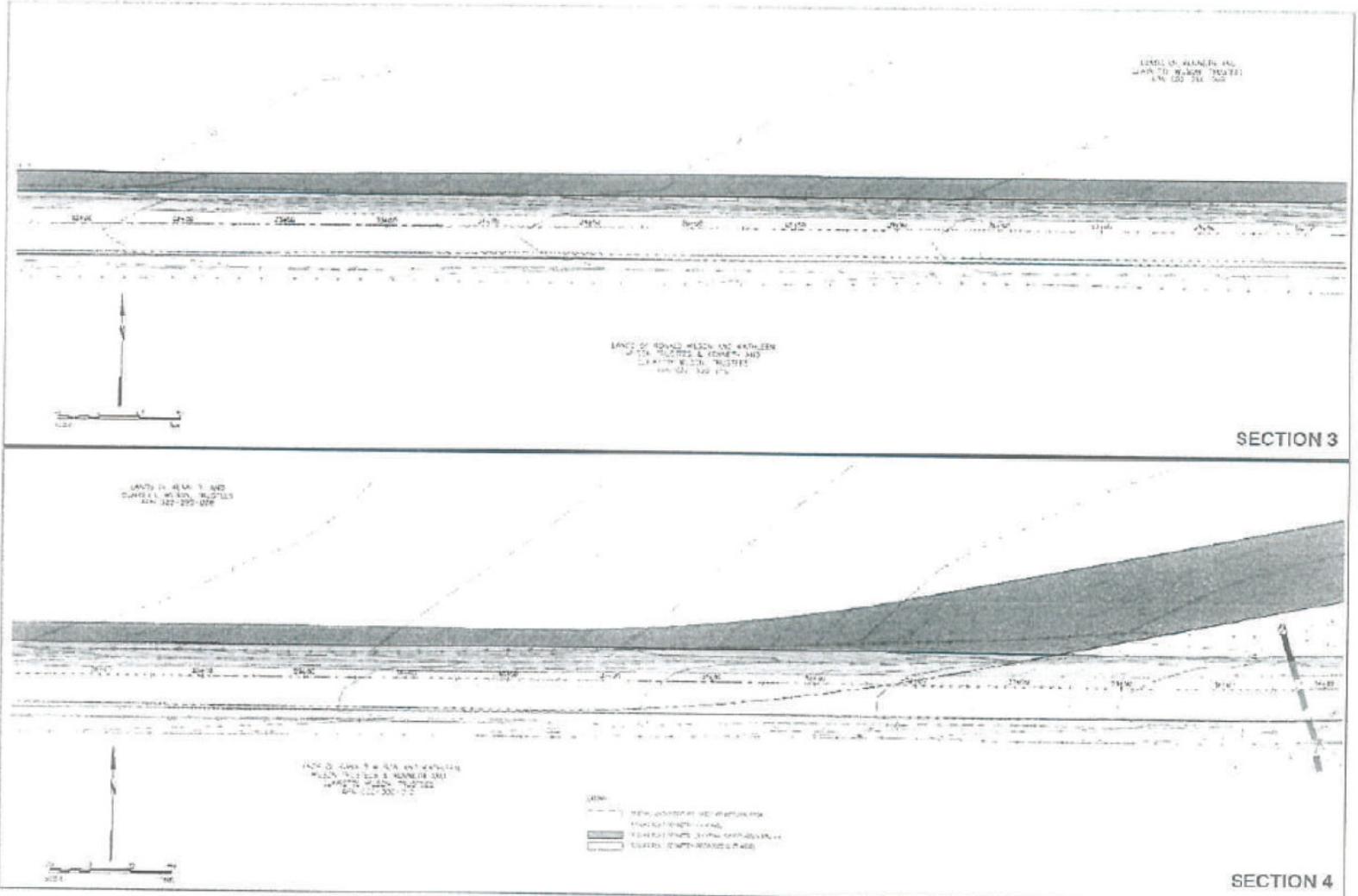
Roblar Road Quarry . 160752

Figure 2-7b
Proposed Roblar Road Improvements,
Sections 1 and 2

IV-143



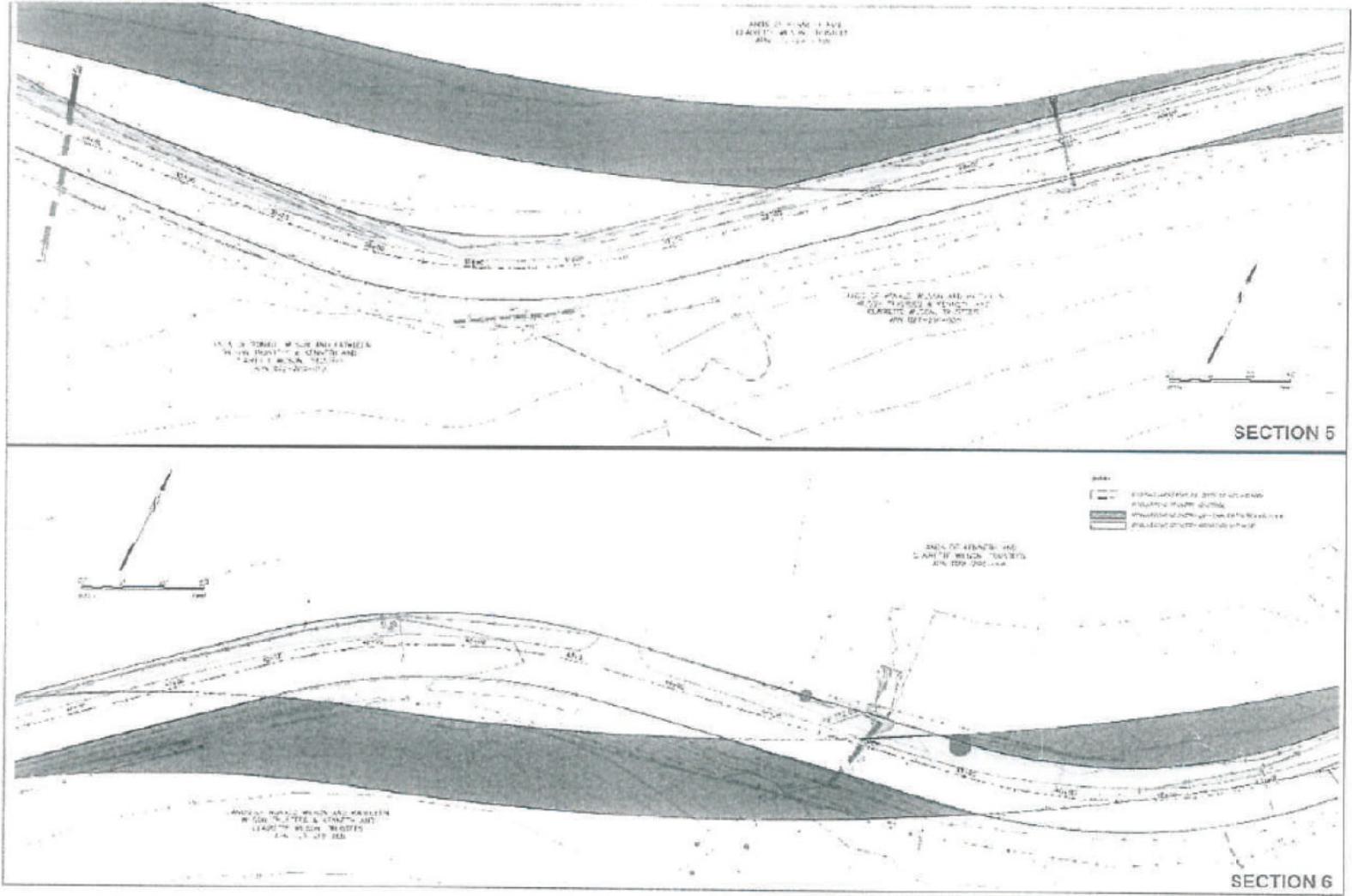
2-16



SOURCE: BKF

Roblar Road Quarry, 160752

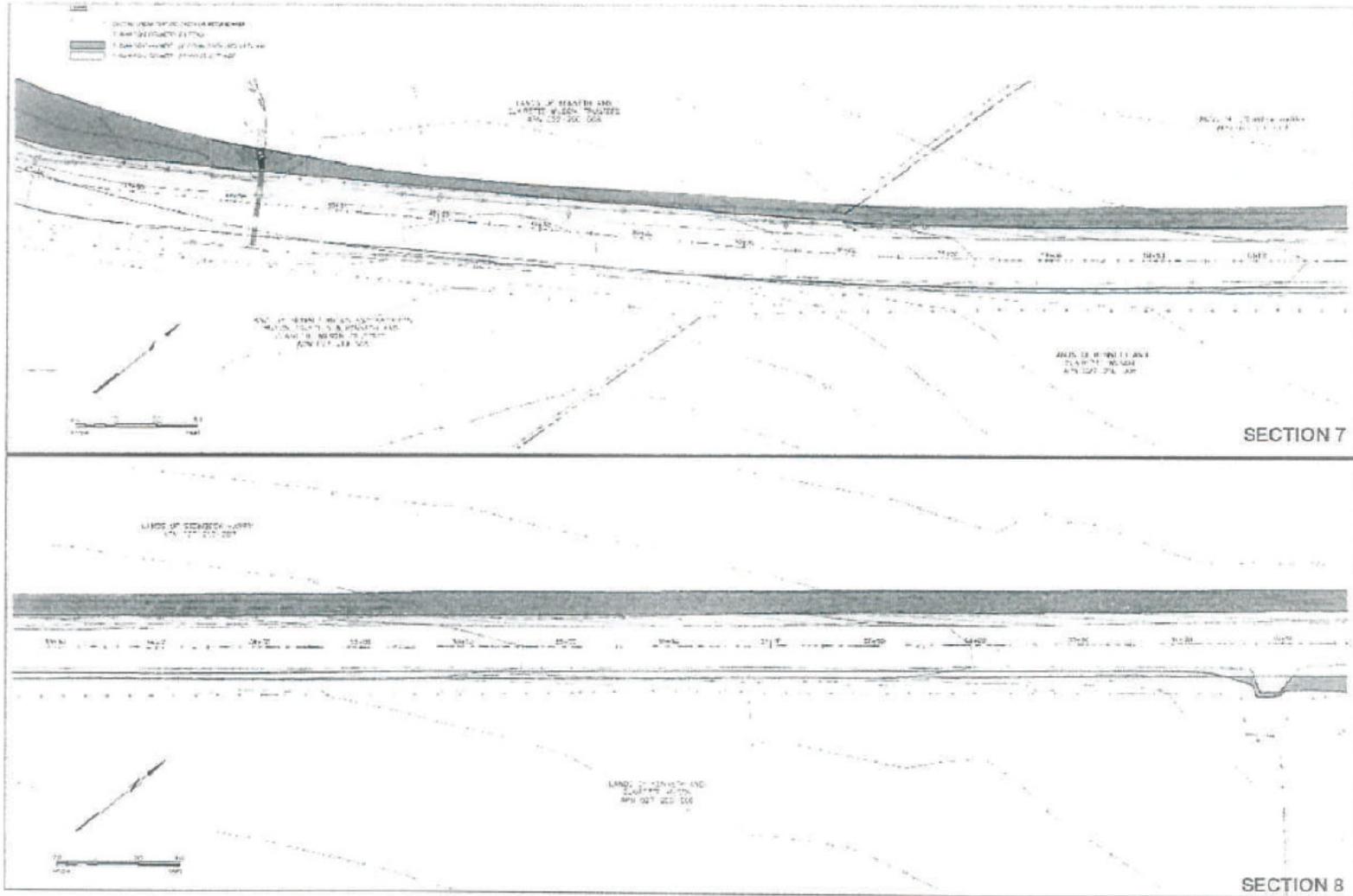
Figure 2-7c
Proposed Roblar Road Improvements,
Sections 3 and 4



2-17

SOURCE: BKF

Roblar Road Quarry - 180752
Figure 2-7d
 Proposed Roblar Road Improvements,
 Sections 5 and 6

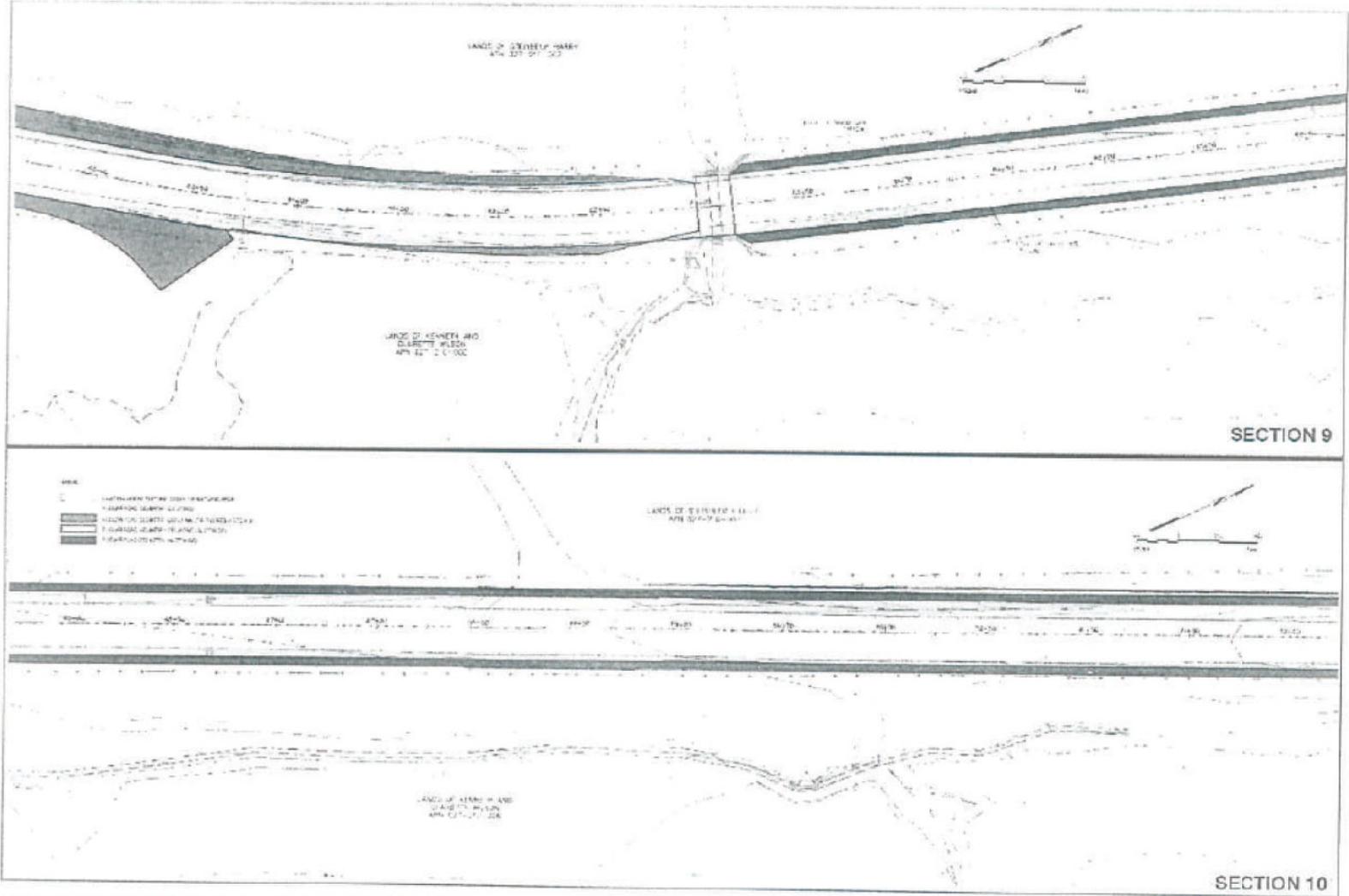


SOURCE: BKF

Roblar Road Quarry . 160752

Figure 2-7e
Proposed Roblar Road Improvements,
Sections 7 and 8

2-19



SOURCE: BKF

Roblar Road Quarry - 160752

Figure 2-7f
Proposed Roblar Road Improvements,
Sections 9 and 10

**SONOMA COUNTY AGRICULTURAL PRESERVATION
AND OPEN SPACE DISTRICT**

**NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT OF
CONSERVATION EASEMENT IN CONNECTION WITH PROPOSED
ROBLAR ROAD QUARRY PROJECT**

APPLICANT: Ken and Clairette Wilson / John E. Barella Tr. and Andrea M. Barella Tr.

On November 9, 2010, at 3:00 p.m. the Sonoma County Agricultural Preservation and Open Space District Board of Directors will consider a request for an amendment to the Roblar Ranch Conservation Easement to allow for establishment of a California Tiger Salamander and California Red-Legged Frog preserve on the Roblar Ranch property (APNs 027-210-006 and 027-200-003). The proposed preserve is for mitigation of impacts to habitat for the federally-protected California Tiger Salamander and California Red-Legged Frog from the proposed Roblar Road Quarry Project (located immediately north of the Roblar Ranch property, at 7601 and 7175 Roblar Road, Sebastopol; APNs 027-080-009 and -010; Supervisorial District No. 2).

NOTICE IS THEREFORE HEREBY GIVEN that a public hearing to consider the proposed amendment to the Roblar Ranch Conservation Easement will be held by the Board of Directors of the Sonoma County Agricultural Preservation and Open Space District at the hour of **3:00 p.m. on November 9, 2010**, in the **Board of Supervisors** meeting room 102-A, Sonoma County Administration Building, 575 Administration Drive, Santa Rosa, California.

ALL INTERESTED PERSONS are hereby invited to be present and heard thereon.

If you challenge the decision on the proposed easement amendment in court, you may be limited to raising only those issues raised at the hearing or in writing prior to the hearing.

Prior to the hearing, the details of the proposal and related correspondence may be reviewed at or written comments submitted to, the Sonoma County Agricultural Preservation and Open Space District, at 747 Mendocino Avenue, Suite 100, Santa Rosa, CA 95401, (707) 565-7360 telephone, (707) 565-7359 fax.

Publish once: Press Democrat
Date: October 28, 2010

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From: Blake Hillegas <Blake.Hillegas@sonoma-county.org>
To: 'kdiamondw@aol.com' <kdiamondw@aol.com>
Subject: RE: Concerns re: UPE 16-0058
Date: Fri, Aug 19, 2016 5:10 pm

Hi Kathy,

Thanks for your follow up. The Roblar Road widening would occur within the fenceline/County right of way on the south side of Roblar, and would occur on Lands of Kenneth and Clairette Wilson on the North side.

We have conceptual plans if you would like to come in to see them.

Blake Hillegas
Blake Hillegas, Planner III
Sonoma County Permit and Resource Management Dept.
2550 Ventura Avenue
Santa Rosa, CA 95403-2829
Blake.Hillegas@sonoma-county.org
(707) 565-1392

OFFICE HOURS: PRMD's Lobby is open Monday through Friday 8:00 AM - 4:00 PM, except Wednesdays, open 10:30 AM to 4:00 PM.

PRMD logo

From: kdiamondw@aol.com [<mailto:kdiamondw@aol.com>]
Sent: Friday, August 19, 2016 2:45 PM
To: Blake Hillegas
Subject: Re: Concerns re: UPE 16-0058

Hi Blake,

I did not hear back from you, but wanted to give you enough time to review my concerns. Please contact me with any updated information.

Thank you,

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Kathy and Ron Wilson

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

From: Blake Hillegas <Blake.Hillegas@sonoma-county.org>

To: 'kdiamondw@aol.com' <kdiamondw@aol.com>

Sent: Thu, Aug 11, 2016 5:06 pm

Subject: RE: Concerns re: UPE 16-0058

Hi Kathy,

Thanks for your email. I will follow up with you tomorrow with an update and we can set a time to meet if necessary.

Blake Hillegas

Blake Hillegas, Planner III
Sonoma County Permit and Resource Management Dept.
2550 Ventura Avenue
Santa Rosa, CA 95403-2829
Blake.Hillegas@sonoma-county.org
(707) 565-1392

OFFICE HOURS: PRMD's Lobby is open Monday through Friday 8:00 AM - 4:00 PM, except Wednesdays, open 10:30 AM to 4:00 PM.

PRMD logo

From: kdiamondw@aol.com [<mailto:kdiamondw@aol.com>]

Sent: Wednesday, August 10, 2016 5:08 PM

To: Blake Hillegas

Subject: Concerns re: UPE 16-0058

Hello Blake,

My name is Kathy Wilson. My husband, Ron and I are owners of Diamond W Ranch, an organic dairy ranch located in the Two Rock area of Petaluma. Our family's dairy has been in operation for approximately 100 years. It has come to our attention that the owners of the proposed Roblar Rock Quarry have filed a request for modifications to the Use Permit for the Roblar Road Quarry Project. I left a message on your voicemail today because I have some questions that I hope you can clarify for me.



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We have very serious concerns regarding the proposed Roblar Road Quarry project that was approved in 2010, and the new requests to modify the existing Use Permit. Our most serious concern has always been water contamination from the unlined landfill adjacent to the quarry site. We, along with our neighbors, addressed our concerns in 2010, but the County approved the quarry project anyway.

The County approved this project with an "Indemnification Agreement". If the County was not seriously concerned about the disruption of the landfill causing contamination to the water supply to Americano Creek and the surrounding community, they would not be requesting to be indemnified!

Our organic dairy and pasture is adjacent to Roblar Road where the 1.5 mile widening and reconstruction is being requested as well as Access Road 2. Our APN # 022-300-009; 022-300-010; 027-210-005 (Please note that on Figure 4,5 & 6, these above numbered parcels are now owned solely by Ronald Wilson & Kathleen Wilson as of July 1, 2016). Another concern is that none of our agricultural land (all with Williamson Act Contracts) be used to widen or reconstruct Roblar Road or the Access Road 2 or used in any way for this project.

If Sonoma County continues to approve this project, then it is our hope that Sonoma County's Permit and Resource Management Department will be responsible for assuring that the new modifications for the Use Permit in no way affect our property. We would appreciate it if you could call me to discuss or set up an appointment regarding our concerns.

Thank you,

Kathy Wilson
(707) 795-5971 - Home
(707) 696-0630 - Cell



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cont.



MOLLAND LAW

30 Fifth Street, Petaluma CA 94952 | Office 707.202.5511 | Cell 415.672.6222 | Fax 707.202.5513
mmolland@mollandlaw.com | www.mollandlaw.com

April 17, 2018

Public Records Act Coordinator
Office of the General Counsel
Department of Fish and Wildlife
1416 Ninth Street, 12th Floor, Suite 1341
Sacramento, CA 95814

RE: Public Records Act Request for application for lake or streambed alteration agreement of permit by Roblar Road Quarry Project (or John Barella or his agent, Ted Winfield) in Sonoma County, California

Dear Department of Fish and Wildlife,

Pursuant to my rights under the California Public Records Act (Government Code Section 6250 et seq.), I ask to obtain and inspect a copy of the following, which I understand to be held by your agency:

All applications and supporting documents for a lake or streambed alteration agreement or permit behalf of or for the benefit of the Roblar Road Quarry Project in Sonoma County. The application asks for a permit to relocate or move or re-create Americano creek (or a tributary of Americano Creek) in Sonoma County, California. The party requesting the lake or streambed alteration agreement on behalf of the Roblar Road Quarry Project may use the name John Barrella or the Barella Trust, or his agent, Ted Winfield & Associates.

If you determine that some but not all of the information is exempt from disclosure and that you intend to withhold it, I ask that you notify me of such decision and redact any exempt portion it for the time being and make the rest available as requested.

In any event, please provide a signed notification citing the legal authorities on which you rely if you determine that any or all of the information is exempt and will not be disclosed.

If I can provide any clarification that will help expedite your attention to my request, please contact me at mmolland@mollandlaw.com. My cell phone number is 415-672-6222. I ask that you notify me of any duplication costs exceeding \$200.00 before you duplicate the records so that I may decide which records I want copied.

I am happy to discuss my request with you or your legal advisor at any time. My cell phone is 415-672-6222.

Thank you for your time and attention to this matter.

Sincerely,

Michael Molland

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State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
1416 Ninth Street, 12th Floor
Sacramento, CA 95814
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



May 4, 2018

Michael Molland
Molland Law
30 Fifth Street
Petaluma, CA 94952
mmolland@mollandlaw.com

Public Records Act Request No. 18-05-155

Dear Michael Molland:

This letter is in response to the Public Records Act (PRA; Govt. Code, § 6250 et seq.) request you submitted to the Department of Fish and Wildlife (Department) on April 24, 2018 requesting a streambed alteration agreement of permit by Roblar Road Quarry Project.

The Department has determined it will comply with your request by providing copies of all responsive documents that are not exempt from disclosure. The Department will attempt to make the requested documents available within 90 days.

Please note that the PRA requires disclosure of existing records that are in the possession of the Department. The PRA does not require public agencies to create new records in order to comply with requests for documents. The Department will initiate its retrieval process by asking staff to begin searching for responsive records. If the Department is able to locate existing records pertaining to your request, we will assemble these records. At such a time, you will be contacted to make arrangements for inspection or delivery of the records.

Documents maintained in electronic format will be transmitted electronically whenever possible. If you decide to have hard copy records delivered, the Department charges a photocopying fee of \$.15 per page, in addition to shipping costs. The Department does not have a policy that allows it to waive or reduce these fees and costs. However, we will identify the total amount that must be paid before the responsive documents are mailed. Alternatively, responsive documents may be reviewed at the location where they are held in order to avoid shipping charges. When the documents are compiled and you are notified, you may inform the Department of whether you wish to have copies of the documents mailed to you or if you wish to inspect the documents in person.

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Conserving California's Wildlife Since 1870

If you have any questions regarding coordination of your request or would like to know the status of your request, please email and reference PRA No. 18-05-155.

Sincerely,



Xochitl Miranda
Department of Fish and Wildlife
P.O. Box 944209
Sacramento, CA 94244
916-654-3821
PRACoordinator@wildlife.ca.gov



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cont.

Letter G. Michael Molland, Molland Law (Attorney representing Citizens Advocating for Roblar Road Quality – CAARQ)

- G-1 This comment introduces the comment letter generally. Please see the following responses.
- G-2 Traffic impacts of the Quarry are identified and analyzed in the 2010 Final EIR, in Section 4.E, Traffic and Transportation, and in Chapter 5, Alternatives. See also Draft SEIR section 3.4, Traffic and Transportation.
- G-3 Aesthetic impacts of the Quarry, including impacts to scenic resources, are identified and analyzed in the 2010 Final EIR, in Section 4.I, Aesthetics, in Section 4.E, Traffic and Transportation (impact E.8), and in Chapter 5, Alternatives. See also Draft SEIR Section 3.7, Other Environmental Topics. The proposed changes would not change the conclusions of the 2010 Final EIR.
- G-4 Please see the response to comment G-2. As noted in the Draft SEIR on page 3.4-5, the proposed modifications to the Use Permit Conditions of Approval would not affect operations of the approved Quarry, and as such, project trip generation and trip distribution would not change from that described and analyzed in the 2010 Final EIR.
- G-5 Please see the response to comments G-2 and G-4.
- G-6 Please see the response to comments G-2 and G-4.
- G-7 Environmental review pursuant to CEQA does not include examination of socioeconomic benefits (or direct impacts) of a project. However, public benefits may be relevant to the Statement of Overriding Considerations required for approval.
- G-8 The commenter is correct that the Draft SEIR identifies significant and unavoidable impacts to bicycle and traffic safety associated with the proposal to alter the required geometry of road widening improvements on Roblar Road, because they do not meet County policy adopted for the purpose of roadway safety (Impacts 3.4-3 and 3.4-4 in section 3.4, Traffic and Transportation.). Please see Master Response 1.
- G-9 Comments by Mr. Smith, contained in this same comment letter G, are numbered G-42 through G-52. Please see responses to those comments.
- G-10 The commenter's opposition to the proposed modifications to the Use Permit Conditions of Approval is noted.
- G-11 Environmental review pursuant to CEQA does not include examination of potential financial liability. However, public risks may be relevant to the Statement of Overriding Considerations required for approval.

- G-12 Please see comment G-14.
- G-13 Please see the response to comment G-8.
- G-14 The Draft SEIR does not address the issue of economic feasibility or infeasibility of the conditions/mitigation measures that the Applicant proposes to modify. At the time of approval of the Quarry project (Modified Alternative 2), all mitigation measures were found to be feasible. Should the County Board of Supervisors decide to approve the proposed modifications, it will do so only after making findings to support that decision, including, if warranted, findings of infeasibility of those previously adopted measures.
- G-15 Please see the response to comment G-11.
- G-16 Regarding feasibility of conditions/mitigation measures, please see the response to comment G-14. The Draft SEIR notes the Applicant's contention that they have been unable to obtain additional land for use as right-of-way, but has not independently assessed the validity of this. The relevant evidence that voluntary negotiations have been attempted is in comment letter D and the response to comment D-1. The commenter is incorrect in asserting that the Draft SEIR has made economic infeasibility findings.
- G-17 Please see the responses to comments G-11 and G-14.
- G-18 This comment introduces the discussion that follows. Please see the following responses.
- G-19 Changes in the environmental and regulatory setting for the Transportation and Traffic analysis in the Draft SEIR are discussed on pages 3.4-1 through 3.4-3. The commenter is correct that there are no sudden and unforeseen developments that give rise to the application.
- G-20 Please see the response to comment G-8, and Master Response 1.
- G-21 Please see the response to comment G-14
- G-22 Please see the response to comment G-14.
- G-23 The commenter notes that there is evidence of feasibility of the already-approved Use Permit. Evidence of economic feasibility or infeasibility is relevant to a Statement of Overriding Considerations and need not be included in the SEIR.
- G-24 The Draft SEIR states that the Applicant's proposal to relocate Americano Creek stems from the constraint imposed on the required road widening by the presence of the creek in close proximity to Roblar Road, the width of the existing right-of-way, and the Applicant's stated inability to obtain additional land for right-of-way on the opposite side of the road. Should the County Board of Supervisors decide to approve the proposed modifications to allow for relocation of Americano Creek, it will do so only after making findings to support that decision, including, if warranted, findings of infeasibility of the previously adopted measures. Potential conflicts of the proposed creek relocation with

- other County ordinances and policies are discussed in several places in the Draft SEIR, notably in Section 3.4, Biological Resources, discussion of the Regulatory Setting on pages 3.3-2 and 3.3-3; and Section 3.7.4, Land Use and Agricultural Resources. Mitigation Measure 3.3-1 in Section 3.4, Biological Resources, includes revisions to Condition/Mitigation Measure 133 to clarify that the Quarry project is consistent with Chapter 26A of the County Code.
- G-25 This comment summarizes, from the commenter’s perspective, the EIR process completed in 2010 and the subsequent lawsuits challenging it. The comment does not address the Draft SEIR.
- G-26 The commenter is correct that the Applicant first submitted an application to modify certain Use Permit Conditions of Approval in July, 2016. That application is the subject of the Draft SEIR.
- G-27 CEQA Guidelines Section 15163(a) is also cited in Draft SEIR Chapter 1, Introduction, on pages 1-3 and 1-4.
- G-28 It is not changed circumstances, but rather the Applicant’s proposed changes to the Use Permit, that triggered the initiation of supplemental review pursuant to CEQA Guidelines Section 15163(a).
- G-29 Please see the response to comment G-8.
- G-30 Please see the response to comment G-45.
- G-31 Please see the response to comment G-14.
- G-32 Please see the responses to comments E-8 and G-14.
- G-33 Please see the response to comment G-14, and the following responses.
- G-34 Please see the response to comment D-1 and G-14.
- G-35 This comment does not address the Draft SEIR. With regard to feasibility of conditions/mitigation measures, please see the response to comment G-14.
- G-36 The letters referred to in the comment, which are included as Exhibit 3 to this comment letter G (numbered comment G-61), were also submitted by the Applicant and are included in this document as comment letter D; one additional letter not included in Exhibit 3 is also included as the last page of comment letter D, this being a letter from a landowner expressing their lack of interest in selling any portion of their property. Please see also the response to comment D-1.

With regard to the commenter’s statement that “none of the claims and assertions or options stated in these letters are analyzed, discussed, or even mentioned by the SEIR,” the Draft SEIR properly confines discussion and analysis to the environmental effects of

- the proposed project, that is, the Applicant's proposed modifications to the Use Permit Conditions of Approval. Please see also the responses to comments G-14 and G-35.
- G-37 Please see the responses to comments G-8, G-35 and G-36.
- G-38 Please see the responses to comments G-8, G-35, and G-36.
- G-39 It is expected that, should the County approve the Applicant's proposed relocation of Americano Creek, the Applicant will then seek the necessary permits from other agencies, including California Department of Fish and Wildlife (CDFW), to enable this. Responsible agencies, including CDFW, are listed in Section 2.7, Required Approvals, in Draft SEIR Chapter 2, Project Description. With regard to the environmental review process prescribed by CEQA for a responsible agency (including a trustee agency, such as CDFW), please see CEQA Guidelines Section 15096.
- G-40 The commenter claims that the relocation of Americano Creek is inconsistent with Chapter 26A of the County Code due to setbacks. The commenter is incorrect. Where critical habitat is subsequently designated at an approved site, the code does not apply setbacks retroactively. In addition, all impacts to critical habitat are fully mitigated.
- G-41 Contrary to the assertion in this comment, the commenter has not identified any deficiencies in the Draft SEIR that would render it inadequate under CEQA. The Draft SEIR fully and completely complies with the CEQA requirements for a Draft SEIR.
- G-42 This comment provides qualifications of the commenter.
- G-43 Please see the responses to comments G-14, G-35, and G-36.
- G-44 Please see the response to comment G-35. As evidenced by comment letter D, the Applicant has made an offer to purchase land for use as right of way from the Kenneth A. and C. Wilson Trust (Kenneth and Clarette Wilson).
- G-45 The Draft SEIR concludes (Impact 3.4-3 and 3.4-3) that the proposed narrower travel lane and shoulder would result in a significant and unavoidable impact to bicycle and traffic safety, even with mitigation. Please see Master Response 1.
- G-46 Please see Master Response 1.
- G-47 Please see Master Response 1.
- G-48 Please see Master Response 1 and the response to comment G-11.
- G-49 Please see the response to Comment G-45 and Master Response 1.
- G-50 The County is not "deluded" about the need for the Applicant's proposed changes to certain Use Permit Conditions of Approval. The environmental consequences of the proposed changes, including changes that would allow creek relocation, are the subject of

the Draft SEIR. The Sonoma County Board of Supervisors will consider the merits of the proposal in deciding whether to approve it. With regard to the Applicant's proposed revisions to Condition/Mitigation Measure 133, including the proposed insertion of "as feasible," into the text of the condition, please see Draft SEIR Section 3.3, Biological Resources, Mitigation Measure 3.3-1, which specifies revision to the condition without use of the term "as feasible." Please see also the response to comment C-14, which modifies this mitigation measure by adding modifications to Condition 101, and the response to comment G-24.

- G-51 The commenter is incorrect. The Draft SEIR fully evaluates the Applicant's proposed changes to the Use Permit Conditions of Approval, in compliance with CEQA.
- G-52 This comment includes the commenter's resume.
- G-53 This comment and the following comments by the commenter, Michael Kavanaugh, appear to be provided in order to support the claim, made elsewhere in this comment letter, that the Applicant's claim of infeasibility of roadway improvements according to the standards contained in the Use Permit Conditions of Approval is not supported by evidence. Please see responses to comments G-14 and G-16.
- G-54 The figure cited of 11.4 million cubic yards of rock mined over a 20-year period reflects the maximum possible, given the annual limit of 570,000 cubic yards. While the 2010 Final EIR properly uses this figure as a basis for the environmental analysis, it is possible that the Quarry will not actually produce the maximum permitted volume every year that it is in production.
- The density figure used by the commenter is a reasonable estimate. The commenter, however, has made an error by multiplying cubic yards by the density factor to estimate tons, instead of dividing. Using the commenter's conversion factor of 1.3 tons per cubic yard and dividing the cubic yardage figure by this factor results in a figure of 8,769,231 tons.
- G-55 Here, the commenter compounds the error noted in the previous response. Using the corrected figure of about 8.77 million tons total production, and the commenter's price figure of \$12.75 per ton, the total revenue estimate would be about \$111.8 million.
- G-56 This response does not consider the validity of the commenter's methodology. Please see the previous response regarding the corrected revenue estimate.
- G-57 This response does not consider the validity of the commenter's methodology. Using the commenter's estimated equity return figure of 10.6% and the corrected revenue estimate provided in the response to comment G-55, the total return to equity would be about \$11.85 million.
- G-58 The prices for aggregate presented in this table match those currently (as of 12/29/18) shown on the Stony Point Rock Quarry website.

- G-59 This table apparently is presented to support the commenter's estimate of return to equity. Please see the response to comment G-57.
- G-60 This comment includes the resume of the commenter.
- G-61 This comment contains correspondence between the Applicant, his attorneys, and his neighbors, also contained in comment letter D. Please see the response to comment D-1.
- G-62 This comment contains an excerpt from the Draft SEIR Chapter 2, Project Description, specifically Figures 2-7a through 2-7h and 2-8.
- G-63 This comment contains notice of a public hearing from 2010 related to the Quarry project approval, and is referred to in comment G-25. Please see the response to that comment.
- G-64 The comment contains email correspondence between Kathy Wilson, a property owner on Roblar Road near the Quarry, with Blake Hillegas, Sonoma County Planner, referenced in comment G-37. Please see the response to that comment.
- G-65 This comment contains correspondence between the commenter and the California Department of Fish and Wildlife referenced in comment G-39. Please see the response to that comment.
- G-66 This comment (labeled as "Exhibit 9" and included in Appendix C) contains various documents, already in the administrative record for the 2010 Final EIR, from 2009 and 2010. These documents are presented without comment, they do not pertain directly to the Draft SEIR, and they do not require a response.
- G-67 This comment (labeled as "Exhibit 10" and included in Appendix C) contains various documents, already in the administrative record for the 2010 Final EIR from 2010 and earlier, and also documents from the subsequent court case challenging the 2010 Final EIR. These documents are presented without comment, they do not pertain directly to the Draft SEIR, and they do not require a response.

From: [Richard Harm](#)
To: [Shirlee Zane](#)
Subject: Roblar Road Improvements
Date: Thursday, October 25, 2018 11:26:06 PM

Dear Supervisor Zane

As an avid cyclist and frequent rider on Roblar Road I feel it is imperative that you hold firm on the conditions of approval that were certified in 2010 when the Roblar Road Quarry site project was approved. (Two 12 foot travel lanes with 6 foot wide paved shoulders, and 2 foot wide rock shoulders, and associated striping to meet Class 2 bicycle lanes). Roblar Road is relatively straight with the exception of the section under consideration. This is the most dangerous section due the tight curves and limited visibility. Reducing the driving/bicycle lane width in this area, as proposed by Mr. Barella, is a recipe for disaster. It's a fact that a truck and trailer can not hold tight to the center of the lane when negotiating tight turns. It is the wandering of the trailer into the bicycle lane that creates the hazard. Wider driving and bicycle lanes will give the trucks more room to maneuver and cyclists a safe space through the dangerous tight curves west of the proposed quarry. Please remember that the safety of cyclists/public trumps the applicants inability to obtain right-of-way from private property owners.

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Thank you for your consideration in this very important public safety issue.

Richard Harm
President
Petaluma Wheelmen Cycling Club

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Letter H. Richard Harm, President, Petaluma Wheelmen Cycling Club

- H-1 This comment addresses the merits of the proposed modifications to the Use Permit Conditions of Approval that establish roadway standards for Roblar Road. The commenter is opposed to the proposed modifications to the required widening Roblar Road. The comment does not address the environmental analysis contained in the Draft SEIR and does not require a response.
- H-2 The current condition of Roblar Road, and the recent history of accidents along Roblar Road, are discussed in the Environmental Setting discussion in Draft SEIR Section 3.4, Transportation and Traffic, and in Chapter 2, Project Description, in the discussion of the reconstruction and widening of Roblar Road. The proposal is to reduce the width of the road with respect to the existing approval, but to widen it with respect to existing conditions.
- H-3 Please see Master Response 1.



Promoting the bicycle for transportation and recreation

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October 12, 2018

Blake Hillegas, Supervising Planner
County of Sonoma
Planning Division / Project Review
2550 Ventura Ave., Santa Rosa, CA 95403

Re: Roblar Road Quarry Project Supplemental Environmental Impact Report

Dear Mr. Hillegas:

On behalf of the Sonoma County Bicycle Coalition, please accept the following comments on the proposed amendments to the Roblar Road Quarry Project and the associated Supplemental Environmental Impact Report (SEIR).

The SCBC is very concerned by the applicant's proposal to eliminate the existing requirement for 6-foot bike lanes and to instead, install a 3-foot paved shoulder and a 2-foot gravel shoulder with no bike lanes whatsoever. As was determined when the original EIR and Use Permit were approved, the safety of all road users, including those on bicycles, is paramount. The addition of more frequent and large truck traffic on this already busy roadway and popular bicycle route will necessarily decrease the safety of our most vulnerable road users.

The applicant cites that new information of substantial importance was not known at the time that the original Use Permit was approved and "given the limited width of the existing prescriptive right of way; the proximity of Americano Creek to Roblar Road, other proximal wetlands and/or linear drainage features to Roblar Road; and other factors, that the required road improvements on Roblar Road are impractical, unnecessary and infeasible."

We call upon the County of Sonoma to determine the validity of the above position and whether the existing requirement for a 6-foot bike lane is indeed infeasible as the applicant claims.

If implementation of 6-foot bike lanes is determined infeasible, we urge that the following be required as part of any project approval:

- 1. Implementation of Mitigation Measure 3.4-3: The Applicant shall widen Roblar Road on the 1.6-mile segment between the Quarry site entrance and Access Road 2 with two 11-foot-wide vehicle travel lanes, and an 11-foot west-bound left turn lane at Access Road 2, two 5-footwide shoulders (4-foot-wide paved), and appropriate side slope for the entire road design, as determined by the Department of Transportation & Public Works. The

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Applicant shall widen Roblar Road with at least the following cross section dimensions: • 11-foot-wide vehicle travel lanes and 11-foot-wide left turn lane; • 4-foot-wide paved shoulders; • 1-foot-wide unpaved (rock) shoulders.

- 2. Reduction of the speed limit to 40 mph through the 1.6-mile section where bike lanes are to be installed to decrease the dangers associated with large trucks frequently entering/exiting the roadway and the S-turn along this stretch.
- 3. Require the applicant to perform street sweeping of the roadway at minimum every 3-months, or as needed to ensure the safety of all roadway users impacted by the project.

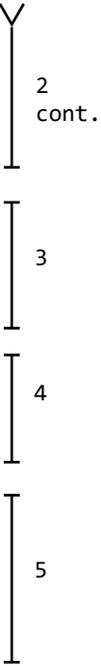
Again, we wish to emphasize that the safety of cyclists remains our utmost priority. Thus, if at all feasible, further separation from large, heavy truck traffic in the form of 6-foot bike lanes is overwhelmingly preferred. However, if sufficient evidence exists to indicate that there is *not* enough right of way available for 6-foot bike lanes, we ask that a 4-foot bike lane, the minimum width allowed, be required as part of any project approval.

Thank you for your consideration of the above comments intended to improve the safety of those biking within the project vicinity.

Sincerely,



Alisha O'Loughlin
Executive Director



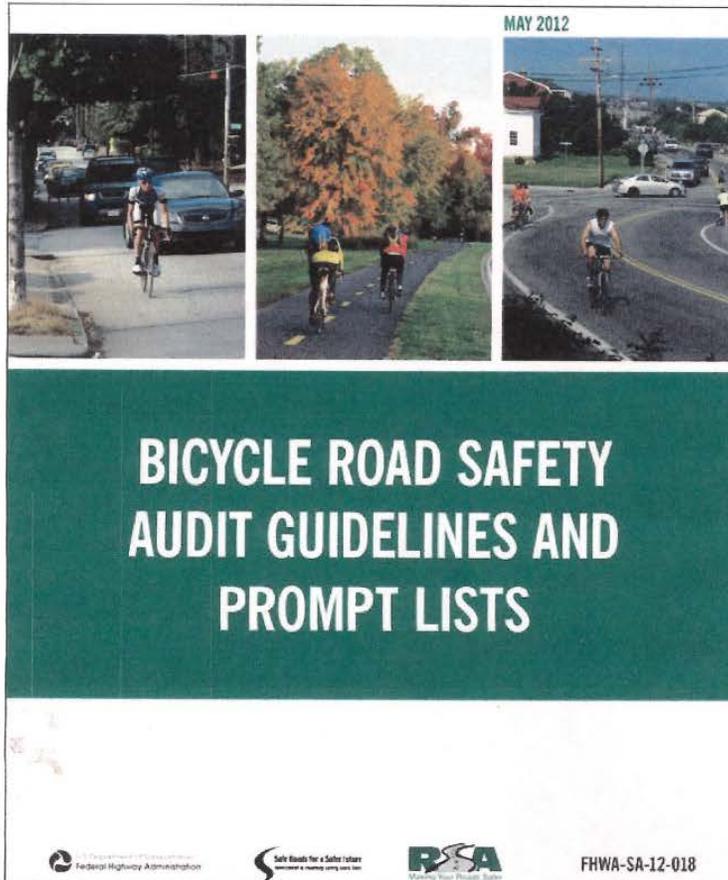
Letter I. Alisha O'Loughlin, Executive Director, Sonoma County Bicycle Coalition

- I-1 With regard to lane width and bicycle safety, please see Master Response 1. With regard to the Applicant's statement that achieving the required standards is infeasible, the Draft SEIR does not address the issue of feasibility or infeasibility of the Use Permit Conditions of Approval that the Applicant proposes to modify. Should the County Board of Supervisors decide to approve the proposed modifications, it will do so only after making findings to support that decision, including, if warranted, findings of infeasibility of those previously adopted measures.
- I-2 The comment, supporting adoption and implementation of Mitigation Measure 3.4-3 from the Draft SEIR if 6-foot wide paved shoulders are found to be infeasible, is noted.
- I-3 Please see Master Response 1.
- I-4 Condition/Mitigation Measure 87 (Mitigation Measure E.3c from the 2010 Final EIR) requires weekly sweeping of the intersections of Roblar Road and Valley Ford Road with the Quarry's private access roads.
- I-5 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's preference for maintaining the existing Conditions of Approval governing widening of Roblar Road, if feasible.

U.S. Department of Transportation
Federal Highway Administration
1200 New Jersey Avenue, SE
Washington, DC 20590
202-366-4000

Safety

Bicycle Road Safety Audit Guidelines and Prompt Lists



Download the Printable Version [[PDF, 25.6 MB](#)]
You will need the [Adobe Acrobat Reader](#) to view this PDF.

May 2012
FHWA-SA-12-018

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Technical Documentation Page

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2.2 Characteristics of Cyclists

There are many factors that affect the safety of bicycling. It is crucial for the RSA team to understand the range of characteristics exhibited by cyclists using various facility types and how designs may or may not accommodate the range of bicycle types and cyclist abilities.



A wide range of bicycle, cyclist, and facility characteristics should be considered as part of an RSA.

In the past, cyclists were categorized corresponding to riding ability and comfort with speed and proximity to other vehicles to simplify considerations in the planning and design process. Now it is better understood that different abilities of cyclists should be considered on all types of facilities. To accommodate a range of cycling characteristics on any bicycle facility, it is important to understand the physical and operational attributes of bicycles and cyclists.

Space—The required width to accommodate a cyclist is the width of the cyclist plus the width to operate or maneuver a bicycle. Similarly, the required height to accommodate a cyclist considers bicycle and rider dimensions. Figure 3 illustrates the unobstructed space needed by a typical cyclist to safely maneuver. The width of a cyclist should be considered as it relates to facility design, as well as surrounding influencing factors. For example, on shared use paths, cyclists may prefer to ride side-by-side, or there may be a large number of bike trailers on the path. These conditions would require operating space beyond the minimums illustrated in Figure 3. Additionally, cyclists will lean into a curve at moderate or higher speeds, resulting in an angled riding axis, lower pedal clearance from the riding surface, and a possible need for greater horizontal clearance. The amount of space afforded to cyclists may directly impact their ability to safely navigate a route, as cyclists expend a high amount of mental effort to maintain course in narrow or constrained conditions rather than paying due attention to potential obstacles or harmful conflicts with other facility users. (17)

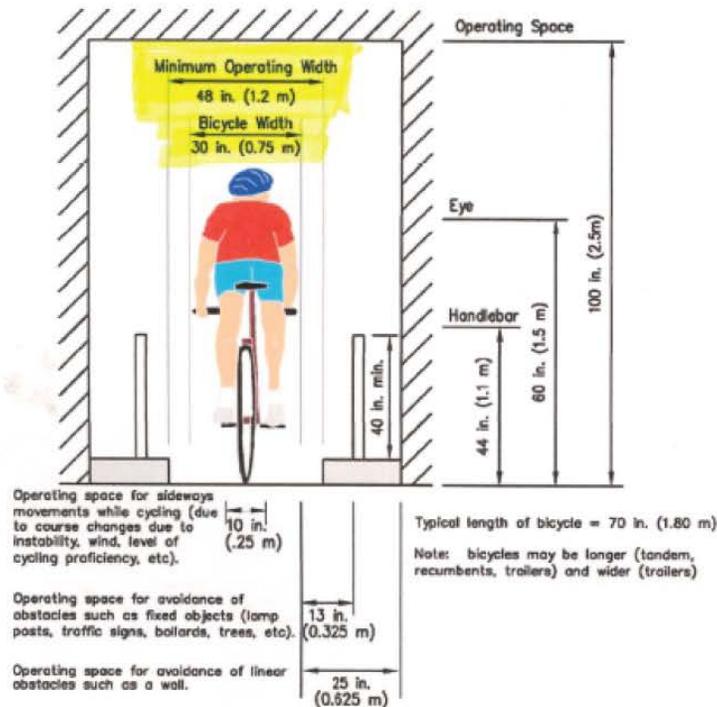


Figure 3. Operating Space for Cyclists. (18)

Length—Relates to space needed for longitudinal clearance, which may be especially critical at intersections where motor vehicles, bicycles, and pedestrians share space. Longitudinal space should consider the varying lengths of bicycles that are expected to use a facility and the impact on safety (see Figure 4). For example, at a midblock crossing of a shared use path, the space dedicated to a cyclist in the refuge area may need to adequately accommodate a bicycle and trailer without encroaching on the roadway.

- A. Adult Typical Bike
- B. Adult Single Recumbent Bicycle
- C. Additional Length for Trailer Bike

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cont.


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DIVISION 11. RULES OF THE ROAD [21000 - 23336] (*Division 11 enacted by Stats. 1959, Ch. 3.*)

CHAPTER 3. Driving, Overtaking, and Passing [21650 - 21760] (*Chapter 3 enacted by Stats. 1959, Ch. 3.*)

ARTICLE 3. Overtaking and Passing [21750 - 21760] (*Article 3 enacted by Stats. 1959, Ch. 3.*)

21760. (a) This section shall be known and may be cited as the Three Feet for Safety Act.

(b) The driver of a motor vehicle overtaking and passing a bicycle that is proceeding in the same direction on a highway shall pass in compliance with the requirements of this article applicable to overtaking and passing a vehicle, and shall do so at a safe distance that does not interfere with the safe operation of the overtaken bicycle, having due regard for the size and speed of the motor vehicle and the bicycle, traffic conditions, weather, visibility, and the surface and width of the highway.

(c) A driver of a motor vehicle shall not overtake or pass a bicycle proceeding in the same direction on a highway at a distance of less than three feet between any part of the motor vehicle and any part of the bicycle or its operator.

(d) If the driver of a motor vehicle is unable to comply with subdivision (c), due to traffic or roadway conditions, the driver shall slow to a speed that is reasonable and prudent, and may pass only when doing so would not endanger the safety of the operator of the bicycle, taking into account the size and speed of the motor vehicle and bicycle, traffic conditions, weather, visibility, and surface and width of the highway.

(e) (1) A violation of subdivision (b), (c), or (d) is an infraction punishable by a fine of thirty-five dollars (\$35).

(2) If a collision occurs between a motor vehicle and a bicycle causing bodily injury to the operator of the bicycle, and the driver of the motor vehicle is found to be in violation of subdivision (b), (c), or (d), a two-hundred-twenty-dollar (\$220) fine shall be imposed on that driver.

(f) This section shall become operative on September 16, 2014.

(Added by Stats. 2013, Ch. 331, Sec. 3. (AB 1371) Effective January 1, 2014. Section operative September 16, 2014, by its own provisions.)

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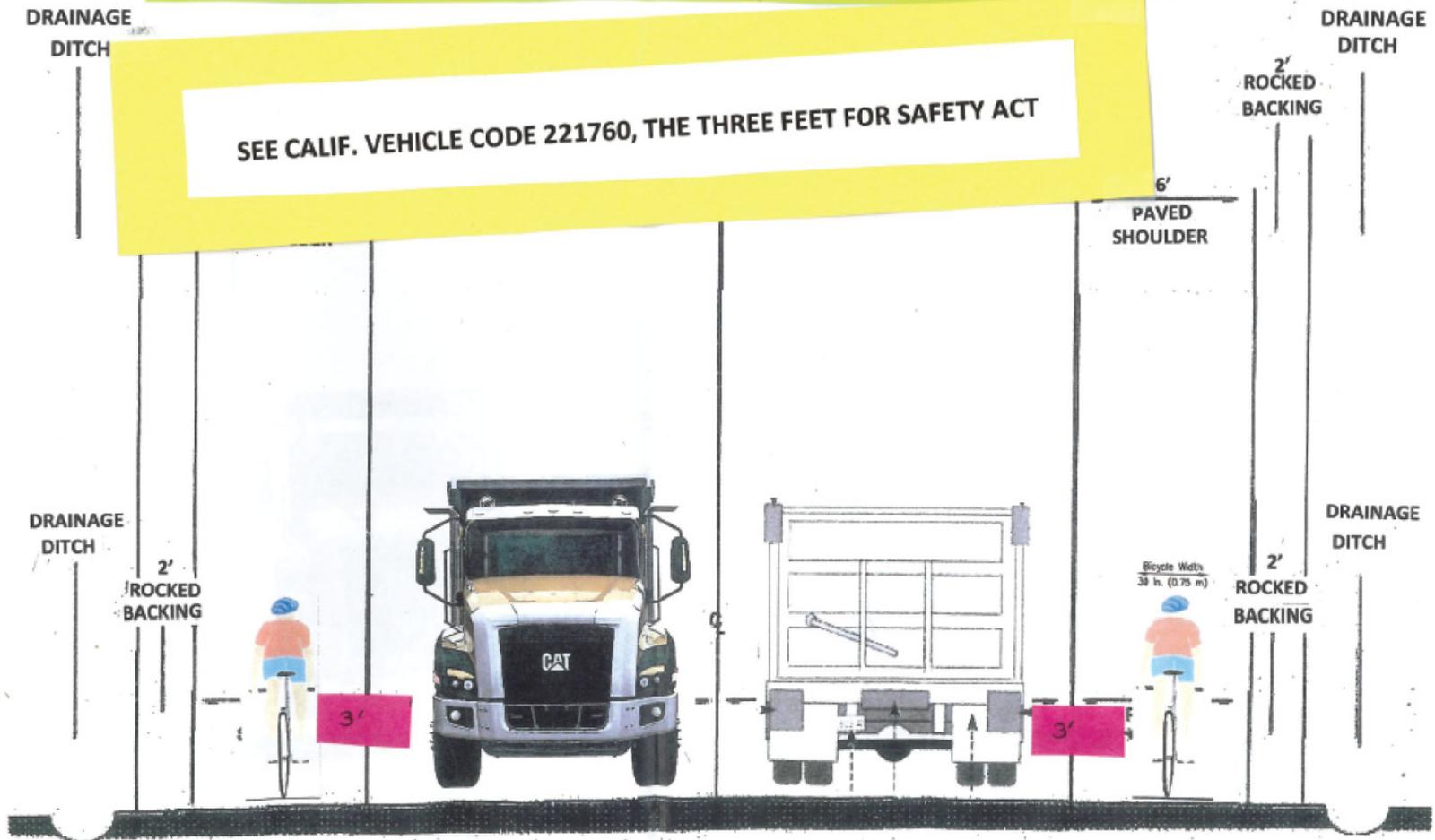
International 10 Yard Dump Truck

- **Weight:** 50,000 lbs Fully Loaded.
- **Height:** 9 feet 4 **inches** at the top of dump bed.
- **Height:** 17 feet 3 **inches** at full dump position.
- **Width:** 9 feet 6 **inches** at the mirrors.
- **Width:** 8 feet 5 **inches** at bed.
- **Length:** 23 feet 8 **inches**.

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3 FOOT MINIMUM CLEARANCE IS POSSIBLE GIVEN THIS ROAD WIDTH

SEE CALIF. VEHICLE CODE 221760, THE THREE FEET FOR SAFETY ACT



B. Currently Required per Conditions 49 and 59: 36' Paved Width

Letter J. Margaret Hanley, Printed Materials Presented at the Sonoma County Board of Supervisors Public Hearing, October 16, 2018

- J-1 With regard to bicycle safety and lane width, please see Master Response 1.
- J-2 The “Three Feet for Safety Act” (Vehicle Code Section 21760) is discussed in the Draft SEIR, in the Regulatory Setting discussion in Section 3.4, Transportation and Traffic. Please see also Master Response 1.
- J-3 With regard to bicycle safety, including conflicts between bicycles and trucks on Roblar Road, please see Master Response 1.
- J-4 With regard to bicycle safety, including conflicts between bicycles and trucks on Roblar Road, please see Master Response 1.

From: [Sean](#)
To: [David Rabbitt](#); [Susan Gorin](#); [Shirlee Zane](#); [James Gore](#); [Lynda Hopkins](#)
Subject: Roblar Road quarry and use permit modifications
Date: Friday, October 26, 2018 8:32:02 AM

It has come to my attention that the Roblar Road quarry developer wishes to modify the terms of use a use permit so that a portion of the road can be made narrower than what was agreed to.

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I am a cyclist living in Cotati. Roblar Road currently is narrow with blind rises and blind curves, and no turnouts to speak of west of the Canfield intersection. I ride on that road regularly and dread the notion of having large gravel trucks crowded into 11 foot lanes with a 3 foot paved shoulder for me to ride in; that would put me right at the edge of the pavement up against the rock shoulder with less than 3 feet of space between me and the trucks.

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The gravel trucks themselves will encounter each other rolling in opposite directions regularly; I expect 11 foot lanes would cause them to veer away from the centerline and onto the paved shoulder briefly to pass each other safely, but not safely pass cyclists unfortunate to be riding on a 3 foot paved shoulder when that happens. 12 foot lanes will reduce the veering and a 6 foot paved shoulder will provide more 'cushion' between wandering trucks and cyclists.

I want Roblar Road to meet safety standards agreed in the initial EIR (certified by the county in 2010) to keep motorists and bicyclists safe.

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-Sean Butler
Cotati

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Letter K. Sean Butler

- K-1 This comment accurately summarizes a portion of the Applicant's proposal that is the subject of the Draft SEIR.
- K-2 With regard to bicycle safety, including conflicts between bicycles and trucks on Roblar Road, please see Master Response 1.
- K-3 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying the existing Conditions of Approval governing widening of Roblar Road.

From: [Keith Devlin](#)
To: [Shirlee Zane](#)
Subject: Requested changes to Use Permit (UPE16-0058)
Date: Thursday, October 25, 2018 9:02:29 PM

Dear Ms Zane,

I am writing to ask the County to deny the request by the owner of the Roblar Road Quarry site to eliminate the inclusion of Class 2 bicycle lanes on either side of the 1.6 mile section of Roblar Road involved in the proposed changes. I am one of many local residents who cycle along Roblar Road regularly. Significantly increased heavy vehicle traffic on Roblar Road already presents an increased danger to cyclists. Without adequate cycle lanes, it is simply a matter of time before one or more of us is killed. I have no problem with a local business seeking to increase profits, but not at the cost of lives of local residents.

Thank you for your attention.

Dr. Keith Devlin

Keith Devlin
171 King Road
Petaluma, CA 94952-19007
USA

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Letter L. Keith Devlin

- L-1 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying the existing Conditions of Approval governing widening of Roblar Road.

- L-2 Please see Master Response 1.

Oct. 29, 2018

TO: Sonoma County Board of Supervisors
Tennis Wick
Chris Seppeler
Blake Hillegas
NOAA, Rick Rogers
Calif. Fish & Wildlife, Eric Larson

FROM: Rue Furch

RE: Supplemental Environmental Impact Report
Roblar Road Quarry
7175 Roblar Road, Petaluma, CA
APN: 027-080-009 and 027-080-010

The proposed amendments to the approved project raise a number of issues. In brief:

- An inadequate analysis of existing conditions
- Changes to Conditions of Approval that have not met the standard of alternatives analysis
- Proposed amendments do not meet required safety standards
- California's Sustainable Groundwater Management Act (SGMA) impacts have not been analyzed in the proposed realignment of 930 feet of Americano Creek, which not only is a likely recharge area within the Basin that cannot be reproduced; it has also been identified as critical habitat for endangered species (GP Chapter 26, OSE map)

I apologize for not providing greater detail, but have only just learned of this deadline and would be happy to respond to any questions or comments you may have.

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Letter M. Rue Furch

- M-1 Existing conditions are described in the Draft SEIR in Chapter 2, Project Description, and also in the Environmental and Regulatory Setting sections of each analytical section in Chapter 3. The description of existing conditions in the Draft SEIR fully meets the requirements of CEQA.
- M-2 The Draft SEIR is a “supplemental EIR” prepared pursuant to CEQA Guidelines Section 15163 and Public Resources Code section 21166. As such, it need contain only the information necessary to make the previous EIR adequate for the project as revised. Because the 2010 Final EIR contained a full and adequate alternatives analysis, no further alternatives analysis is required.
- M-3 The intent of the comment is vague; the commenter does not specify which aspects of the Applicant’s proposal analyzed in the Draft SEIR do not meet safety standards. Safety standards of the proposed modification to the Use Permit Conditions of Approval governing intersection design and widening of Roblar Road are evaluated in terms of traffic safety standards in Draft SEIR Section 3.4, Transportation and Traffic; see particularly Impacts 3.4-2, 3.4-3, and 3.4-4. See also Section 3.5, Hazardous Materials. For a discussion of the need for an override, see Master Response Number 1.
- M-4 Most changes to the project will not impact groundwater. The potential for proposed relocation of Americano Creek to affect groundwater recharge is discussed in Draft SEIR Section 3.2, Hydrology and Water Quality, on page 3.2-5. This discussion concludes that the proposed creek relocation would not adversely affect groundwater recharge. Potential effects of the proposed creek relocation on endangered species are discussed in Draft SEIR Section 3.3, Biological Resources.
- M-5 No response is required to this conclusion of the comment letter.

From: [Angela Levinger](#)
To: [Shirlee Zane](#)
Subject: Roblar Road Quarry
Date: Thursday, October 25, 2018 10:06:48 PM

Dear Ms Zane,

I recently read the SEIR and proposed changes to the 2010 agreement on the Roblar Road Quarry. I wish to state my opposition to allowing the concessions requested.

As the report states, Roblar Road currently has between 1700-2000 cars during daylight hours and is a major cycling route for a growing population of recreational cyclists. The quarry would add 600 trucks per day to this mix, all for private gain. The proposed amendments would leave the local taxpayers with substandard conditions for the private gain of a gravel company. As the population grows, this imbalance will only increase. It makes me wonder, to what gain would we allow our citizens to be subject to unnecessary hazards on an increasingly busy road?

Please advocate for the citizens, the environment and the future of the area. I implore you to think of the longer range, as changes later are much harder to implement than they are now. Clearly, the initial agreement was made because it was thought to be the best. Don't we deserve that from you?

Angela Levinger

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Letter N. Angela Levinger

- N-1 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying the existing Conditions of Approval governing widening of Roblar Road. The commenter is referred to Master Response 1.

Mr. Chris Seppeler and the Sonoma County Board of Supervisors,

My name is Claudia Steinbeck Mcknight and I own and live directly across from the proposed Quarry on Roblar Road. I strongly disagree with ANY mitigations to the original Quarry proposal. My family has owned the property since 1890s and I have lived there all my life as did my father .

When the Quarry was approved in 2010 there were many conditions to be adhered to for it to go forward. I DO NOT believe that road situation has improved, or the Americano Creek and the surrounding wetlands have become less of a concern as the county ordinance passed 2012 shows.

If you have ever driven on Roblar or gone the the Washoe House you will also see that the intersection has become even more difficult and dangerous so to even think about mitigating any of these issues is beyond comprehension .Roblar Road is also positioned between Open Space and Williamson Act agriculture preserve and is a very scenic drive to Bodega. There have several vehicle accidents on Roblar Road that resulted in property and physical damages in the last few months as I'm sure you know. Ask the bicyclists if they feel safe now on Roblar let alone with numbers of trucks and support vehicles that it will bring. ou also know that the truck traffic will increase exponentially on Canfield, Petersen and by the school because it will a short cut from Cotati, Sebastopol and Santa Rosa.

I again request that you hold the original conditions force. Don't narrow the road or destroy the creek habitat .Please remember that what you choose to do will impact many people lives all of it negatively except for Mr. Barella and his associates who stand to gain millions at our expense and all of your future generations. Once nature is destroyed or disturbed we can not rebuild it.

Sincerely

Claudia Steinbeck Mcknight

707-795-2515

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Sent from my iPhone

Letter O. Claudia Steinbeck Mcknight

- O-1 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying any of the existing Conditions of Approval.
- O-2 The commenter's family's long residence on Roblar Road is noted.
- O-3 The Environmental and Regulatory Setting sections of each analytical section in Chapter 3 of the Draft SEIR provide an update to conditions described in the 2010 Final EIR, including the condition of Roblar Road and Americano Creek.
- O-4 Current Use Permit Conditions of Approval require upgrading of the Stoney Pont Road/Roblar Road intersection, including signalization and installation of left turn lanes, as described in Chapter 2, Project Description, of the Draft SEIR. Chapter 3.4, Traffic and Transportation of the Draft SEIR examines the Applicant's proposed modifications to the intersection upgrade design and finds that, with mitigation, they would not have a new or more severe impact on level of service and traffic safety, including bicycle safety, compared to the previous design. Please refer to Draft SEIR Impacts 3.4-1, 3.4-2, and 3.4-5.
- O-5 Aesthetic impacts of the Applicant's proposed modifications to the Use Permit Conditions of Approval are considered in Draft SEIR Section 3.7, Other Environmental Topics, commencing on page 3.7-1.
- O-6 Recent accident history on Roblar Road is discussed in Draft SEIR Section 3.4, Transportation and Traffic, on page 3.4-3. This history is through 2015. The County is aware that a recent accident involving a rolled crane indicates that the road can be difficult for large vehicles, however this accident did not occur on the 1.6-mile segment that is at issue in this approval.
- O-7 The Draft SEIR, Section 3.4, Traffic and Transportation, Impact 3.4-3 examines the potential for the Applicant's proposed modifications to the required widening of Roblar Road to increase bicycle safety hazards, and finds that, even with mitigation, the impact would be significantly and unavoidably more severe. Please see Master Response 1.
- O-8 Quarry haul trucks will be restricted to the designated haul route, as shown in Figure 2-1 in Chapter 2, Project Description, of the Draft SEIR. The haul route does not include any portions of Canfield Road, Peterson Road, or Roblar Road east of the Quarry entrance.
- O-9 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying any of the existing Conditions of Approval, as well as the commenter's general concern for impacts of the Quarry operation on the environment. These concerns are noted.

From: [Chris Seppeler](#)
To: [Verne Ball](#); [Blake Hillegas](#)
Subject: FW: Public Comments: Draft ROBLAR ROAD QUARRY Supplemental Environmental Impact Report SCH # 2004092099
Date: Monday, October 29, 2018 10:19:19 AM

From: chillinvillin@gmail.com [mailto:chillinvillin@gmail.com]
Sent: Monday, October 29, 2018 6:15 AM
To: Chris Seppeler <Chris.Seppeler@sonoma-county.org>
Subject: Public Comments: Draft ROBLAR ROAD QUARRY Supplemental Environmental Impact Report SCH # 2004092099

October 29, 2018

Natural Resources Division, Permit Sonoma
2550 Ventura Avenue
Santa Rosa, CA 95403-2829

Dear Mr. Chris Seppeler,

My name is Justin Merrick. I have lived almost the entirety of my life on Roblar Road in the County of Sonoma just outside of Petaluma. I am writing you with concerns for a Use Permit application (UPE16-0058) to modify Use Permit (PLP03-0094). A draft SEIR has been submitted for the requested changes to an approved project developing a rock quarry on Roblar Road in Petaluma.

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I remember the days as a child when I use to ride my bicycle on Roblar to the nearby towns. That is not possible anymore. I am not naive to the changes over the last 34 years near the home my parents built. But that is not an excuse to allow a wealthy developer to come in and negate the necessary safety requirements which were already agreed upon in 2010. The changes the SEIR are proposing will threaten the men, woman, and children that travel Roblar Road every day. This is what will happen if the road is allowed to be modified and narrowed beyond the known safety guidelines.

2

I'm not coming to you as just a citizen of Roblar Road but also a professional. I have been a professional Firefighter-Paramedic for over 13 years. My experience has been developed over those years in Alameda County in the Eastbay. I have spent much time on roadways, freeways, and highways with heavy equipment, transports, and trucks and the dangers they possess. Can you image what its like helping those in need while 50,000 pound trucks drive by at 50mph speeds and more. I can. Not only is it known that the new guidelines will be unsafe for walkers and bicyclists but what happens when, not if, there is an accident on Roblar Road. What's to be said for the safety of the men and women in law enforcement and the fire department doing their jobs. Instead of 40 trucks a day there will be 600 trucks a day traveling Roblar. Does that sound safe to you? Should we not require the developer to commit to their due diligence to provide for the safety of those traveling the roads.

3

Again, remember that the developer already agreed in 2010 to the approved requirements for the quarry. Do you allow your children to get away with breaking a rule that you imposed 10 minutes after imposing it? What makes the developer of this quarry special and more important than the lives of myself and my neighbors? What does it say about Sonoma County and its Administrators if we are to allow this kind of corrupt behavior to overlook the safety of

4

its people? These concerns are real as are those who live their lives and raise their children on Roblar Road. Just think of what you would want if this was happening on your road. What would you expect of the developer, what would you expect of those in charge of ensuring the safety of its people? Just as I myself have been afforded an amazing task to help those in need as a Firefighter-Paramedic, so have you, Chris Seppeler, Senior Environmental Specialist.

Y
4
cont.

With the Utmost Sincerity and Integrity,

Justin Merrick

4422 Roblar Road
Petaluma, CA 94952
(707)338-8637

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Letter P. Justin Merrick

- P-1 This comment introduces the comment letter and does not require a separate response.
- P-2 The Draft SEIR examines the potential environmental impacts, including impacts to bicycle and traffic safety, of the Applicant's proposed modifications to Condition/Mitigation Measure 49 and Condition 59, which establish design standards for an improved Roblar Road, including an examination of the proposed modifications in relation to safety standards. Please refer to Draft SEIR Section 3.4, Transportation and Traffic, and particularly Impacts 3.4-3 and 3.4-4. Please see also Master Response 1.
- P-3 Please see the previous response.
- P-4 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying any of the existing Conditions of Approval.

From: [Barry Weinzveg](#)
To: [Shirlee Zane](#)
Subject: ROBLAR ROAD QUARRY
Date: Friday, October 26, 2018 11:49:16 AM

Do not agree to narrowed road widths or narrowed bicycle lanes.

1

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Letter Q. Barry Weinzveg

- Q-1 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying the existing Conditions of Approval requiring widening of Roblar Road.

From: [Jane Nielson](#)
To: blake.hillegas@sonomacounty.org; [Chris Seppeler](#)
Subject: ROBLAR ROAD QUARRY File UPE16-0058 Draft Supplemental EIR SCH #20040902099
Date: Thursday, October 25, 2018 5:04:10 PM
Attachments: [JNSignature-2.pdf](#)

Dear Mr. Hillegas and Seppler,

I am a Ph.D. geologist and California Professional Geologist (Lic No. 9011). These comments supplement those that I submitted in 2009 and 2010. This time I am particularly concerned about the intention to move the channel of Americano Creek, to accommodate the project and allow lanes for the many daily hauling trips by large trucks on Roblar Road.

There is no way of accomplishing this intention without severely impacting the fluvial regime in downstream segments of Americano Creek and degrading the environmental qualities of Estero Americano, into which the creek flows. It's clear that the County intends to fight all future lawsuits as the creek and esteros become degraded, undercutting statements of environmental concern by members of the County Board of Supervisors.

Sincerely,

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Jane E. Nielson
Geologist

1
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Letter R. Jane Nielson

- R-1 Comments submitted on the 2010 Final EIR and 2010 Recirculated Draft EIR were responded to previously and are not responded to here.
- R-2 Hydrologic and water quality effects of the proposed relocation of the channel of Americano Creek are examined in Draft SEIR Section 3.2, Hydrology and Water Quality, and are found to be less than significant. Please see Impact 3.2-1.

From: ed.ryska@gmail.com
To: Susan Gorin; David Rabbitt; Shirlee Zane; James Gore; Lynda Hopkins
Subject: ROBLAR ROAD QUARRY Supplemental Environmental Impact Report SCH # 2004092099
Date: Friday, October 26, 2018 10:21:36 AM
Importance: High

To: Sonoma Board of Supervisors

First District—Susan Gorin

Second District—David Rabbitt

Third District—Shirlee Zane

Fourth District—James Gore

Fifth District—Lynda Hopkins

Re: ROBLAR ROAD QUARRY Supplemental Environmental Impact Report SCH # 2004092099

I recommend you strongly oppose any changes that effect safety and change environmental conditions from the original stipulations of the quarry permit.

1) Modify the Design of the Intersection of Stony Point Road/Roblar Road – The applicant is trying to reduce lanes causing decreased safety at the intersection for vehicle and bicycle traffic. This could relate to more collisions. The change should not be allowed.

2) Modify the design of Roblar Road Improvements between the Quarry Site and a Private Access Road – Again any reduced clearances (smaller lanes) decrease the safety for all users of Roblar Rd. including pedestrian, vehicle and bicycle traffic. According to the SEIR, Roblar Road is used by approximately 1700-2000 cars per day and many bicyclists. Once the quarry starts operation there will be up to 600 Roblar Quarry trucks per day added to the 2000 cars. The changes will make the road unsafe for cars and bicyclists.

3) Realignment of Americano Creek. There is an existing environmental County ordinance passed in 2012 about creek setbacks which the quarry will violate by moving the creek.

In addition, as a retired insurance professional the board needs to engage the County’s Risk Manager to assure the limits of liability, annual certificates of insurance, hold harmless and indemnification requirements are adequate to protect the County. As many homeowners found out during the wildfires insurance policy limits are static but present value costs are not.

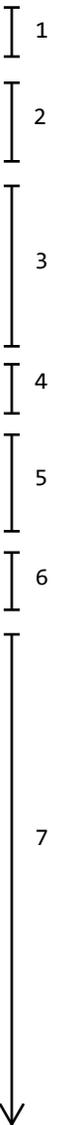
The developer is trying to save money on road improvements despite the huge amounts of money he will make from the quarry. The County needs to hold him accountable to maintain the safety requirements of the original use permit.

My qualification to speak to this subject are:

- California Licensed Insurance Agent/Broker (# 0C15738).
- Master of Science - Safety Engineering - 8/77
- Northern Illinois University / University of Southern California
- Bachelor of Science - Industrial Management - 2/72
- Northern Illinois University

PROFESSIONAL AFFILIATIONS:

- “ National Safety Council Board of Directors (1988-1997)
- “ National Safety Council Board Executive Committee (1988 to 1993)
- “ National Safety Council Public Safety Vice President (1988 to 1993)
- “ Sacramento Safety Center Board of Trustees & Board of Directors since (1989 to 2004)
- “ Safety Center Board Chairman 1999/2000
- “ National Safety Council Risk Management Committee, Chairperson



- National Safety Council Consumer Product Advisory Committee
- Professional Member - American Society of Safety Engineers
- Certified Hazard Control Manager #1569
- Certified Safety Executive #702
- National Safety Management Society #3894
- Recipient of the National Safety Council's Distinguished Service to Safety Award for 2000

Y
7
cont.

Edward Ryska

Edward Ryska
6010 Roblar Rd.
Petaluma, CA 94952

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Letter S. Edward Ryska

- S-1 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying the existing Conditions of Approval.
- S-2 Chapter 3.4, Traffic and Transportation of the Draft SEIR examines the Applicant's proposed modifications to the intersection of Stony Point Road and Roblar Road to upgrade design and finds that, with mitigation, they would not have a new or more severe impact on level of service and traffic safety, including bicycle safety, compared to the previous design. Please refer to Draft SEIR Impacts 3.4-1, 3.4-2, and 3.4-5.
- S-3 The Draft SEIR, Section 3.4, Traffic and Transportation, Impacts 3.4-3 and 3.4-4 examine the potential for the Applicant's proposed modifications to the required widening of Roblar Road to increase bicycle and traffic safety hazards, and find that, with mitigation, these impacts would be significant and unavoidable. Please see Master Response 1.
- S-4 Please see the discussion of the consistency of the Applicant's proposed relocation of Americano Creek with the Sonoma County Riparian Protection Ordinance in Draft SEIR Section 3.3, Biological Resources, Impact 3.3-2. This impact discussion concludes that implementation of the Applicant's Conceptual Planting Plan (Draft SEIR Appendix A) would not conflict with the ordinance.
- S-5 Environmental review pursuant to CEQA does not include examination of potential financial risk or liability. The proposal does not include indemnification of the County for road improvements.
- S-6 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying the existing Conditions of Approval.
- S-7 This comment presents the qualifications of the commenter.

From: [Harriet Saunders](#)
To: [Shirlee Zane](#)
Subject: Roblar Road quarry
Date: Thursday, October 25, 2018 7:35:09 PM

This is to let you know that I am adamantly opposed to Mr. Barella's proposed changes to the EIR you approved in 2010. It is clear from the SEIR that his proposed changes do not meet county safety standards with regards to the narrower road, nor do they meet county environmental standards with regards to American Creek. I can see no possible justification to agreeing to these changes.

| 1

| 2

| 3

I travel frequently on Roblar Road to go from Rohnert Park to Bodega Bay. I am very concerned about the safety issues for cars and bicyclists sharing a road with gravel trucks even with the 2010 requirements. Modifying those requirements is unacceptable.

|

| 4

Harriet Saunders

6098 Dawn Court
Rohnert Park, CA 94928

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Letter T. Harriet Saunders

- T-1 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying the existing Conditions of Approval.
- T-2 The Draft SEIR, Section 3.4, Traffic and Transportation, Impacts 3.4-3 and 3.4-4 examine the potential for the Applicant's proposed modifications to the required widening of Roblar Road to increase bicycle and traffic safety hazards, and find that, even with mitigation, these impacts would be significantly and unavoidably more severe. Please see Master Response 1.
- T-3 Please see the discussion of the consistency of the Applicant's proposed relocation of Americano Creek with the Sonoma County Riparian Protection Ordinance in Draft SEIR Section 3.3, Biological Resources, Impact 3.3-2. This impact discussion concludes that implementation of the Applicant's Conceptual Planting Plan (Draft SEIR Appendix A) would not conflict with the ordinance.
- T-4 Please see the response to comment T-2.

From: [Donna Spilman](#)
To: [Susan Gorin](#); [Shirlee Zane](#); [Lynda Hopkins](#); [David Rabbitt](#); [James Gore](#)
Cc: [Blake Hillegas](#); [Chris Seppeler](#)
Subject: Comments on UPE16-0058 Roblar Road Quarry SEIR Public Hearing
Date: Sunday, October 14, 2018 3:13:30 PM

October 14, 2018

To: Sonoma County Board of Supervisors

RE: Public Hearing on the Roblar Road Quarry Supplemental EIR UPE16-0058

Dear Supervisors,

We are unable to attend the October 16, 2018 Public Hearing regarding changes requested to the Use Permit for the Roblar Road Quarry, but would like to submit some comments on the application. First, we are grateful the County required the SEIR to be done in response to the developer’s application to change some of the Conditions mandated when the project was certified in 2010. Our comments:

- 1) Condition/Mitigation Measure #44 re: change in design for signal at Stony Point and Roblar Roads: We know this is a difficult area for the installation of the traffic signal. Reducing the bike lanes to 4 feet and not moving the east-side private driveway opposite Roblar Road, however, seem to be ripe for accidents waiting to happen. Does the Three Feet Safety Act (Vehicle Code section 21760) apply here?
- 2) Condition/Mitigation Measure #49 and Condition #59 to reduce the required width of Roblar Road from 40 feet to 32 feet for a 1.6 mile segment west of the quarry access point: Changes to these Conditions and Mitigations are our biggest concerns. As is known, Roblar Road is already a sub-standard road among most of its length. We are greatly concerned that reducing the width to 32 feet and the subsequent reduction in shoulder and bike lane widths are serious public safety issues for drivers, those who have to pull over to the side of the road to fix tires, etc., and bicyclists. Gravel trucks are very wide. Emergency vehicles and RV’s are very wide. For every foot reduced in the lane widths, we fear an increase in accidents. We are aware Bike Sonoma seems to think narrowing the lanes is OK, but they do not travel this road daily as residents in Bloomfield and the Roblar area do. We do not think road widths can be reduced to insignificant under CEQA. The County should also hold the developer to the 2010 Bikeways Plan for the minimum 5 foot width Class II bike lane measurement to assure that bike riders, motorcyclists (RIP City Riders motorcycle club now have their headquarters on Roblar Road), emergency vehicles and drivers can safely pass gravel trucks

An additional concern is that the SEIR noted the need to prevent off tracking when road lane width is considered. As an aside, there have been two accidents on Roblar Road in the past couple of months that were potentially very serious. Granted these accidents happened east of the quarry closer to Canfield Road where Roblar is in better condition than westward, but to us they speak of the overall danger along substandard Roblar Road. In both cases, power poles were destroyed when hit first, by a huge commercial crane that off tracked close to a residence while traveling to a construction site, and second, by a car plowing into telephone poles. In both cases, downed power lines could have caused fires and did cause power outages for many hours

- 3) Condition 101 and Condition/Mitigation #133 regarding the relocation of 930’ of Americano Creek: Our comment here is just one of consternation that Americano Creek did not seem to raise concerns for the developer or the County when the project was certified. Public input that the creek was too close to the road not to be impacted by roadway construction was



dismissed. The current application now gives credence to people’s original concerns about taking care of Americano Creek and the surrounding riparian and wetland areas and must be done carefully.

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cont.

The project was certified in 2010 with the expectation the developer would acquire right of way to make promised improvements along Stony Point Road and Roblar Roads and that Americano Creek would not be a factor to access road or Roblar Road construction. We now know these things are not true. The developer has not been able to procure the needed right of way along Stony Point and Roblar Roads. The SEIR now says condemnation of people’s personal property (not ours) is potentially on the table. The SEIR says the developer will have to pay the costs of any condemnation as though that makes this possibility less egregious or less disruptive to property owners who will be most impacted by quarry truck traffic and/or the mining operations.

8

The SEIR describes the permitted annual gravel production projected for the quarry as 570,000 tons per year and as 570,000 cubic yards per year. These descriptions seem inconsistent because we assume much more gravel will be extracted per year if the measurement is in cubic yards. Either way, the net income we assume this quarry will generate each year will easily be in the millions of dollars for 20+ years. The County should not allow the developer to cut costs at the expense of public and environmental safety or allow the potential use of condemnation power because he does not find the original Conditions feasible. The County should not weaken the original Conditions of Approval at the expense of public safety.

9
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Sincerely,

David and Donna Spilman

4981 Canfield Hill Lane
Petaluma, CA 94952



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Letter U. David and Donna Spillman

- U-1 Mitigation Measures 3.4-1 and 3.4-2 in Draft SEIR Section 3.4, Transportation and Traffic would require modifications to the Applicant's proposed intersection upgrade on Stony Point Road and Roblar Road design to require a southbound left-turn lane into the private driveway and 5-foot wide shoulders through the intersection, unless such widening would disturb drainage ditches. With these mitigation measures, impacts on traffic and bicycle safety associated with the Applicant's proposed intersection design would be less than significant.
- U-2 As noted in the discussion of the Regulatory Setting in Draft SEIR Section 3.4, Transportation and Traffic, the Three Feet for Safety Act applies throughout the State of California.
- U-3 The Draft SEIR, Section 3.4, Traffic and Transportation, Impacts 3.4-3 and 3.4-4 examine the potential for the Applicant's proposed modifications to the required widening of Roblar Road to increase bicycle and traffic safety hazards, and find that, even with mitigation, these impacts would be significantly and unavoidably more severe. Please see Master Response 1.
- U-4 Please see the previous response.
- U-5 Please see Master Response 1.
- U-6 Please see the response to comment U-3.
- U-7 The 2010 Final EIR examined potential impacts of the Quarry project on the biology and hydrology of Americano Creek; see Impacts C-1, C-2, C-4, and C-5 in Section IV.C, Hydrology and Water Quality, and Impact D-7 in Section IV.D, Biological Resources. See also the discussion of road widening impacts on biological resources in Section IV.E, Transportation and Traffic, Impact E8. The 2010 Final EIR included numerous mitigation measures to reduce impacts of quarry development and operation on Americano Creek, and found that for Modified Alternative 2 (the approved version of the Quarry project) impacts to the creek would be less than significant. These mitigation measures were adopted as Use Permit Conditions of Approval. Impacts of the Applicant's current proposal to modify Use Permit Conditions to allow relocation of Americano Creek were found to be less than significant with regard to biological resources and hydrology and water quality (see Draft SEIR Impact 3.2-1 in Section 3.2, Hydrology and Water Quality, and Impacts 3.3-1 through 3.3-7).
- U-8 Should the County Board of Supervisors decide to approve the proposed Use Permit modifications, it will do so only after making findings to support that decision, including, if warranted, a statement of overriding considerations, pursuant to CEQA Guidelines Section 15093.

U-9 The statement in Draft SEIR Chapter 1, Introduction page 1-1, and Executive Summary page S-1 that, “The Use Permit allows for a 20-year mining permit with an annual limit of 570,000 tons per year” is incorrect, since the Use Permit, Condition 148, limits annual production to 570,000 cubic yards per year. This statement is corrected to read as follows:

The Use Permit allows for a 20-year mining permit with an annual limit of 570,000 ~~tons~~ cubic yards per year.

U-10 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter’s opposition to modifying the existing Conditions of Approval.

In the Matter Of:

Roblar Road EIR

HEARING ON SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

October 16, 2018

Job Number: 513629

1

2 SPECIAL CLOSED SESSION AGENDA

3 BOARD OF SUPERVISORS

4 SONOMA COUNTY

5 575 ADMINISTRATION DRIVE, ROOM 102A

6 SANTA ROSA, CA 95403

7

8 ---oOo---

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11 REPORTER'S TRANSCRIPT OF THE HEARING ON DRAFT

12 SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR

13 MODIFICATIONS TO CONDITIONS OF THE USE PERMIT FOR THE

14 ROBLAR ROAD QUARRY, FILE UPE16-0058: INFORMATIONAL ITEM

15 TO HOLD A PUBLIC COMMENT HEARING ON THE DRAFT

16 SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (DRAFT SEIR)

17 (SECOND DISTRICT) HELD ON OCTOBER 16, 2018

18

19

20

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22

23

24 Transcribed By:

24 Amber M. Harlan, CSR No. 14074

25 Job Number: 513629

PH - Public Hearing Comments

1 The October 16, 2018, Hearing on Draft Supplemental
2 Environmental Impact Report for modifications to
3 conditions of the Use Permit for the Roblar Road Quarry,
4 File UPE16-0058: Informational item to hold a public
5 comment hearing on the Draft Supplemental Environmental
6 Impact Report (Draft SEIR) (Second District), County of
7 Sonoma, was held, videotaped, and later transcribed by
8 me, Amber M. Harlan, on December 6, 2018:

9
10 ---oOo---

11
12 CHAIRMAN GORE: Hello.

13 MS. BARRETT: Yes, thank you, Mr. Chairman --

14 CHAIRMAN GORE: Okay. Let's jump on in.

15 MS. BARRETT: -- Members of the Board. I'm
16 here today with Blake Hillegas who is the project
17 planner for this project. The Board had previously
18 approved the Roblar Quarry, and we had some challenges
19 with some of the conditions, and so this item is related
20 to some changes to those conditions that will be needed
21 to carry the project forward.

22 So with that, I'll turn it over to Blake, and
23 we'll move forward.

24 MR. HILLEGAS: Thank you, Chair, Members of the
25 Board. Blake Hillegas, Permit Sonoma. The item before

PH-1
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PH - Public Hearing Comments

1 you is a public hearing to take testimony on a Draft
2 Supplemental Environmental Impact Report prepared for
3 proposed modifications to conditions of approval for the
4 Roblar Road Quarry located at -- to be located at 7175
5 Roblar Road.

6 This shows the location of the quarry. It's
7 about four miles west of Stony Point Road on Roblar
8 Road. The Board of Supervisors certified an EIR in 2010
9 and approved the project at that time. There was a
10 lawsuit filed, and it was held up in the courts until
11 2014 when the Court of Appeals upheld your decision.
12 The application before you was filed in 2016, and this
13 Board took original jurisdiction of the application in
14 August of this year.

15 The purpose of today's meeting is to take
16 public comment on the adequacy of the Draft EIR. Public
17 comment period was open on September 14th and will close
18 this October 29th. Subsequent to the public comment
19 period being closed, Staff and the consultants will
20 prepare a final EIR and bring the project back for
21 consideration.

22 This sort of gives an overview of the -- the
23 area around the quarry. Looking for our -- so
24 essentially, the proposed modifications are to the
25 required intersection improvements at Stony Point Road



PH-1
cont.

PH - Public Hearing Comments

1 and Roblar Road. Secondly, the roadway width on a
2 1.6-mile segment of Roblar Road west of the quarry, and
3 then third, proposing relocation of a segment of
4 Americano Creek along the project frontage.

5 The proposed intersection designed for Stony
6 Point and Roblar Road is close to the same as what was
7 approved. So the applicant would install a full signal
8 at that intersect with turn lanes north and southbound
9 on Stony Point Road. The proposal varies in that the
10 shoulders would not be as wide. They're proposing to
11 have a minimum four-foot shoulders in order to stay
12 within the existing developed area and avoid potential
13 biological resources CTS habitat in the area. The
14 proposed mitigation would require the shoulders be a
15 minimum of five-feet wide at this intersection.

16 This shows the location of the haul route
17 headed west along Roblar Road, so that would be the
18 1.6-mile segment of Roblar Road that's required to be
19 improved by the applicant. And in the original
20 approval, you can see it was a 12-foot travel lane --
21 12-foot travel lanes, 8-foot-wide shoulders, which is
22 the center section in this view. The top view is the
23 existing road which is basically 8- to 10-foot travel
24 lanes and no shoulder. The applicant's proposal is for
25 11-foot travel lanes, 3-foot -- I should say 5-foot



PH-1
cont.

PH - Public Hearing Comments

1 shoulder, 3-foot of that paved with 2 feet of rock
 2 backing.

3 The mitigated -- the mitigation in the
 4 Supplemental EIR requires that -- it accepts the 11-foot
 5 travel lane as being adequate. It requires a five-foot
 6 shoulder, four feet of that to be paved. And that
 7 particular section was supported by the Department of
 8 Transportation and Public Works, and that section is
 9 supported by the Bicycle -- Pedestrian-Bicycle
 10 Committee.

11 The third component is the relocation of
 12 Americano Creek, and the reason for all the changes are
 13 basically a result of constraints with prescriptive
 14 right-of-way on Roblar Road and biological -- potential
 15 biological impacts.

16 So as you can see from this view foil or this
 17 overhead, there the creek currently crosses Roblar Road
 18 and runs right along the side of the road at this
 19 location. And the applicant has not been able to secure
 20 right-of-way on the north side of the road in order to
 21 widen -- improve the road; therefore, he's proposing
 22 to -- to re- -- relocate a portion of the creek, so this
 23 would ultimately be an enhancement project. The
 24 mitigations that are spelled out basically require that
 25 impacts be limited to the -- to what's shown on these



PH-1
cont.

PH - Public Hearing Comments

HEARING ON SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT - 10/16/2018

Page 7

1 plans, and existing mitigation measures regarding
2 wetlands and riparian habitat would be required to -- to
3 be implemented.

4 So with that, I'd just like to remind the Board
5 that, you know, this -- the purpose of this hearing is
6 to take public testimony and that subsequent to this
7 meeting, we will prepare a response to comments, final
8 EIR, and then bring the proposed project changes back to
9 you for consideration.

10 That concludes my presentation.

11 CHAIRMAN GORE: Thank you very much.
12 Appreciate that.

13 I want to thank everybody for your patience
14 being here today. This is a longstanding issue. I
15 think, actually, Supervisor Zane, you're probably --

16 SUPERVISOR ZANE: I was the only --

17 CHAIRMAN GORE: -- the only one on -- on this
18 Board that originally went through this. So all of you
19 have a decade plus experience on this issue from all
20 sides, and we'll give you a chance to -- to -- to ask us
21 some questions or give us your comments on where we
22 stand.

23 I do want to open it up for questions from the
24 Board to start with. I'm going to start with the
25 district representative and see if there's -- there's

PH-1
cont.

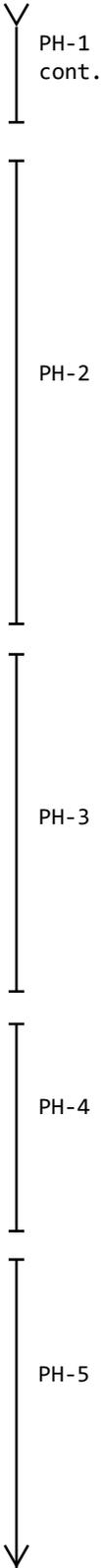
PH - Public Hearing Comments

1 any opening comments or any -- any -- any thoughts you
 2 might have on this.

3 SUPERVISOR RABBITT: No. Other than, I think
 4 everyone knows that this wouldn't have been here without
 5 this Board taking original jurisdiction, that it would
 6 have been at the planning commission for this,
 7 basically, input of comments from -- in a public
 8 setting, but also very much appreciate everyone working
 9 through the issues that have been so complicated in the
 10 amount of time that it's taken to get us to this place.

11 I -- I don't really have any questions. I'm
 12 glad that we have the letters from both Caltrans and the
 13 Bicycle Advisory Committee, because I know that some of
 14 those issues were -- were really -- just dealing
 15 with some of those issues was -- was difficult at best
 16 at times.

17 The roadway, actually, the section, if you look
 18 at the top section versus what -- what it's going to
 19 actually be at the end of the day, it's -- it's a much
 20 wider section and, therefore, hopefully that translates
 21 into a safer section as well. And I know that the
 22 traffic input on the corner of Stony Point and Roblar,
 23 the -- I think this project adds just a few percentage
 24 of the overall impact, but it's actually footing the
 25 bill on the entire signal. So appreciate that going



PH - Public Hearing Comments

1 forward as well. And -- and I know that it's a less of
2 an environmental impact to stay out of the critical
3 habitat area for a variety of reasons, but appreciate
4 that. Look forward to taking the input and moving on.
5 Thank you.

PH-5
cont.

6 SUPERVISOR ZANE: Can I --

7 CHAIRMAN GORE: Thank you.

8 Yeah.

9 SUPERVISOR ZANE: Thanks.

10 CHAIRMAN GORE: Then I'll come over to
11 Supervisor Gorin afterwards.

PH-6

12 SUPERVISOR ZANE: Since I'm the only one
13 sitting here who actually voted on this.

14 First of all, I think Mr. Barella has had a lot
15 of patience. It's been a long time. What, nine years?
16 It's been about nine years. Yeah.

17 I -- I did have some real concerns about
18 bicycle safety, but I don't necessarily always agree
19 with the Bike Coalition. I'm glad our -- our Advisory
20 Board from the county -- the Bike and Pedestrian
21 Advisory Board weighed in on this.

PH-7

22 You know, I believe for many years this Board
23 has -- has advocated to widen lanes when we do projects
24 and -- which was always kind of ridiculous to me because
25 every time we widen a road, people speed, and it's speed

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1 that kills cyclist. So it's just something we need to
 2 be aware of. And my -- my main concern has been, you
 3 know, the speed on -- on this particular road given the
 4 fact that you've got trucks. And -- and by the way, I
 5 just want to say, we really do need another source of
 6 aggregate in this county. We have for a long time.

7 But I understand that part of this going
 8 forward, there's going to be difference -- differences
 9 in speeds depending upon what part of the road that
 10 you're on, is that correct, the speed requirements go
 11 down?

12 MR. HILLEGAS: Yes. They're -- at this segment
 13 of Roblar Road, there's a prima facie 55-mile-an-hour
 14 un-posted speed limit; however, there are curves in this
 15 road, all of which have warning speed signs.

16 SUPERVISOR ZANE: Well, I don't know how we
 17 change that, but 55 miles an hour on this road is
 18 just -- is not safe in my opinion. I -- I will tell you
 19 guys that in five years of taking the cycling group, the
 20 projects that I started on different routes every month,
 21 this is the only route that we actually aborted because
 22 it was so scary. Just really, really terrifying because
 23 the cars were so fast and the shoulder was so narrow.
 24 And I just said, "We got to get off this road." So we
 25 did. We took a whole different route. But that was the



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1 only time we've ever done that.

2 So my concern is -- anyway, for the bicyclist
3 safety, we always have to look at that, and we have to
4 find ways that we can mitigate it. And I would argue as
5 we move forward that we need to just slow down all the
6 cars and all the trucks on that road, and that it really
7 isn't a road that you should be going 55 on.

8 And -- and I drive Petaluma Hill Road every
9 single week when I go down to my stables. And we go
10 from 40 -- 55 to 45 or 40 in front of Taylor Mountain,
11 and we deliberately had to slow that down because of the
12 entrance into the park. And I can't tell you how many
13 times I have driven behind somebody and they're --
14 they're not slowing down at all. And they're not
15 slowing down because it's a well-paved road, and it's
16 now wide, and they don't really see a -- a need to slow
17 down. So if -- if you just put up a sign for, you know,
18 an eighth of a mile, it doesn't necessarily slow people
19 down.

20 So I'm hoping as we move forward that there are
21 going to be some traffic calming considerations. I
22 think that's really necessary because cyclists will
23 continue to use this route. Out -- out west of Petaluma
24 is some beautiful cycling and a lot of -- a lot of
25 people do use it.

PH-11
cont.

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1 Anyway, thank you, Mr. Barella, for your
2 patience all these years.

3 CHAIRMAN GORE: Supervisor Gorin.

4 SUPERVISOR GORIN: I would echo all of the
5 comments made by Supervisor Zane. I also am a cyclist.
6 I also have bicycled on Roblar Road, though not
7 recently. And I'm concerned about the speed of traffic
8 and how it effects cyclists.

9 We bicycle on a tandem. We have a lot of mass.
10 And when trucks go closely next to us, they're not
11 giving us the three-foot right-of-way that they should
12 be giving us. We are buffeted by the wind. And so it
13 makes me extremely nervous that we're going to have a
14 significant increase in very large trucks on these
15 roads. I do appreciate the fact that the roads are
16 going to be widened somewhat, but I do have some
17 concerns about perhaps the inadequate width for bicycles
18 in certain segments of it.

19 And I know -- I also -- Supervisor Gore and I
20 share a boundary coming down from the Mark West Quarry,
21 and we frequently have challenges with speeding gravel
22 trucks coming down either Calistoga Road or Porter Creek
23 and Mark West Springs. Gravel trucks over --
24 overturning, narrow misses with cars. They're traveling
25 too fast. I have yet to resolve differential speeds for

PH-11
cont.

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1 trucks versus cars on those roads.

2 So let me ask you a question since I was not
3 involved in this conversation a while ago and I did go
4 through the EIR: How many additional truck trips will
5 potentially be a result from this project or the
6 expansion of the project?

7 MR. HILLEGAS: So that varies. On average, 302
8 truck trips a day to 580 on a peak day.

9 SUPERVISOR GORIN: I'm absorbing that. I can't
10 even imagine being a bicyclist or -- or a car on this
11 road with that many trucks.

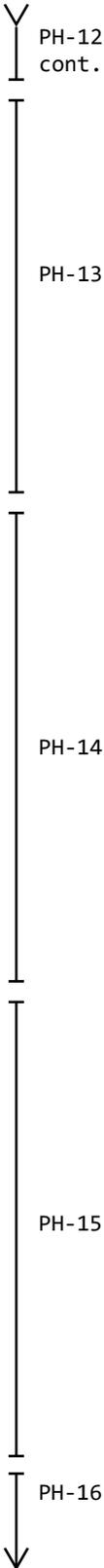
12 All right. So tell me our ability to move
13 forward. What is it that we can do? Supervisor Zane
14 did ask for reduced speeds. Can we really specify as
15 mitigation significantly reduced speeds? Perhaps
16 flashing speed signs.

17 And I don't -- at this point, I don't know that
18 we can totally go back and revisit the approval of this
19 project, but -- so I'm looking for what we -- what we
20 can do. What we're charged with here, we're just going
21 to listen, but at some point --

22 MS. BARRETT: Yes.

23 SUPERVISOR GORIN: -- we'll -- we'll have more
24 of an opportunity to comment.

25 MS. BARRETT: So through the Chair, if I could



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1 just respond briefly to the question about speeds.
2 The -- you have to do a speed study to set a speed
3 limit, and it has to be set right at the 85th
4 Percentile. So to just go in and change speeds is not
5 something we can say as a mitigation. We don't know
6 what they are until we do that study.

7 But traffic calming measures are something
8 that's commonly used to slow things down by the -- the
9 geometry of the road, for example, or in the case of a
10 flashing sign that says, you know, a bicyclist is on the
11 road ahead, to slow down, and things like that; like we
12 did on Mark West Springs. So we can look at those types
13 of measures. Measures to -- that would physically slow
14 traffic down.

15 SUPERVISOR GORIN: You know, sometimes I
16 dislike working with staff people. I just want to go in
17 there and change the speed limits. And -- and the
18 director of TPW or the Public Works director of Santa
19 Rosa says, "No, we have to do a speed survey and
20 warrants." You guys are -- are not working with us
21 here. I totally understand what you're saying, but I
22 think --

23 MS. BARRETT: Well, you can change the speed
24 limit; you just can't enforce it.

25 SUPERVISOR GORIN: Just can't enforce it.

PH-16
cont.

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1 Yeah, I've heard that too.

2 I -- I understand why you need to do what you
3 need to do, and I think you understand our concerns of
4 community members being in the car with that many trucks
5 and that many trucks moving really fast. So as we move
6 forward in considering traffic calming traffic
7 mitigation, one of the -- as Supervisor Zane said,
8 "We're -- we're doing exactly opposite of traffic
9 calming. We're widening the road."

10 Let me ask you another question: What's the
11 width of the normal traffic -- gravel truck?

12 MS. BARRETT: I think -- (inaudible).

13 MR. HILLEGAS: Yeah.

14 SUPERVISOR GORIN: Because you're proposing an
15 11-foot road width, and --

16 MR. HILLEGAS: Yeah.

17 SUPERVISOR GORIN: -- I'm just wondering how
18 wide the truck is.

19 MR. HILLEGAS: They're generally 8 and a half,
20 but 10 foot with the mirrors.

21 SUPERVISOR GORIN: Okay. Ten feet.

22 MR. HILLEGAS: Yeah.

23 SUPERVISOR GORIN: Okay. So you have about
24 half a foot for the truck to go hither and yon, not --
25 not very much.

PH-16
cont.

PH-17

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1 I think those are the questions that I have.

2 Thank you.

3 SUPERVISOR HOPKINS: My questions were

4 primarily surrounding the sort of bike safety and the

5 road. But I do have one question, and that's -- I

6 assume that we have reached out to sort of all of the

7 usual agencies and might expect to see something from

8 CDFW or (inaudible) regarding the realignment of the

9 creek, so we're doing this public comment period, that

10 we would then be able to view at our next hearing; is

11 that correct?

12 MS. BARRETT: Yes, that's correct. And it's my

13 understanding that the applicant has been working with

14 those agencies --

15 SUPERVISOR HOPKINS: Okay.

16 MS. BARRETT: -- on their enhancement plan --

17 SUPERVISOR HOPKINS: Wonderful.

18 MS. BARRETT: -- and they have already had some

19 preliminary discussions.

20 SUPERVISOR HOPKINS: Great. So we would

21 receive documentation, whatever documentation we receive

22 from those agencies before the next discussion.

23 MS. BARRETT: Right.

24 SUPERVISOR HOPKINS: Thank you very much. That

25 was my main question.

PH-17
cont.

PH-18

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1 SUPERVISOR GORIN: One more question: Because
 2 of the number of gravel trucks on the road, I assume
 3 even though they may be covered that gravel would bounce
 4 out of the trucks or be caught in the tires. There was
 5 a proposal for street sweeping, especially roadside
 6 sweeping, and it really affects the creek because of
 7 the -- the agencies are really concerned about gravel
 8 and silt entering into the creek system.

9 Is there a proposal for a street sweeping on
 10 the roads that the trucks use?

11 MR. HILLEGAS: There's existing conditions of
 12 approval that require the applicant to maintain Roblar
 13 Road including sweeping, keeping gravel off the road.

14 SUPERVISOR GORIN: So that is something that we
 15 could really investigate and perhaps, if necessary,
 16 increase the frequency and -- and the -- and the
 17 direction as part of the condition of approval and
 18 mitigation for this.

19 MS. BARRETT: Yes.

20 SUPERVISOR GORIN: Okay. Thank you.

21 CHAIRMAN GORE: (Inaudible). Open to public
 22 hearing (inaudible).

23 PUBLIC HEARING OPENED

24 LADY ONE: And I had a problem because I
 25 can't -- I was -- I had a procedure -- (inaudible).

PH-19

PH-20

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1 Okay. Thank you.

2 MARGARET HANLEY: Thank you very much. Yes,
3 Margaret Hanley. I use Roblar Road on a daily basis,
4 and I'm here today to appeal to you all to disapprove
5 the proposed modifications for the project.

6 The approval by the Board of Supervisors in
7 2010 was based on numerous mitigations that were
8 specifically required for the safety of operations of
9 the quarry and to ensure public safety impacts, and that
10 all were considered seriously. The safety of the
11 community and its visitors are of utmost concern to me
12 with the submission of this SEIR.

13 The applicant's request to narrow by eight feet
14 the paved width of Roblar Road improvements is
15 completely unacceptable. Gravel trucks are fully nine
16 feet six inches in width. The request to narrow the
17 travel lane from 12 feet currently to 11 feet allows
18 only 9 inches on either side of a traveling truck
19 weighing upwards of 50,000 pounds for clearance from
20 opposite traffic in the bicycle lane. Modification of
21 the bicycle lane from six feet to three feet is less
22 than the minimum operating standard stated in the
23 Federal Highway Administration Audit Guidelines of which
24 I have attached a copy to my letter. Per this federal
25 guideline, a minimum operating distance for a cyclist is



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1 48 inches.

2 California Vehicle Code is -- also has Three
3 Feet for Safety Act. I have also attached that to my
4 letter.

5 It is impossible for a gravel truck operating
6 on the applicant's proposed road width to pass a cyclist
7 without going over the centerline of the road; which
8 means every time a cyclist is passed on Roblar Road, the
9 truck must pass over the centerline into oncoming
10 traffic lane, every time. Great risk to the public is
11 involved with any modification for this commercial
12 operation. And I urge you to carefully view and study
13 the visual charts I submit today which show the width of
14 those trucks and the proximity to the bicyclist. You
15 narrow the lanes, the bicyclist are -- are in grave
16 danger every time.

17 The applicant believes the conditions and
18 modifications of Measures 49 and 59 are impracticable --
19 impracticable -- infeasible and unnecessary, and I find
20 that to be an extremely callous statement given that the
21 requirements modified will endanger not only the
22 cyclists but any pedestrians and any other traffic --
23 traffic on Roblar Road, and it's not a question of if,
24 but when a tragedy is going to strike on this road with
25 the condition of -- modification of the conditions that

PH-22
cont.

PH-23

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1 he is asking for.

2 I also see liability to the county. I'm not a
3 lawyer. I truly don't know, but knowing that this is a
4 hazardous condition, I think should be taken into
5 consideration.

6 So I -- I -- I urge you to vote no to the
7 modifications of this. And please do view the size of
8 the trucks. They're all to scale. The issue of
9 three-foot width -- yes, I'm done.

10 All right. I do have a copy of my letter and
11 of each of those visuals for every one of you here.

12 Thank you.

13 CHAIRMAN GORE: (Inaudible).

14 SUE BUXTON: Hi. Thank you for hearing me
15 today. I'm Sue Buxton. I live on Roblar Road. I also
16 represent CARRQ, Citizens Advocating Roblar Road
17 Quality. I'd like to comment on the Supplemental EIR.

18 This Supplemental EIR does not show that John
19 Barella cannot buy the needed right-of-way at some
20 price. It just says that Mr. Barella says he cannot do
21 so. It doesn't show or state where the right-of-way is
22 that he needs to purchase.

23 Where is the proof that Mr. Barella made a good
24 faith offer to any of the landowners? I have personally
25 spoken to the landowners involved, and that's -- I'm



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1 getting a different story from them than what I hear in
2 the Supplemental EIR. Mr. Barella is required to do
3 more under CEQA to show infeasibility than write a
4 letter to the right-of-way landowners and then say he
5 got no response.

PH-27
cont.

6 This is not a public project. It's a
7 moneymaking venture for Mr. Barella. He should required
8 to hold the conditions of approval originally set out
9 for the project and make the road safe for both cars and
10 bicyclist using the road, no matter how much it cost
11 him.

PH-28

12 The Supplemental EIR admits that the proposed
13 modifications to the existing permit are unsafe and a
14 substantial environmental impact. The Board of
15 Supervisors have the option of forcing Mr. Barella to
16 build the road required in the permit or not let the
17 project go forward. The law requires the county show
18 it's infeasible to build the road required in the
19 existing EIR. This Supplemental EIR doesn't state facts
20 that establish the compliance with the existing permit
21 is infeasible under CEQA, and therefore is defective and
22 cannot serve as a basis to modify the permit.

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PH-30

23 I urge you to vote no on this Supplemental EIR.
24 Thank you.

PH-31

25 CHAIRMAN GORE: (Inaudible).

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1 JASON MERRICK: Good afternoon, Supervisors.
 2 My name is Jason Merrick. I've lived -- or my family's
 3 owned a ranch on Roblar Road since 1981.
 4 And I would briefly like to point out before my
 5 time starts that what PRMD with what Blake Hillegas
 6 stated is different than what is in the proposed EIR --
 7 or Supplemental EIR. And that is he mentioned that the
 8 shoulders would be expanded to four feet whereas it
 9 states "reduce lane" -- if you look at the proposal, it
 10 is three feet. So if it has been changed officially, we
 11 need a new Supplemental EIR, because that is not within
 12 the record under 2.5 -- 2.5 Reconstruction of Widen of
 13 Roblar Road. So that being said, legally, we need a new
 14 Supplemental EIR.
 15 So to go on my comments starting at my two
 16 minutes, and I'll probably go a little bit over.
 17 CHAIRMAN GORE: (Inaudible).
 18 JASON MERRICK: Okay. So the county has
 19 already permitted the quarry in 2010 and required it as
 20 part of that permit to make Roblar Road safe. Now the
 21 developer wants to get out of what he promised the
 22 county in 2010 and undo and change the permit to
 23 allowing him to use Roblar Road as a haul road for his
 24 gravel trucks without first making it safe.
 25 The current SEIR done by the county, mixed with

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1 the developer, backs out of the existing permit, and if
2 he gets his way, Roblar Road will be unsafe. The SEIR
3 admits the road developer now wants the county to
4 approve what -- (inaudible) wouldn't meet standard
5 safety guidelines when its 600 gravel trucks start using
6 it every day.

PH-33
cont.

7 That's 40 trucks a day; 17 cars currently
8 travel on the road a day with many bicyclist. His
9 gravel trucks would six -- six days a week drive down
10 that road every one to two minutes. And if you look at
11 a dump truck, it weighs 50,000 pounds; approximately
12 10-feet wide, 8 feet 5 inches at the bed, 23 feet 8
13 inches wide -- long. It takes approximately 525 feet to
14 stop traveling at a given distance of 45 to 55 miles per
15 hour. The developer wants to reduce the lane width from
16 12 to 11 feet, and shoulder width from 6 to 3 feet, not
17 4 feet.

PH-34

18 I have seen a rock truck as a kid run my sister
19 off the road when the old Hagemann's Quarry used to be
20 there. A rock truck during fog wiped out my bus stop 10
21 minutes prior to when we were to be there on Roblar
22 Road. It also collided with horses on Roblar Road
23 killing them instantly. There's no funny issue with
24 rock trucks on Roblar Road.

PH-35

25 Now the developer says they can't buy the

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PH - Public Hearing Comments

1 right-of-way to make the road safe, but when the quarry
2 was permitted in 2010, the developer told the county
3 that he would.

PH-36
cont.

4 I'm a paramedic and nurse in this county. I've
5 seen auto versus pedestrian accidents, regular SUVs. I
6 can tell you an auto versus pedestrian with a gravel
7 truck stands no change. I won't go into the gory
8 details.

PH-37

9 Thank you.

10 CHAIRMAN GORE: (Inaudible).

11 GENTLEMAN ONE: Good afternoon. I'm here to
12 also address the applicant's proposal regarding
13 modifications to the original EIR, specifically on 44
14 and 59. These modifications would decrease the width of
15 the vehicle and bike lanes and shoulders on 1.6 miles of
16 Roblar Road. These proposed modifications of reducing
17 both paved vehicle lanes from 12 feet to 11 feet and
18 reducing the paved shoulders from 6 feet to 3 feet will
19 create a dangerous condition for trucks, cars,
20 motorcycles, bikes, hikers, people and walkers,
21 salamanders.

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22 This proposal will remove the possibility also
23 of creating Class II bike lanes that were originally
24 agreed to. We just got some of those in Sebastopol.
25 They look really beautiful, and that's not quite that

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1 heavily traveled by gravel trucks.

2 So how does this create -- create a dangerous
3 situation? I think Margaret pointed it out pretty well,
4 but I'm jump in just for a second. You have an average
5 gravel truck at 9 foot 6 or 10 with the mirrors, and
6 picture two of those trucks passing each other with
7 cyclists on both sides, doesn't leave much margin of
8 error -- for error. So to the -- you know, to the right
9 of the trucks where the bikes are at, given the width of
10 the handlebars and -- and outstretched shoulders or
11 elbows, you're lucky to get about an eight-inch buffer
12 zone there.

13 So the other piece that nobody really mentioned
14 yet is we -- we live in an age of very distracted
15 drivers, also. And, you know, we think of, well -- you
16 know, everybody ought to be able to stay in the center
17 lane and -- and --

18 CHAIRMAN GORE: (Inaudible).

19 GENTLEMAN ONE: Okay. Thank you.

20 Could I add just one more thing?

21 CHAIRMAN GORE: Yeah.

22 GENTLEMAN ONE: The information that I've been
23 reading says that if your speed limit is above 40 miles
24 an hour, that would require a 6-foot bike lane, so
25 somebody might want to check that out.

PH-39
cont.

PH-40

PH-41

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1 CHAIRMAN GORE: Thank you. (Inaudible).

2 JOE MORGAN: Good afternoon, Supervisors. My
3 name's Joe Morgan. I am David Rabbitt's representative
4 on the Bicycle and Pedestrian Committee. I'm here
5 because I'm very concerned. I really would like a
6 12-foot lane and a 5-foot-wide shoulder for bicycles to
7 pass.

PH-42

8 I was one of the ones who voted and agreed to
9 the 11 foot and a 4-foot-paved shoulder and a 1-foot
10 edge. And we did that because if it's really being
11 practical, if something's going to be built, we want to
12 make sure that we get at least four feet. That is
13 better than the eight-foot roads that we have in some
14 places it's narrow, and there is no place to ride except
15 in the middle of the road, if you're doing it properly.
16 Because if you let cars pass you in that section of road
17 on Roblar, you're going to get run over or run off the
18 road. I mean, it's just impossible to do anything else.

PH-43

19 I wouldn't accept anything less than a
20 four-foot shoulder. Because one thing that doesn't
21 happen in this county is we don't clean roads. And I
22 say that and then yesterday I watched a truck sweep
23 Petaluma Hill Road, so I can't say that they don't do it
24 because it was done right in front of me, and I think
25 it's from the new construction. If you're going to

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1 permit something like this, it needs to -- I know that
2 they're supposed to do it every three months. They need
3 to do it like the dumps; post their phone number, when
4 there's an issue, they can call and get it swept.

5 The other thing is it needs to be done once a
6 month. Mr. Barella even mentioned in an earlier
7 environmental report that there will be gravel on the
8 road. It -- it's an issue because what happens is
9 cyclists can't ride on the edge -- outside edge of the
10 four feet; they've got to ride right next to the white
11 line because that's the only -- where the traffic pushes
12 all the gravel out to the side.

13 Now you're putting a truck who isn't going to
14 slow down under the current standards, and he's going to
15 go right on by. And I guarantee you what we call a
16 "triestral event," two trucks and one bicycle, and it
17 happens to us all the time -- with cars, it's not so
18 bad -- but two trucks -- and you're talking about trucks
19 that can actually go --

20 CHAIRMAN GORE: (Inaudible).

21 JOE MORGAN: Okay -- well, 80,000 -- just think
22 about 80,000 pounds and 160 trips a day.

23 CHAIRMAN GORE: Thank you. (Inaudible).

24 LADY ONE: Thank you all very much. I was just
25 in listening to what's been presented today. And I live

PH-44
cont.

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1 right kitty-corner from where the quarry's going in,
2 right at Canfield and Roblar. We have a bike. We do
3 ride. We take those roads in all directions.

4 The thing that was being stressed today was
5 that maybe the safety -- you know, the main safety
6 concerns could be addressed by lowering the speed.
7 Please don't put your emphasis there necessarily. That
8 is important and it should be, but the width is
9 extremely important.

10 For one thing, that does get a lot of fog. You
11 know, the fog sucks in there every night. It also has
12 no lighting, so you've got -- you know, you have to
13 think about all of these conditions.

14 Also, it was mentioned as far as the draft when
15 trucks do go by. Well, maybe if everybody was on a real
16 straight track and there wasn't that push and pull and
17 suction, you know, that -- that might be okay, but there
18 will be. There's also hay trucks. This is a rural
19 area. They're sometimes wider or -- you know.

20 Please think about -- if you're going to -- if
21 you're going to start, what, narrowing your idea of
22 safety on roads, this is a road where you should not.
23 It should be the widest possible area. You know, don't
24 start cutting corners. So it's just please not just the
25 speed but figure out all of those other factors and the

PH-46
cont.

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1 fact that it does get late or -- you know, during the
2 winter, it starts getting dark at about 4:30. You know,
3 this will mean -- excuse me -- very dangerous
4 condition -- conditions for a long period of time.

5 So anyway --

6 CHAIRMAN GORE: Thank you.

7 LADY ONE: -- please take those into
8 consideration and thank you.

9 CHAIRMAN GORE: Appreciate it.

10 Daniel, sir. (Inaudible).

11 DANIEL: Some of you may know me from my 30 or
12 40 years of activism as a marine and freshwater habitat
13 activist. Also happen now to live in your county, which
14 is relatively a new thing, near Sebastopol.

15 I fully concur with everything that has been
16 said in support of -- of -- of full reevaluation of
17 these issues since they have come up. I've lost track
18 of this situation since it faded from view about 10
19 years ago. I haven't had a chance to review the
20 document -- review the document.

21 However, my concerns relate to water quality
22 and the fishery habitat as part of the marine estuaries.
23 And I'm very concerned about any attempt to modify or
24 move that habitat without a full scientific review.

25 More than that, I'm just alarmed by the idea

PH-46
cont.

PH-47

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1 that that many heavy-duty trucks will be traversing that
2 area of the county under any circumstance. It just --
3 it's inconceivable. Whatever the count 40, 100, 500,
4 completely unsuited to that area of the county and
5 particularly that road. So there are overwhelming
6 public trust and public interest issues related to that
7 kind of traffic burden.

PH-49
cont.

8 I'm quite concerned. I pass through Stony
9 Point and Roblar Road a couple times a week, and I can't
10 image what gravel trucks on that stretch of the roadway
11 will do. It's already facing severe issues with
12 congestion certain times of the day. It's not the route
13 shown on their map, apparently.

PH-50

14 So what's the -- what's the incentive to
15 improve that intersection? It's already dangerous. A
16 traffic light may improve things, but with the addition
17 of gravel trucks, I can't imagine.

18 So I'll be following this project. I urge you
19 to do a complete and thorough review of the Supplemental
20 EIR, and hope that the state and federal agencies that I
21 worked with in the past will again comment.

PH-51

22 Thank you.

23 CHAIRMAN GORE: Thank you, sir.

24 Is there anybody else who hasn't been heard?

25 Come on up, sir.

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1 GENTLEMAN TWO: Thank you, Mr. Chairman --
 2 Chairman Gore, Members of the Board. Good news, bad
 3 news; I just want to let you know we have a team of five
 4 here, but none of them are going to make presentations.
 5 So Mr. Barella wanted to make sure that the entire team
 6 was here in the event that you had questions, and with
 7 that, I'll leave it.

PH-52

8 CHAIRMAN GORE: Thank you very much. I
 9 appreciate that.

10 Okay. I'm bringing this back to -- anybody
 11 else? Did I miss anybody?

PH-53

12 Coming back to the Board. Closing the public
 13 comment on this or the public hearing on this.

14 PUBLIC COMMENT CLOSED

15 CHAIRMAN GORE: So as -- as many of you know,
 16 the purpose of the today was to hold a public hearing to
 17 receive public comment on the Draft Supplemental EIR.
 18 We are not at this point deliberating specific
 19 conditions. We are not diving into different areas.
 20 It's always important to kind of look at that, because,
 21 you know, I mean, as we've talked about, a lot of the
 22 us -- there's at least four of us on this Board who
 23 weren't involved when -- when you all first went through
 24 this process.

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25 So I want to go back and look if there's any

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1 questions from the Board. I -- I also want to make sure
2 I mention that -- that after this, it's going to be open
3 to public -- written comments for how long, 45 days?
4 Excuse me?

5 MR. HILLEGAS: Until the end of the month,
6 October 29th.

7 CHAIRMAN GORE: October 29th.

8 MR. HILLEGAS: Yeah.

9 MS. BARRETT: For written comments.

10 CHAIRMAN GORE: Okay. Good. Okay. Here we
11 go. After this public -- okay. Here it is. Additional
12 written comments will accepted until the close of the
13 overall 45-day comment period on October 29th, 2018, at
14 5:00 p.m.

15 Okay. So first, any questions from my
16 supervisors on this side?

17 Go ahead, Supervisor Zane.

18 SUPERVISOR ZANE: I might have missed it, but
19 how do you deal with Vehicle Code 21760 if you only have
20 nine inches between a truck and a bike? Vehicle Code
21 21760 is the new law that says you have to have three
22 feet if you're going in the same direction in passing --
23 passing a cyclist. How do you deal with that with nine
24 inches?

25 MS. BARRETT: So you'd have to wait until you

PH-54
cont.

PH-55

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1 have that clearance to pass the bicyclist, just like you
2 would have to wait to pass a slow moving agg truck or
3 something like that.

4 SUPERVISOR ZANE: So -- and you think all of
5 these aggregate trucks are going to wait?

6 MS. BARRETT: I not saying what I think about
7 that, but I'm just saying that that is the law. That
8 you have to wait.

9 SUPERVISOR ZANE: Well, it's -- it's a fair
10 question, but it needs to be grappled with as we --

11 MS. BARRETT: Yes, yes.

12 SUPERVISOR ZANE: -- move forward, you know. I
13 mean, that's the law. And it's a good reason why
14 there's a law. Because, you know, I'm tired of seeing
15 cyclist killed on our -- everywhere, all the time. It's
16 just -- it's really frustrating. And that is the new
17 law, so you guys got to grapple with that somehow.

18 What -- and did you consider a buffer line at
19 all? I don't know.

20 MS. BARRETT: You mean a rumble strip?

21 SUPERVISOR ZANE: No. A buffer line is -- is
22 where you put in the more dangerous, more narrow places
23 of the road, where you have a whole other line with
24 striping, diagonal striping, that indicates to the
25 vehicle that you cannot not pass that buffer --

PH-55
cont.

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1 MS. BARRETT: Oh, yeah.

2 SUPERVISOR ZANE: -- in narrow portions.

3 Is that being considered at all?

4 MS. BARRETT: Oh, of course. We'll take a look
5 at that, and verify.

6 SUPERVISOR ZANE: Okay. Well, a truck passing
7 at that speed at nine inches is just going to suck that
8 bike rider right into his draft. So you're going to
9 have figure out a better way of moving forward.

10 CHAIRMAN GORE: Thank you.

11 Supervisor, any questions?

12 SUPERVISOR RABBITT: Yeah. And I -- I should
13 know this by heart, but what's the existing roadway
14 section? I got the smallest print on this printout. I
15 can't see it. I know what the proposal was. I know it
16 was in the previous EIR, and I know what's proposed
17 today, but what's the existing situation out there right
18 now?

19 MR. HILLEGAS: Yeah. So along this particular
20 segment, it's about nine feet. I think it varies from 8
21 and a half to 9 feet, maybe 10 feet in some areas, but
22 it's on each lane.

23 SUPERVISOR RABBITT: With -- is there a fog
24 line, or do we not put fog lines when we have
25 substandard conditions?

PH-56
cont.

PH-57

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1 MR. HILLEGAS: No, there's fog lines.

2 SUPERVISOR RABBITT: There's a fog line.

3 MR. HILLEGAS: Yeah.

4 SUPERVISOR RABBITT: Is there any -- is there

5 any -- so what would be the shoulder? There's no

6 shoulder?

7 MR. HILLEGAS: Rock -- very little rock

8 backing.

9 SUPERVISOR RABBITT: Okay.

10 MR. HILLEGAS: Yeah.

11 SUPERVISOR RABBITT: And then to the point --

12 and I want to make sure, you know, what's written in the

13 Supplement to the gentleman's point regarding what's

14 described versus what the proposal is, can you just

15 speak real briefly on that?

16 MR. HILLEGAS: Yeah, surely. Applicant's

17 proposal is for 11-foot travel lanes and 5 -- 5-foot

18 shoulders, 3-foot paved, 2-foot rock backing; so that's

19 5-foot shoulder, 3-foot paved, 2-foot rock backing. The

20 mitigation measure in the Draft Supplemental is for a

21 four -- a five-foot shoulder with a four-foot paved and

22 a one-foot rock backing. So that's the difference.

23 SUPERVISOR RABBITT: Okay. I get that then.

24 And as to the overall standards that are being

25 met here, I know there's variation in roadway width.

PH-57
cont.

PH-58

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1 Can you speak to what standard that this is
2 being -- the proposal is compliant with and who's
3 reviewed it?

4 MR. HILLEGAS: Yeah. So in general, AASHTO
5 Standards, which is what we use per our general plan,
6 would require -- generally require a 12-foot travel
7 lane; however, they do allow for exception based on no
8 accident history, essentially. And so Department of
9 Public Works felt that whether it's 11 feet or 12 feet,
10 you know, either one is sufficient. They -- they felt
11 11 feet is appropriate in this case.

12 In regards to the shoulder, the bikeways plan
13 would call for a five-foot shoulder; however, the AASHTO
14 Standards will allow you to go to a four-foot-paved
15 shoulder provided the overall section is not less than
16 30 feet. And I think they also have a -- you know, a --
17 a number of vehicle trips may weigh in -- may weigh on
18 that as well. But in any case, the 11, the 4, and 1 is
19 what Department of Public Works felt they could support,
20 and what the (inaudible) also supported as a minimum.

21 SUPERVISOR RABBITT: And then I know, you
22 know -- I -- I realize someone said it, and I think it's
23 probably true, you know, relying on a reduced speed.
24 You know, we have reduced speed elsewhere in the county,
25 and it -- it doesn't really -- it all depends on what

PH-59
cont.

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PH - Public Hearing Comments

1 the drivers are doing as opposed to what the sign says.

2 But do you know when the last speed study was
3 done on this section of road?

4 MR. HILLEGAS: No, I do not.

5 MS. BARRETT: But we can look that up.

6 SUPERVISOR RABBITT: I'm sorry, what?

7 MS. BARRETT: We can look into that.

8 SUPERVISOR RABBITT: Yeah. It'd be -- it'd be
9 worth looking into. It'd be worth doing it now before
10 the road is widened. Because typically what happens is
11 that we get requests to do speed studies all the time,
12 because of the 85th Percentile, usually the speeds go
13 up, not down, because state law rules how you actually
14 do that.

15 MS. BARRETT: Right.

16 SUPERVISOR RABBITT: Especially, if a road is
17 widen and paved, which we're having in some areas now.
18 So it'd be -- it might be worth looking into at this
19 time, to do it at this time. And even when we've done
20 them in the past, when we've kind of wanted to work to
21 get a lower speed limit, we also would put up -- or ask
22 our CHP friends to go out and do extra patrols, and then
23 also to put up perhaps the -- the trailers to make sure
24 that people are aware of how fast they're going, all
25 beforehand so you can kind of suppress it somewhat, and

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cont.

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1 then -- and then do the speed study. You will be
2 required to do it, I think, on a -- is there five-year
3 cycles?

4 MS. BARRETT: Yeah, I think that's correct.

5 SUPERVISOR RABBITT: Yeah. Sometimes it's --
6 you know, and I'm not sure on this section of road,
7 because it's sub -- it's substandard now because of the
8 widths, when the last one would have been done.

9 MS. BARRETT: Right.

10 SUPERVISOR RABBITT: Because that's also an
11 issue that we have in the county. So I'd -- I'd just
12 throw that out there as something that we can probably
13 do in the -- in the interim.

14 MS. BARRETT: Yeah.

15 SUPERVISOR RABBITT: And my office can work on
16 it too.

17 MS. BARRETT: (Inaudible).

18 SUPERVISOR RABBITT: Yeah. Thank you. Okay.
19 Perfect.

20 CHAIRMAN GORE: Yeah, sure. Go ahead.

21 SUPERVISOR ZANE: You've got to deal with
22 Vehicle Code 21760.

23 You know, the only -- one thing that was
24 flashing through my mind is you know how sometimes when
25 you've got construction on a road, you will have a light

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cont.

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1 on either side, and you will allow one lane? I mean --

2 MS. BARRETT: Right.

3 SUPERVISOR ZANE: -- the whatchamacallit
4 bridge, the Wohler Bridge is a one-lane bridge, right?
5 Right? Well, it is. There's a one-lane bridge, yeah.
6 So I don't know; I'm just throwing out all
7 possibilities.

8 I -- I think the way it's designed right now,
9 it's going to -- you're -- you're in violation of
10 Vehicle Code 21760. And somebody -- and people are
11 going to get killed. You've got to come up with some
12 resolutions.

13 MS. BARRETT: Right. And we can look at those
14 creative ideas that, you know, how we --

15 SUPERVISOR ZANE: The buffer line.

16 MS. BARRETT: -- manage.

17 SUPERVISOR ZANE: Yeah.

18 MS. BARRETT: Yeah, the buffer line. And
19 the -- the lighting and the indicators to indicate if
20 there's a bicyclist on the road --

21 SUPERVISOR ZANE: Yeah.

22 MS. BARRETT: -- ahead. This is only a
23 one-mile segment of the road, so I think --

24 SUPERVISOR ZANE: That's all it takes.

25 MS. BARRETT: -- those solutions might be

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cont.

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1 something to work with.

2 SUPERVISOR ZANE: Well, you know, I know as a
3 cyclist if I'm in a very narrow shoulder, I'm going to
4 stay over as far as I can. But as you know as a cyclist
5 if you hit debris in that shoulder and you've got to
6 move towards the lane, you know, that's when you get
7 hit. But sometimes, you know, if you don't move, if
8 you're suddenly coming upon some debris in the lane,
9 you're going to crash, you know.

10 MS. BARRETT: Right. So the sweeping might me
11 be an important component of multi-mitigation measures
12 that we can look at, so we'll take another look at
13 those.

14 SUPERVISOR ZANE: I would say
15 multiple-mitigation measures is necessary.

16 MS. BARRETT: Yeah.

17 CHAIRMAN GORE: Thank you, Supervisor.

18 Supervisor Gorin, anything you want to add?

19 SUPERVISOR GORIN: No. I -- I -- I appreciate
20 all the public here, and I do appreciate the complexity
21 of this. I totally understand why we need gravel for
22 our construction process -- processes moving forward,
23 both with the widening of the highway and working on
24 foundations in all the building that we need to do. And
25 I -- I -- I now have a sense of why this was so

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cont.

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1 controversial a number of years ago, because it's --
 2 it's difficult access and some significant issues moving
 3 forward.

4 I -- I -- I would hope that we would take note
 5 of some of the public comments about: Have all efforts
 6 been made to widen the road? Is this something that the
 7 county can confirm that, in fact, this process was
 8 completed? If we are going to approve the Supplemental
 9 EIR with some reduced road widths and bicycle widths, I
 10 want to make absolutely sure that this is the best
 11 alternative moving forward.

12 Thank you.

13 CHAIRMAN GORE: Thank you.

14 Supervisor Hopkins.

15 SUPERVISOR HOPKINS: I am definitely interested
 16 in learning if there might be other ways of kind of
 17 enhancing awareness, like Supervisor Zane suggested. We
 18 have some green painted-on bike lanes that go into
 19 Sebastopol. For those of you who live in Sebastopol,
 20 you know how -- what a controversial process that has
 21 been. But if there are ways of, you know, sort of
 22 exploring that that could really enhance bicycle safety.
 23 Because I do think that once you do widen and improve
 24 roads, people tend to speed and that could lead to very
 25 dangerous outcomes.

Y

PH-62
cont.

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PH-64

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1 But this -- I mean, this is a very, very
 2 complicated process. And not having been here through
 3 the initial, it's almost sort of hard to then just --
 4 we're not -- we're not looking at the whole thing.
 5 We're just kind of looking at this little subset, and
 6 even that little subset is very complicated. And I also
 7 look forward to sort of hearing comments from other
 8 agencies on the creek -- proposed creek realignment and
 9 learning a little bit more about their perspective on
 10 that.

11 So thank you for your work.

12 CHAIRMAN GORE: Thank you very much.

13 You know, from my part, it's -- it's
 14 interesting to look at the two letters, the Caltrans
 15 letter then also this one. And, you know, I mean, you
 16 can't help but -- but -- but get into the wider
 17 discussion about -- about where we are with aggregate
 18 and -- and -- and totally understand and got to
 19 appreciate everybody's concerns.

20 You know, we also live in a crazy world where
 21 we are, I would call us, culprits of environmental
 22 injustice every day as we ship in huge areas of
 23 aggregate and other things from Canada and other sources
 24 because we can't find ways to manage what we need to do
 25 in our own areas.

PH-64
cont.

PH-65

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1 And I can't help but compare this against, you
2 know, Mark West Springs Road where basically one of
3 the -- one of the measures was to put in bicycle signs
4 and other things, and it caused a huge public safety
5 issue because there wasn't enough area up there on the
6 road to handle bikes at all.

7 SUPERVISOR ZANE: (Inaudible).

8 CHAIRMAN GORE: Yeah. And it's a problem.
9 It's a huge problem. It didn't work.

10 SUPERVISOR ZANE: It didn't work.

11 CHAIRMAN GORE: It didn't work. It causes huge
12 public safety issues where you have like a half of
13 section of a -- of a 100 yards that say -- signs that
14 say "Bicycle access," and then it cuts off and it goes
15 into a mountain.

16 SUPERVISOR ZANE: But what's the resolution
17 then?

18 CHAIRMAN GORE: There is no resolution still to
19 this point. It's a classic example of planning gone
20 awry. That -- that something happened and the
21 mitigation was not functional, was not able to be met.
22 And it's caused -- as much as good intentions, it's
23 caused huge amount of problems on a road.

24 And it gets back to the core issue of: Is that
25 a bicycle friendly road? Is that a road that -- you

PH-65
cont.

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1 know, unfortunately as you say, it's like some of these
2 roads are very dangerous to ride upon, and --

3 MS. BARRETT: And -- and we do have --

4 CHAIRMAN GORE: -- and people still ride on
5 them. But --

6 MS. BARRETT: And the trucks --

7 CHAIRMAN GORE: Excuse me. Let me -- I
8 apologize.

9 But -- but, you know, I mean, these are wider
10 issues for us to discuss. Right now we're accepting
11 public comment on a Draft Supplemental EIR. And you're
12 right, a lot of good concerns out there.

13 I do appreciate the letter from the Bike and
14 Pedestrian Committee that, you know, says, "If you're
15 going to be able to do it in this area, definitely get
16 the four-foot-wide, you know, asphalt" and other things.
17 But, you know, the reality is is that it doesn't matter
18 what happens here, it's not going to be perfect. And
19 that's not telling you how I'm going to vote, but
20 it's obviously a -- you know, a -- a very big thing that
21 you all have dealt with for a long time, and now we're
22 taking on.

23 Other comments? Anything else?

24 Okay. So guide me through, we are --

25 MS. BARRETT: Just give us direction to

PH-65
cont.

PH-66

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PH - Public Hearing Comments

1 complete the Final EIR --

2 CHAIRMAN GORE: Thank you.

3 MS. BARRETT: -- and we will re-notice and
4 schedule this when that's completed.

5 CHAIRMAN GORE: Perfect. Guidance given --

6 MS. BARRETT: Thanks.

7 CHAIRMAN GORE: -- to do exactly what you just
8 said.

9 Appreciate your time. Thank you everybody for
10 being here and -- and good work.

11 If you're going to quote that number, I'm going
12 to start -- think you're --

13 SUPERVISOR ZANE: No, no, no.

14 CHAIRMAN GORE: -- (inaudible) just say Martial
15 Law 1072.3.

16 SUPERVISOR ZANE: I know, I'm going to keep
17 quoting that vehicle code. No.

18 CHAIRMAN GORE: (Inaudible). State and
19 Standard 103552.

20 SUPERVISOR ZANE: I was -- I was making up an
21 abbreviation of all things. MM, multiple mitigation.

22 CHAIRMAN GORE: Yeah. Thank you very much.
23 That's good. There you go.

24 Okay. I appreciate that. I'm going to take us
25 to the next item. Thank you everybody for your time

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cont.

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2 (End of videotape.)
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REPORTER'S CERTIFICATE

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I, Amber M. Harlan, a Certified Shorthand Reporter, do hereby certify that the transcribing of the foregoing tape in the above-entitled matter to the best of my ability is a full, true, and correct transcription of the proceedings held at the scheduled hearing.

I further certify that I am not of counsel or attorney for either or any of the parties in the above-named cause, or in any way interested in the outcome of said cause.

I hereby affix my signature this 21st day of December, 2018.

Amber Harlan

Amber M. Harlan
CSR #14074

PH – Public Hearing Oral Comments

Below are the responses to oral comments received at the Public Hearing held October 16, 2018, as well as questions and comments from the Sonoma County Board of Supervisors before and after the Public Hearing. Members of the public who commented include the following (commenters whose names could not be determined from the audio/visual taping of the Public Hearing are designated “Woman” and “Gentleman”):

- Woman One
- Margaret Hanley
- Sue Buxton
- Jason Merrick
- Gentleman One
- Joe Morgan, Sonoma County Bicycle and Pedestrian Committee
- Woman Two
- Daniel (last name inaudible)
- Stephen Butler

Responses to Comments of Sonoma County Supervisors and Staff Prior to the Public Hearing

- PH-1 This comment includes preliminary remarks by Chairman Gore and a presentation by County staff. This comment does not require a response.
- PH-2 This comment by Supervisor Rabbitt recounts that the Board of Supervisors has retained “original jurisdiction” over consideration of the proposed modifications to the Use Permit Conditions of Approval, rather than delegating the initial consideration to the Planning Commission as is customarily done.
- PH-3 CalTrans submitted a comment letter, which is included above as comment letter B. No comment letter was received from the Sonoma County Bicycle and Pedestrian Advisory Committee (SCBPAC), though one of the Committee members, Mr. Joe Morgan, provided oral comments; see comments PH-42 through PH-45. The Supervisor may be referencing the recommendation from the SCBPAC, described in the discussion of Impact 3.4-3 in Section 3.4, Transportation and Traffic, in the Draft SEIR. This recommendation states that the SCBPAC considers the minimum acceptable roadway cross-section for Roblar Road to be two 11-foot travel lanes, two 4-foot bike lanes, and two 1-foot unpaved road backing areas, for a total 32-foot cross-section.
- PH-4 Supervisor Rabbitt refers in this comment to Draft SEIR Figure 2-6. Regarding lane and shoulder width and bicycle and traffic safety, please see Master Response 1.

- PH-5 The Applicant's responsibility for paying for improvement of the Stony Point Road/Roblar Road intersection is stated in Condition/Mitigation Measure 44, and reiterated in Mitigation Measure 3.4-1 in Section 3.4, Transportation and Traffic, in the Draft SEIR. The Draft SEIR examines the biological impacts of the Applicant's proposed intersection design, compared to the currently-approved County preliminary design, in Section 3.3, Biological Resources, on page 3.3-4, and concludes that the Applicant's proposed design would not result in a new or more severe impact to biological resources.
- PH-6 These preliminary remarks by Supervisor Zane do not require a response.
- PH-7 Please see Master Response 1 regarding bicycle safety. Please see also the response to comment PH-3, above. The Sonoma County Bicycle Coalition also submitted a comment letter, included as comment letter I
- PH-8 Please see Master Response 1, which includes a discussion of the correlation between speed and risks to bicyclists and pedestrians.
- PH-9 The Draft SEIR does not discuss the availability or need for aggregate in the County. See, however, the Statement of Overriding Considerations adopted as part of the approval of the Quarry project in 2010.
- PH-10 This comment does not require a response.
- PH-11 Please see Master Response 1.
- PH-12 In this comment, Supervisor Gorin refers to the "Three Feet for Safety Act" (Vehicle Code Section 21760), which is described in the Regulatory Setting of Draft SEIR Section 3.4, Transportation and Traffic, on page 3.4-4. Please see also Master Response 1.
- PH-13 According to the 2010 Final EIR, expected trip generation for the Quarry is an average of 302 one-way truck trips per day (151 loads) and a peak of 480 truck trips (240 loads), not 580 as stated. See the 2010 Final EIR, Section IV.E, Transportation and Traffic, page IV.E-18.
- PH-14 Please see Master Response 1 and comment PH-16.
- PH-15 The Use Permit for the Quarry is valid and in effect. Any aspect of the project may be modified, and the proposed modifications may also be denied. Denial, in this case, would mean that the original use permit would remain unmodified.
- PH-16 In this comment, PRMD Deputy Director Jennifer Barrett and Supervisor Gorin have a discussion about the authority of the County to set and enforce speed limits. As noted in the response to comment C-23, the 2010 Final EIR describes the results of a speed study on Roblar Road in 2005. At a location .65 miles west of Canfield Road, the 85th percentile speed was 59.4 mph. Please see Master Response 1.

- PH-17 In this comment, Supervisor Gorin discusses typical truck width with County Supervising Planner Blake Hillegas.
- PH-18 The California Department of Fish and Wildlife did not submit comments on the Draft SEIR. Please see comment letter A from the State Clearinghouse, which has the responsibility to distribute EIRs to relevant State agencies, and to compile and forward comments from State agencies to the lead agency.
- PH-19 Supervising Planner Hillegas is referring to Condition/Mitigation Measure 87, which requires truck tire scrapers and wash facilities at the Quarry exit and weekly sweeping of the intersections of Roblar Road and Valley Ford Road with the Quarry's private access roads; and Condition/Mitigation Measure 154, which requires the Applicant/Quarry operator to ensure that all loaded trucks are covered or maintain at least two feet of free board to prevent spillage of materials onto haul routes.

At this point in the transcript, Chairman Gore opens the Public Hearing

Response to Comment of Woman One

- PH-20 The comment is not intelligible.

Responses to Comments of Margaret Hanley

- PH-21 This comment addresses the merits of the Applicant's proposed modifications to the Use Permit Conditions of Approval, and expresses the commenter's opposition to these modifications.
- PH-22 Please see Master Response 1. The graphics that the commenter refers to are included as comment letter J.
- PH-23 While the Applicant contends that the mitigation measures and Conditions of Approval he seeks to modify are infeasible, the County has not reached this conclusion. Should the County Board of Supervisors decide to approve the proposed modifications, it will do so only after making findings to support that decision, including, if warranted, findings of infeasibility of those previously adopted measures.
- PH-24 Environmental review pursuant to CEQA does not include examination of potential financial risk or liability.
- PH-25 Please see the response to comment PH-2.
- PH-26 The graphics that the commenter refers to are included as comment letter J.

Responses to Comments of Sue Buxton, Citizens Advocating Roblar Road Quality (CARRQ)

- PH-27 While the Applicant contends that the mitigation measures and Conditions of Approval he seeks to modify are infeasible, the County has not reached this conclusion. Should the County Board of Supervisors decide to approve the proposed modifications, it will do so only after making findings to support that decision, including, if warranted, findings of infeasibility of those previously adopted measures. With regard to the Applicant's attempts to purchase land for additional right-of-way from his neighbors, please see comment letter D and the response to comment D-1.
- PH-28 Environmental review pursuant to CEQA does not include examination of socioeconomic benefits (or direct impacts) of a project. The commenter's opposition to modifying the existing Conditions of Approval is noted. The Draft SEIR, Section 3.4, Traffic and Transportation, Impacts 3.4-3 and 3.4-4 examine the potential for the Applicant's proposed modifications to the required widening of Roblar Road to increase bicycle and traffic safety hazards, and find that, even with mitigation, these impacts would be significantly and unavoidably more severe. Please see Master Response 1.
- PH-29 The commenter is correct, that approval of the Applicant's proposed modifications to the Use Permit Conditions of Approval is a discretionary action.
- PH-30 Please see the response to comment PH-8.
- PH-31 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying the existing Conditions of Approval.

Responses to Comments of Jason Merrick

- PH-32 As described in Draft SEIR Chapter 2, Project Description, the Applicant's proposed modifications to Use Permit Condition/Mitigation Measure 49 and Condition 59 would allow for widening Roblar Road to include three-foot wide paved shoulders with two-foot wide rockered shoulders. The Draft SEIR, Section 3.4, Transportation and Traffic, includes Mitigation Measure 3.4-3, which would require minimum four-foot wide paved shoulders with one-foot rockered shoulders. The Draft SEIR accurately describes and fully analyzes the Applicant's proposed modifications to the Use Permit Conditions of Approval, and is legally adequate under CEQA.
- PH-33 The Draft SEIR does not advocate for nor approve the Applicant's proposed modifications to the Use Permit Conditions of Approval; it analyzes the potential for these modifications to result in a new or substantially more severe environmental impact, compared to the previously-approved Quarry project. Approval of the Applicant's proposed modifications to the Use Permit Conditions of Approval is a discretionary action that will be considered by the Sonoma County Board of Supervisors.

- PH-34 The Applicant has not proposed changes to the level of operations or the number of daily haul trucks approved by the County in 2010. With regard to bicycle and traffic safety issues, please see Master Response 1.
- PH-35 Please see the previous response.
- PH-36 While the Applicant contends that the mitigation measures and Conditions of Approval he seeks to modify are infeasible, the County has not reached this conclusion. Should the County Board of Supervisors decide to approve the proposed modifications, it will do so only after making findings to support that decision, including, if warranted, findings of infeasibility of those previously adopted measures.
- PH-37 With regard to bicycle and traffic safety, please see Master Response 1. The commenter's opposition to modifying the existing Conditions of Approval on the basis of safety concerns is noted.

Responses to Comments of Gentleman One

- PH-38 Please see Master Response 1.
- PH-39 Please see the discussion of consistency of the Applicant's proposal with standards for Class II bikeways contained in the Sonoma County Bicycle and Pedestrian Plan, in Draft SEIR Section 3.4, Transportation and Traffic, Impact 3.4-3.
- PH-40 Please see Master Response 1.
- PH-41 Please see Master Response 1.

Responses to Comments of Joe Morgan, Sonoma County Bicycle and Pedestrian Committee

- PH-42 The commenter's preference for the currently-required road geometry for improved Roblar Road is noted.
- PH-43 The Sonoma County Bicycle and Pedestrian Committee's recommendation for 11-foot travel lanes and four-foot wide paved shoulders with one-foot wide rock backing is discussed in Draft SEIR Section 3.4, Transportation and Traffic, Impact 3.4-3. Please see Master Response 1.
- PH-44 Condition/Mitigation Measure 87 (Mitigation Measure E.3c from the 2010 Final EIR) requires weekly sweeping of the intersections of Roblar Road and Valley Ford Road with the Quarry's private access roads. The Applicant has not proposed to modify this condition.
- PH-45 Please see Master Response 1.

Responses to Comments of Woman 2

PH-46 Please see Master Response 1.

Responses to Comments of Daniel (last name inaudible)

PH-47 The Draft SEIR accurately describes and fully analyzes the Applicant's proposed modifications to the Use Permit Conditions of Approval, and is legally adequate under CEQA. Further evaluation is not necessary.

PH-48 Hydrologic and water quality effects of the proposed relocation of the channel of Americano Creek are examined in Draft SEIR Section 3.2, Hydrology and Water Quality, and are found to be less than significant. Please see Impact 3.2-1. Potential impacts on fish habitat are examined in Section 3.3, Biological Resources, Impact 3.3-7, and also are found to be less than significant.

PH-49 Please see Draft SEIR Chapter 1, Introduction, for background information on approval of the Quarry project, including the use of portions of Roblar Road by haul trucks.

PH-50 Condition/Mitigation Measure 44 requires the Applicant to upgrade the intersection of Stony Point Road and Roblar Road. The Applicant seeks to modify this condition to allow a different design for the upgrade. The Draft SEIR, Section 3.4, Transportation and Traffic, examines the potential for the altered design to result in a new or substantially more severe significant effect with regard to intersection level of service (Impact 3.4-1 and 3.4-5) and bicycle safety (Impact 3.4-2). With the mitigation measures specified in the Draft SEIR, these impacts would all be reduced to less-than-significant.

PH-51 These concluding remarks are general and do not require a response.

Responses to Comments of Stephen Butler

PH-52 This commenter is the Applicant's attorney, offering to answer questions from the Supervisors. The comment does not require a response.

PH-53 Here, Chairman Gore closes the Public Hearing

Responses to Comments of Sonoma County Supervisors and Staff Following the Public Hearing

PH-54 The close of the public comment period on the Draft SEIR was, in fact, October 29, 2018.

PH-55 The "Three Feet for Safety Act" (Vehicle Code Section 21760 is described in the Regulatory Setting of Draft SEIR Section 3.4, Transportation and Traffic, on page 3.4-4. Please see also Master Response 1.

PH-56 The current requirement for widening of Roblar Road, contained in Condition/Mitigation Measure 49 and Condition 59, is for 6-foot wide paved shoulders, with "associated

- striping/signage to meet Class II bike facilities.” As shown in the California Manual on Uniform Traffic Control Devices (MUTCD), Figure 9C.3 and 9C.101, Class II bike lanes are typically divided from the travel lane by a “normal white line” with a 6-inch width (CalTrans, 2014). Please see also Master Response 1.
- PH-57 The current condition of Roblar Road between Canfield Road and Valley Ford Road is also described in the Draft SEIR, in footnote 4 on page 2-12 and in Figure 2-6 in Chapter 2, Project Description.
- PH-58 The Applicant’s proposed roadway geometry is described in Draft SEIR Chapter 2, Project Description, page 2-12 and Figure 2-6. The mitigated design is described in Mitigation Measure 3.4-3 in Section 3.4, Transportation and Traffic.
- PH-59 The AASHTO guidelines and exceptions are described in the Draft SEIR in the discussion of Impact 3.4-3, in Section 3.4, Transportation and Traffic. See also Master Response 1. While the Department of Public Works and the Sonoma County Bicycle and Pedestrian Advisory Committee both determined that the exception to the standard would be adequate, the Draft SEIR concludes that, because this design would be substantially less safe than the currently-required design, the impact to bicycle and traffic safety would be significant and unavoidable (Impacts 3.4-3 and 3.4-4).
- PH-60 Please see the response to comment PH-16. It is likely that the 85th percentile speed will change after completion of roadway widening.
- PH-61 Please see the response to comments PH-19, PH-56, and Master Response 1.
- PH-62 Please see the response to comment PH-9.
- PH-63 As no formal survey exists of Roblar Road’s right-of-way, and no detailed design for road-widening has been provided to the County, it is premature to conclude that a roadway wider than the Applicant’s proposed 32-foot cross section would not be possible without condemnation. Note, however, that Condition/Mitigation Measure 49 requires the Applicant to obtain additional right-of-way or easements, as necessary, in order to accomplish the required roadway widening.
- PH-64 Please see the responses to comments PH-56 and Master Response 1 for discussion of additional measures to increase bicycle safety. With regard to Resource Agency comments on proposed relocation of Americano Creek, please see response to comment PH-18. Specifically with regard to green-painted bike lanes, the National Association of City Traffic Officials (NACTO) Urban Bikeway Design Guide (NACTO, 2019) includes information and guidelines for “colored bike facilities.” As described by NACTO, colored pavement within a bicycle lane increases the visibility of the facility, identifies potential areas of conflict, and reinforces priority to bicyclists in conflict areas and in areas with pressure for illegal parking. Colored pavement can be utilized either as a corridor treatment along the length of a bike lane or cycle track, or as a spot treatment, such as a bike box, conflict area, or intersection crossing marking. Color can be applied

along the entire length of bike lane or cycle track to increase the overall visibility of the facility. Consistent application of color across a bikeway corridor is important to promote clear understanding for all users.

PH-65 Please see the response to comment PH-9. With regard to Mark West Springs Quarry, please see footnote 3 on page 3.4-11 in Section 3.4, Transportation and Traffic, in the Draft SEIR.

PH-66 Chairman Gore's comment is noted.

PH-67 In this comment, the Board directs County staff to complete the Final SEIR.

PH-68 Please see the response to comment PH-12 and Master Response 1.

Reference

National Association of City Transportation Officials (NACTO), 2019. *Urban Bikeway Design Guide: Colored Bike Facilities*. <https://nacto.org/publication/urban-bikeway-design-guide/bikeway-signing-marking/colored-bike-facilities/> Accessed January 14, 2019.

CHAPTER V

Revisions to the Draft SEIR

The following corrections and changes are made to the Draft Supplemental Environmental Impact Report (Draft SEIR) and incorporated as part of this Final SEIR. Revised or new language is underlined. Deleted language is indicated by strikethrough text. Preceding each revision **[in bolded brackets]** is a reference to the letter and number of the comment (see Chapter IV, Comments on the Draft SEIR and Responses to Comments) that prompted or suggested the revision, or a note that the change was initiated by County staff.

A. Revisions to Summary Chapter (Chapter S)

[C-1, U-9] The text on page S-1 of the Draft SEIR is amended to read:

On December 14, 2010, the Sonoma County Board of Supervisors (Board) certified the Roblar Road Quarry Final Environmental Impact Report (Final EIR), and approved a Reclamation Plan and a Use Permit (Use Permit PLP03-0094) for a modified version of one of the alternatives to the originally-proposed Quarry project described in the Final EIR, Alternative 2 (herein referred to as “Modified Alternative 2”). The Use Permit allows for a 20-year mining permit with an annual limit of 570,000 ~~tons~~ cubic yards per year. The Final EIR included the May, 2008 Draft EIR, the October 2009 Response to Comments Document, the June 2010 Recirculated Portions of the Draft EIR, and the 2010 Response to Comments Document for the Recirculated Portions of the Draft EIR.

B. Revisions to Chapter 1, Introduction

[U-9] The text on page 1-1 of the Draft SEIR is amended to read:

On December 14, 2010, the Sonoma County Board of Supervisors (Board) certified the Roblar Road Quarry Final Environmental Impact Report (Final EIR), and approved a Use Permit for Alternative 2 as modified by the Board (herein referred to as “Modified Alternative 2”). The Use Permit allows for a 20-year mining permit with an annual limit of 570,000 ~~tons~~ cubic yards per year.

C. Revisions to Chapter 2, Project Description

[C-10 and Staff-initiated] Table 2-1 on page 2-10 is revised as follows:

**TABLE 2-1
COMPARISON OF INTERSECTION DESIGN FEATURES**

Design Feature	Existing Condition	County Preliminary Design-Condition/ Mitigation Measure 44	Applicant's Proposed Design
Traffic Control	Stop sign on Roblar Road. No controls on Stony Point Road	4-way traffic signal, including signal for driveway opposite Roblar Road	4-way traffic signal, including signal for driveway opposite Roblar Road
Travel Lanes: Stony Point Road	One 12-foot lane in each direction	Same as Existing	Same as Existing
Travel Lanes: Roblar Road	One 12-foot lane in each direction	Same as Existing	Same as Existing
Paved Shoulders: Stony Point Road (each side of road)	4 feet	8 to 10 feet	minimum 4 feet
Paved Shoulders: Roblar Road (each direction)	1 to 1.5 feet	6 feet	3 feet
Bike Lanes (each direction)	None	8 – 10 feet	4-foot-wide paved shoulder in each direction on Stony Point Road for use by bicyclists
Left Turn Lanes: Stony Point Road	<u>Southbound</u> : None; <u>Northbound</u> : 10 feet wide and <u>70-50</u> -foot-long stacking length	<u>Southbound</u> : 11 feet wide and <u>50- 20</u> - foot-long stacking length; <u>Northbound</u> : 11 feet wide and <u>over 250- 90</u> -foot-long stacking length The taper lengths (approach and bay) and deceleration lane lengths shall be designed in accordance with Caltrans standards.	<u>Southbound</u> : 11 feet wide and <u>50- 49</u> - foot-long stacking length; <u>Northbound</u> : 11 feet wide and <u>120- 50</u> - foot-long stacking length The taper lengths (approach and bay) and deceleration lane lengths shall be designed in accordance with Caltrans standards.
Turn Lanes: Roblar Road	Single lane widens to accommodate turns	Same as Existing	Same as Existing
Driveway on east side of intersection	at south end of intersection	relocated north, opposite Roblar Road	not relocated
Drainage Ditches	Existing ditch on east side of Stony Point Road and on portions of Roblar Road	Portions of existing ditches on Stony Point Road filled and relocated	Existing ditches not filled

SOURCE: Sonoma County PRMD, 2005; BKF Engineers, 2016, W-Trans 2015.

D. Revisions to Section 3.3, Biological Resources

[C-5, C-14, C-16] Revisions to Impact 3.3-1 and Mitigation Measure 3.3-1 (note that new changes to the text of the impact and mitigation measure, as well as previous changes to Conditions of Approval from the Draft SEIR are single-underlined. New changes to Conditions of Approval are double-underlined).

Impact 3.3-1: The proposed relocation of Americano Creek would involve construction and grading activities that could disturb or remove wetland and riparian habitat. (Beneficial Impact / No New or Substantially More Severe Significant Impact, After Mitigation)

Final EIR Impact D.1 concluded that the Quarry project would directly impact wetlands, other waters, and riparian habitat, resulting in the permanent fill of potentially jurisdictional wetlands or other waters of the U.S. and waters of the State. The Final EIR specified Mitigation Measures D.1a (mitigate the filling or excavating of jurisdictional wetlands by conducting a formal wetland delineation, compensating for loss of jurisdictional wetlands at specified ratios, and implementation of a five-year monitoring program with applicable performance standards¹); D.1b (avoid all potential jurisdictional wetlands and riparian habitat located along the southern boundary [i.e., Ranch Tributary] and the southwestern corner [i.e., seasonal wetlands on valley floor adjacent to Americano Creek] of the property); and D.1c (monitor base flows in Ranch Tributary and if necessary augment them with releases of stored surface water) to reduce the Quarry project impacts to wetlands and riparian habitats to a less-than-significant level. These mitigation measures were adopted as Conditions/Mitigation Measures 132, 133, and 115 respectively. Condition 101 was also adopted. Condition 101 states that, “Except for stream crossings, no grading or land disturbance shall occur within 50 feet of the top of banks of the waterways.”

The proposed relocation of Americano Creek to accommodate the required widening of Roblar Road would result in the filling of the existing Americano Creek channel along most of its course on the Quarry project site, and relocation of the creek away from Roblar Road. Most of the existing riparian habitat adjacent to the south side of the existing creek would not be disturbed. A review of the 2015 USACE wetland delineation for the Quarry property and roadway alignment (U.S. Army Corps of Engineers, 2015) and the proposed relocation of Americano Creek shown in Figure 2-8 in Chapter 2, Project Description, shows that approximately 750 feet of Americano Creek would be filled to accommodate Roblar Road widening. This would fill an estimated 0.40 acre (17,599 s.f.) of waters of the State, which includes 0.18 acre (7,701 s.f.) of waters of the U.S. The 2015 USACE wetland delineation did not clarify the extent of federally-jurisdictional wetlands within the waters of the U.S.; hence, for this assessment, the entire 0.18-acre area was presumed to support federally jurisdictional wetlands. These jurisdictional areas include a portion of the riparian area along the south side of the existing creek, which is a part of an approximately 0.90-acre riparian area that supports native willows [arroyo willow (*Salix lasiolepis*), Pacific willow (*S. lucida* spp. *lasindra*), and red willow (*S. laevigata*)]. Only a portion of this riparian area would be removed to accommodate road widening and creek relocation. The remainder of this riparian area would not be disturbed. In addition, the realigned channel would fill (remove) an approximately 0.05-acre seasonal wetland identified as SW-17 (Figure 2-8 in Chapter 2, Project Description).

As part of the proposed modifications to the Use Permit, a realigned Americano Creek channel would be created that measures approximately 935 feet long with a 14-foot wide

creek bed covering approximately 0.30 acre and an additional 0.45 acre of low flood terraces. The creek banks would be vegetated with willows and other native species as identified in the Applicant's "Conceptual Planting Plan for Americano Creek Realignment" (Winfield, 2017; included as Appendix A; hereafter, "Planting Plan"). A new roadside ditch would be created adjacent to the widened Roblar Road.

The Applicant proposes to modify Condition/Mitigation Measure 133 to state that all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on the valley floor adjacent to Americano Creek) of the Quarry site would be avoided "as feasible." The Applicant also proposes to modify Condition 101 to provide an exception to the prohibition against grading and land disturbance in proximity to waterways. These changes ~~This change~~ would enable the widening of Roblar Road and the proposed relocation of Americano Creek, since both the road widening and creek relocation would necessarily impact existing wetlands and occur within 50 feet of Americano Creek. This would increase the severity of Final EIR Impact D.1, by increasing the extent of wetlands that would be filled.

Condition/Mitigation Measure 132, which requires compensatory mitigation for the fill of jurisdictional waters, applies to the proposed modifications to the Use Permit, and would be effective in compensating for the increased loss of wetlands. While there would be a temporary loss of function on approximately 750 linear feet of Americano Creek while revegetated areas become established, creek relocation would not cause a long-term loss of wetland functions or habitat values because: 1) a greater area of wetlands would be created than filled: about 0.23 acres of wetland (0.18 acres of existing channel and associated riparian vegetation, plus 0.05 acres of seasonal wetland) would be filled, and about 0.30 acres of wetland/stream channel would be created. In addition, 0.45 acre of low flood terraces (waters of the State) would be created; 2) with implementation of the Planting Plan, the enhanced areas would provide similar or better habitat values than the existing creek; and 3) long-term monitoring provided in Mitigation Measure D.1a (COA 132) would ensure that the restored areas meet minimum performance criteria and adequately enhance functions and values of the created riparian corridor. Therefore, with the continued application of Condition/Mitigation Measure 132, the proposed modifications to the project would not result in any new or substantially more severe significant impacts to wetlands or riparian habitat. However, the Applicant's proposed modification of Condition/Mitigation Measure 133, which would add "as feasible" to the requirement to avoid wetlands and riparian habitat, would introduce uncertainty regarding the extent of wetland and riparian habitat that would be disturbed or destroyed. This could cause a new or more severe significant impact to wetlands and riparian habitat. Therefore, the Applicant's proposed revisions are rejected, and other revisions to Condition/Mitigation Measure 133 are specified below as mitigation.

In addition, Condition/Mitigation Measure 133 has been revised to confirm that the referenced 100-foot setback from critical habitat (Chapter 26A County Code) does not apply retroactively to sites that were reviewed pursuant to the California Environmental

Quality Act and approved prior to the designation of relevant critical habitat in the General Plan. The Roblar Road Quarry was approved by the Board of Supervisors in December, 2010. The site was included in a federal critical habitat rulemaking by the U.S. Fish and Wildlife Service in August, 2011. On October 23, 2012, the Board of Supervisors adopted map amendments to the Open Space Element of the General Plan to designate critical habitat for the California Tiger Salamander. However, these setback provisions were not intended to be applied retroactively, and independent of any setbacks, the mitigation measures already mitigated the impact to California Tiger Salamanders to a level that is less than significant. The approved Quarry project includes Condition/Mitigation Measure 143 and 144 to mitigate potential impacts to CTS to less than significant as noted below under Impact 3.3-3.

The Applicant's proposed modifications to Condition 101 are also rejected, and this condition is modified as specified below (new changes to the text below are indicated with double underline and double strike-through).

Mitigation Measure 3.3-1a: Revise wording of Condition/Mitigation Measure 133 as follows to confirm that the referenced 100-foot setback to critical habitat does not apply retroactively and to allow creek relocation, but with specific parameters for wetland and riparian habitat disturbance (additions to the text of the adopted Condition are underlined):

133. Avoid all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on valley floor adjacent to Americano Creek) of the property, except as shown in the Applicant's plans for relocation of Americano Creek, including related roadway improvements, specifically the drawing by BKF Engineers, "Americano Creek Relocation" dated September 1, 2017 and the "Conceptual Planting Plan for Realigned Americano Creek" prepared by Ted Winfield, Ph.D., dated August 21, 2017. Prior to construction activities, the project Applicant shall take appropriate measures to protect the wetland and riparian habitat located in these areas. The following protection measures are to be included in the grading and Reclamation Plan:

- Installation of exclusionary construction fencing along the southern property line as well as around the two seasonally wetlands identified on [Final EIR] Figure IV.D-1 except for the wetland that would be impacted by the relocation of Americano Creek to protect these features from all project construction and operation activities.;
- Implementation of measures to control dust in adjacent work areas (see comprehensive dust control program identified in Condition 161);
- Maintenance of the hydrologic inputs (flow) to the seasonally wet area in the southwestern corner of the property, unless otherwise approved by resource agencies.
- Except as stated above for the relocation of Americano Creek, the project Applicant shall maintain the minimum allowed 200-foot and 100-foot setback for quarry mining operations from stream banks (Americano

Creek and Ranch Tributary) respectively and critical habitat areas designated in the Sonoma County General Plan (Chapter 26A, County Code), provided, however, that setbacks from designated critical habitat do not apply to sites that were reviewed pursuant to the California Environmental Quality Act and approved prior to the designation of the relevant critical habitat in the General Plan.

- Nothing in this condition or other conditions will preclude enhancements to the North Pond subject to resource agency approvals.

Mitigation Measure 3.3-1b: Revise wording of Condition 101 as follows to allow the widening of Roblar Road and relocation of Americano Creek in proximity to waterways:

101. Except for stream crossings and also except as shown in the Applicant’s plans for relocation of Americano Creek, including related roadway improvements, specifically the drawing by BKF Engineers, “Americano Creek Relocation” dated September 1, 2017 and the “Conceptual Planting Plan for Realigned Americano Creek” prepared by Ted Winfield, Ph.D., dated August 21, 2017, no grading or land disturbance shall occur within 50 feet of the top of banks of the waterways. Any waterway setbacks, including but not limited to building setbacks, grading setbacks, riparian corridor setbacks or biotic resources setbacks, shall be shown and noted on the grading plans. A construction fence must be placed along the most stringent waterway setback to prevent land disturbance adjacent to the waterways.

Significance with Mitigation: The additional revisions to Condition/Mitigation Measure 133 and Condition 101 would ensure that disturbance of wetlands and riparian habitat would be restricted to the areas shown in the Applicant’s plans for relocation of Americano Creek and evaluated in this document. This would ensure that all impacts to wetlands and riparian areas are adequately mitigated. The additional specification regarding setbacks from designated critical habitat would clarify that the Quarry project is consistent with Chapter 26A of the County Code. Therefore, with implementation of Mitigation Measures 3.3-1a and 3.3-1b, the impact would be less than significant.

[C-15] Revision to Footnote 1 on page 3.3-4:

- ¹ Performance standards specified for the monitoring program for creation of compensatory wetlands include: 80 percent survival rate of restoration plantings native to local watershed; absence of invasive plant species; absence of erosion features; and a functioning, and self-sustainable wetland system. It is anticipated that absence of invasive species within compensatory wetlands will be demonstrated by the applicant to the extent required by applicable CDFW, USFWS, Water Board, and/or Army Corps of Engineers permit requirements.

CHAPTER VI

Report Preparers

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APPENDIX A

Draft Mitigation Monitoring and Reporting Program

Introduction

The California Environmental Quality Act (CEQA) requires public agencies to adopt a Mitigation Monitoring and Reporting Program (MMRP) at the time that a Project with an EIR is approved (Public Resources Code §21081.6(a)(1)). A public agency adopting measures to mitigate or avoid the significant impacts of a proposed project is required to ensure that the measures are fully enforceable, through permit conditions, agreements, or other means (Public Resources Code §21081.6(b)). The program must be designed to ensure project compliance with mitigation measures during project implementation. For the currently-approved Roblar Road Quarry Use Permit, the MMRP is incorporated into the Conditions of Approval: for each condition that is derived from a mitigation measure from the 2010 Final EIR, the mitigation monitoring requirement follows the text of the condition. If the proposed Project changes are approved, The MMRP will be incorporated into the amended Conditions of Approval.

Format

The draft MMRP is organized in a table format, keyed to each mitigation measure included in the Final SEIR. Each mitigation measure is set out in full, followed by a tabular summary of monitoring requirements. The column headings in the tables are defined as follows:

Mitigation Measure: This column presents the full text of the mitigation measure identified in the SEIR.

Mitigation Monitoring Measure: This column provides information on how implementation of the mitigation measures will be monitored.

Monitoring Responsibility: This column contains an assignment of responsibility for the monitoring and reporting tasks.

Monitoring and Reporting Schedule: The general schedule for conducting each monitoring and reporting task, identifying where appropriate both the timing and the frequency of the action.

DRAFT MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Mitigation Monitoring Measure	Monitoring Responsibility	Monitoring and Reporting Schedule
<p>Mitigation Measure 3.3-1a: Revise wording of Condition/Mitigation Measure 133 as follows to confirm that the referenced 100-foot setback to critical habitat does not apply retroactively and to allow creek relocation, but with specific parameters for wetland and riparian habitat disturbance (additions to the text of the adopted Condition are <u>underlined</u>):</p> <p>133. Avoid all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on valley floor adjacent to Americano Creek) of the property, <u>except as shown in the Applicant's plans for relocation of Americano Creek, including related roadway improvements, specifically the drawing by BKF Engineers, "Americano Creek Relocation" dated September 1, 2017 and the "Conceptual Planting Plan for Realigned Americano Creek" prepared by Ted Winfield, Ph.D., dated August 21, 2017.</u> Prior to construction activities, the project Applicant shall take appropriate measures to protect the wetland and riparian habitat located in these areas. The following protection measures are to be included in the grading and Reclamation Plan:</p> <ul style="list-style-type: none"> • Installation of exclusionary construction fencing along the southern property line as well as around the two seasonally wetlands identified on [Final EIR] Figure IV.D-1 except for the wetland that would be impacted by the relocation of Americano Creek to protect these features from all project construction and operation activities; • Implementation of measures to control dust in adjacent work areas (see comprehensive dust control program identified in Condition 161); • Maintenance of the hydrologic inputs (flow) to the seasonally wet area in the southwestern corner of the property, <u>unless otherwise approved by resource agencies.</u> • <u>Except as stated above for the relocation of Americano Creek, the project Applicant shall maintain the minimum allowed 200-foot and 100-foot setback for quarry mining operations from stream banks (Americano Creek and Ranch Tributary) respectively and critical habitat areas designated in the Sonoma County General Plan (Chapter 26A, County Code), provided, however, that setbacks from designated critical habitat do not apply to sites that were reviewed pursuant to the California Environmental Quality Act and approved prior to the designation of the relevant critical habitat in the General Plan.</u> • <u>Nothing in this condition or other conditions will preclude enhancements to the North Pond subject to resource agency approvals.</u> 	<p>Prior to issuance of grading permits for roadway improvements, creek relocation, and Quarry project site development, PRMD Project Review staff will verify that plans provide all wetland protection measures. County staff will verify compliance in the field during inspection.</p>	<p>PRMD Project Review staff</p>	<p>The monitoring schedule is tied to the application for and issuance of grading permits necessary for completion of work that has the potential to disturb wetland and riparian habitat. Reporting, in the form inspection reports, will verify compliance.</p>
<p>Mitigation Measure 3.3-1b: Revise wording of Condition 101 as follows to allow the widening of Roblar Road and relocation of Americano Creek in proximity to waterways:</p> <p>101. Except for stream crossings <u>and also except as shown in the Applicant's plans for relocation of Americano Creek, including related roadway improvements, specifically the drawing by BKF Engineers, "Americano Creek Relocation" dated September 1, 2017 and the "Conceptual Planting Plan for Realigned Americano Creek" prepared by Ted Winfield, Ph.D., dated August 21, 2017,</u> no grading or land disturbance shall occur within 50 feet of the top of banks of the waterways. Any waterway setbacks, including but not limited to building setbacks, grading setbacks, riparian corridor setbacks or</p>	<p>Same as previous measure</p>	<p>Same as previous measure</p>	<p>Same as previous measure.</p>

DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Mitigation Monitoring Measure	Monitoring Responsibility	Monitoring and Reporting Schedule
<p>biotic resources setbacks, shall be shown and noted on the grading plans. A construction fence must be placed along the most stringent waterway setback to prevent land disturbance adjacent to the waterways.</p>			
<p>Mitigation Measure 3.4-1: Prior to the commencement of mining, the applicant shall enter into an improvement and reimbursement agreement with the Department of Transportation and Public Works (DTPW) and install a signal at the Stony Point Road/Roblar Road intersection. The applicant shall have plans prepared for the work in conformance with the Applicant's preliminary design plans, including widening all approaches to the intersection, lengthening the northbound left-turn lane, and adding a southbound left-turn lane (for access to the private driveway across from Roblar Road). The applicant shall widen or relocate to the north the private driveway opposite Roblar Road, within the County right-of-way, or revise the plans to show a relocation of the stop line for the northbound left-turn lane, to provide sufficient turning radius for larger vehicles and vehicles with trailers. The signal shall be designed in accordance with Caltrans guidelines, subject to review and approval by DTPW. An offset of the payment of traffic mitigation fees may be considered.</p>	<p>Conformance of construction plans with mitigation requirements will be confirmed during plan review by DTPW staff. Conformance of construction of intersection improvements with plans be confirmed through DTPW inspections.</p>	<p>DTPW</p>	<p>Intersection improvements must be completed prior to commencement of mining.</p>
<p>Mitigation Measure 3.4-2: Widen the paved shoulders on Stony Point Road to a minimum of five feet within the limits of the intersection improvement at Roblar Road unless such widening would disturb ditches.</p>	<p>Same as previous measure</p>	<p>Same as previous measure</p>	<p>Same as previous measure</p>
<p>Mitigation Measure 3.4-3: The Applicant shall widen Roblar Road on the 1.6-mile segment between the Quarry site entrance and Access Road 2 with two 11-foot-wide vehicle travel lanes, and an 11-foot west-bound left turn lane at Access Road 2, two 5-foot-wide shoulders (4-foot-wide paved), and appropriate side slope for the entire road design, as determined by the Department of Transportation & Public Works. The Applicant shall widen Roblar Road with at least the following cross section dimensions:</p> <ul style="list-style-type: none"> • 11-foot-wide vehicle travel lanes and 11-foot-wide left turn lane; • 4-foot-wide paved shoulders; • 1-foot-wide unpaved (rock) shoulders. <p>Final design of the horizontal curves shall meet <i>A Policy on Geometric Design of Highways and Streets</i>, as determined by the Department of Transportation & Public Works, to accommodate all project trucks (including but not limited to trucks hauling gravel) through the curves to prevent offtracking within the pavement in the 1.6 mile segment, while maintaining an acceptable clearance to bicycles and vehicles in the opposing lane. If any component of an adequate design requires additional right of way, and if the applicant is unable to obtain this additional right of way from willing sellers, then any condemnation required must be paid for solely by the applicant.</p>	<p>DTPW staff will review final plans for road improvements and verify that they conform with mitigation requirements. DTPW staff will also confirm conformance of construction of road improvements during and at the conclusion of construction.</p>	<p>DTPW</p>	<p>Road improvements, and monitoring of road improvements for compliance with this mitigation measure, must be completed prior to commencement of mining.</p>
<p>Mitigation Measure 3.4-4: Implement roadway improvements for Roblar Road identified in Mitigation Measure 3.4-3.</p>	<p>Same as previous measure</p>	<p>Same as previous measure</p>	<p>Same as previous measure</p>
<p>Mitigation Measure 3.4-5: Optimize the traffic signal timing at the intersection of Stony Point Road and Roblar Road to reflect projected future turning movement traffic volumes.</p>	<p>DTPW, which has responsibility for operation of traffic signals at the intersection, will implement signal timing and report completion to PRMD staff.</p>	<p>DTPW and PRMD</p>	<p>Upon completion of intersection improvements</p>

DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Mitigation Monitoring Measure	Monitoring Responsibility	Monitoring and Reporting Schedule
<p>Mitigation Measure 3.6-2: Archaeological monitoring of ground-disturbing construction activities associated with the relocation of Americano Creek and also those associated with Roblar Road widening/reconstruction near ARS 10-016-01 and ARS 10-016-02.</p> <p>Archaeological monitoring shall be conducted for any ground-disturbing construction activities associated with the relocation of Americano Creek, and also any ground-disturbing construction activities associated with Roblar Road widening/reconstruction activities that are within 200 feet of previously recorded archaeological resources ARS 10-016-01 and ARS 10-016-02. Monitoring shall be required for all surface alteration and subsurface excavation work in these areas, including grubbing, cutting, trenching, grading, use of staging areas and access roads, and driving vehicles and equipment. The archaeological monitoring shall be under direction of an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for Archeology (Supervising Archaeologist). An archaeological monitor shall be present during the specified construction ground-disturbing activities according to a schedule agreed upon by the Supervising Archaeologist and County until the Supervising Archaeologist has, in consultation with the County, determined that construction activities could have no impacts on any potentially significant archaeological resources. Archaeological monitors shall record and be authorized to temporarily collect soil samples and artifactual/ecofactual material, as warranted, for analysis. All recovered artifacts and samples not associated with human remains will be photographed on-site and removed to a secure location for temporary storage, cleaning and processing. On completion of the project, all retained artifacts and samples with a potential to increase our knowledge of the past will be permanently curated in a facility that meets the standards and guidelines of the Secretary of the Interior, as required by CEQA.</p> <p>Archaeological monitors and the Supervising Archaeologist shall be empowered to temporarily redirect construction crews and heavy equipment until any potential archaeological material, including human remains, is evaluated. If suspected archaeological material, including human remains, is identified during monitoring, the procedures set forth in Mitigation Measure K.1b of the Final EIR shall be implemented. These measures consist of: halting construction activities at the location of the suspected archaeological material; inspection and significance assessment of the find by a qualified archaeologist (i.e., one meeting the Secretary of the Interior's Professional Qualifications Standards for Archeology [Supervising Archaeologist]); and, if the find is determined to be a potentially significant archaeological resource under CEQA, pursuant to CEQA Guidelines Section 15064.5, development of a management plan for the resource, consistent with CEQA and County requirements and policies.</p> <p>The management plan shall be developed and implemented in accordance with PRC Section 21083.2 and CEQA Guidelines Section 15126.4(b)(3), and shall recommend preservation in place or, if preservation in place is not feasible, data recovery through excavation. If preservation in place is feasible, this may be accomplished through one of the following means: (1) modifying the construction plan to avoid the resource; (2) incorporating the resource within open space; (3) capping and covering the resource before building appropriate facilities on the resource site; or (4) deeding resource site into a permanent conservation easement.</p>	<p>Prior to commencement of specified ground-disturbing activities, PRMD staff will confirm that a qualified archeologist has been retained to conduct construction monitoring, and will confirm a proposed monitoring schedule. The archeologist will notify PRMD staff upon discovery of any archeological material, and upon completion of monitoring. PRMD staff will confirm that procedures specified in the mitigation measure are followed in the event of discovery of any archeological materials, and will confirm the Supervising Archeologist's determination that all construction activities with the potential to disturb potentially significant archaeological resources have been completed.</p>	<p>PRMD staff</p>	<p>Prior to, during, and upon completion of specified ground-disturbing activities.</p>

DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Mitigation Monitoring Measure	Monitoring Responsibility	Monitoring and Reporting Schedule
<p>If the Supervising Archaeologist determines that any archaeological material identified during construction may have association with Native Americans, relevant Native American representatives (already identified by the California Native American Heritage Commission as the Federated Indians of Graton Rancheria) shall inspect the find within 24 hours of discovery and the County shall consult with potentially interested Native American representatives in developing the management plan for the resource and to determine if the resource qualifies as a tribal cultural resource, as defined in PRC Section 21074.</p> <p>If preservation in place is not feasible, the Supervising Archaeologist shall prepare and implement, in coordination with the County and relevant Native American representatives (if applicable), a detailed treatment plan to recover the scientifically consequential information from and about the resource, which shall be reviewed and approved by the County prior to any excavation at the resource's location. Treatment of unique archaeological resources shall follow the applicable requirements of PRC Section 21083.2. Treatment for most resources, though not tribal cultural resources, would consist of (but would not be not limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource to be impacted by the project. The treatment plan shall include provisions for analysis of data in a regional context, reporting of results within a timely manner, curation of artifacts and data at an approved facility, and dissemination of reports to local and state repositories, libraries, and interested professionals. Treatment for tribal cultural resources shall be determined through the consultation between the County and relevant Native American representatives (see Impact 3.6-5). After implementation of the management plan and treatment plan (if required), the Supervising Archaeologist shall submit a final report to the County, and relevant Native American representatives (if applicable), detailing their implementation and results.</p> <p>If human remains are encountered, construction ground-disturbing activities within 100 feet of the find shall halt and the protocol set for in PRC Section 5097.98, including notifying the Sonoma County Coroner and, if needed, the California Native American Heritage Commission, shall be followed.</p> <p>Resumption of ground-disturbing activities within 100 feet of any find shall only occur with written permission of the County.</p>			
<p>Mitigation Measure 3.6-4: Implement Mitigation Measure 3.6-2.</p>	<p>Same as previous measure</p>	<p>Same as previous measure</p>	<p>Same as previous measure</p>
<p>Mitigation Measure 3.6-5: Implement Mitigation Measure 3.6-2.</p>	<p>Same as previous measure</p>	<p>Same as previous measure</p>	<p>Same as previous measure</p>
<p>Revise Final EIR Mitigation Measure E.8m as follows:</p> <p>Roadway widening <u>and creek relocation</u> construction activities for this project shall be restricted as follows:</p> <ul style="list-style-type: none"> All internal combustion engines used during construction of this project shall be operated with mufflers that meet the requirements of the State Resources Code, and, where applicable, the Vehicle Code. 	<p>PRMD project review will verify that road construction plans include the requirements specified in the mitigation measure. PRMD and DTPW field inspectors will verify that the design details and notes on the plans are implemented. Code Enforcement will respond, should complaints be received for work conducted outside of approved hours.</p>	<p>PRMD and DTPW</p>	<p>During review of plans for roadway widening and creek relocation, and during construction.</p>

DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Mitigation Monitoring Measure	Monitoring Responsibility	Monitoring and Reporting Schedule
<ul style="list-style-type: none">• Except for actions taken to prevent an emergency, or to deal with an existing emergency, all construction activities shall be restricted to the hours of 7:00 a.m. and 7:00 p.m. on weekdays and 9:00 a.m. and 7:00 p.m. on weekends and holidays. Only work that does not require motorized vehicles or power equipment shall be allowed on holidays. If work outside the times specified above becomes necessary, the resident engineer shall notify the PRMD Environmental Review Division as soon as practical.			

APPENDIX B

Letter from Applicant's Attorney to Sonoma County PRMD and Board of Supervisors

This letter was received by the County after the close of the public comment period for the Draft SEIR. The letter is not considered a comment letter on the Draft SEIR and responses are not provided. It is included here as an informational item.

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January 16, 2019

Via U.S. Mail and Email

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Re: Applicant Barella's Responses to CARRQ and Caltrans Comments On 2018
Draft Supplemental Environmental Impact Report, Roblar Road Quarry
("2018 DSEIR" or "DSEIR")

Dear Mr. Hillegas and Honorable Supervisors:

This office represents John Barella and Barella Family, LLC ("Applicant" or "Barella") in connection with the Applicant's 2016 application seeking minor modifications to certain Conditions of Approval ("COAs") of Barella's already-approved Use Permit for the Roblar Road Quarry Project. Those modifications are the subject of the above-referenced 2018 DSEIR.

As background, the Quarry Project's Use Permit was approved by the County Board of Supervisors in 2010, after many years of environmental study. When constructed and operating, the Quarry will provide a long-planned local source of high-grade construction aggregate, which will substantially reduce the greenhouse gas (GHG) emissions (and resulting adverse climate change impacts) that result from importing rock to the County from more distant sources. The Final EIR ("FEIR") certified by the Board for its 2010 Quarry Project approval was unanimously upheld as legally sufficient in May 2014 by the California Court of Appeal, First Appellate District, after many years of litigation. (See unpublished 5/13/14 Opn. filed in *Citizens Advocating For Roblar Rural Quality v. County of Sonoma, et al. (John Barella, et al., Real Parties in Interest)*, First App. Dist., Div. 5, Case No. A136877 ("CA Opp.")). That lengthy but unsuccessful litigation challenge, which significantly delayed and increased the cost of implementation of the Quarry project, was initiated by a dedicated opposition group comprised of nearby landowners, which group calls itself

“Citizens Advocating for Roblar Rural Quality,” “Citizens Against Roblar Road Quarry,” or “CARRQ.”

On October 26, 2018, CARRQ (through its attorney and member, Michael Molland) submitted a 14-page letter (the “Molland letter”) and attached exhibits, purporting to contain “comments” and “evidence on both the SEIR [sic] and the project[.]”¹ This letter responds on behalf of Barella, for the record, to the comments of the Molland letter and its Exhibits, which are directed to the County’s DSEIR. (See fn. 1, *supra*.)² This letter also briefly responds to the comment submitted by Caltrans on the DSEIR in its October 23, 2018 letter.

¹ The Molland letter repeatedly refers to the County’s September 2018 “Draft Supplemental Environmental Impact Report, Roblar Road Quarry” as the “Supplemental EIR” or “SEIR” – as if it were a final CEQA document – rather than accurately referring to it as a “Draft SEIR” or “DSEIR,” which would properly reflect its actual title and substantive content under the California Environmental Quantity Act (“CEQA”; Pub. Resources Code, § 21000 et seq) and CEQA Guidelines (14 Cal. Code Regs., § 15000 et seq.). The Molland letter’s error is not merely a matter of semantics. The letter argues on various points that the DSEIR lacks discussion, information or evidence that it allegedly should contain in order to be legally adequate. The Molland letter fails to apprehend that – regardless of the merit (or more accurately, lack thereof) of its specific arguments about what content allegedly must be contained in the “SEIR” – the content of a final EIR under CEQA *always* differs from that of a draft EIR. A final EIR contains a great deal more text, documents, and information than does the draft document. As explained in the CEQA Guidelines, the final EIR consists of: the draft EIR or a revision of the draft; the comments on the draft EIR; a list of persons and entities commenting on the draft EIR; the lead agency’s responses to significant environmental comments arising during permit during the review process; and any other information added by the lead agency. (14 Cal. Code Regs., § 15132.) In short, the Molland letter’s arguments (i.e., that the “SEIR” does not contain allegedly required content) lack merit as a general matter and focus on the wrong document – a necessarily incomplete *draft* CEQA document, rather than the yet-to-be- completed and certified Final SEIR. Unsurprisingly, the Molland letter ignores relevant evidence and information contained in other documents in the administrative record including, but not limited to, timely comment letters (and their evidentiary exhibits) which will ultimately become part of the Final SEIR.

² While this letter addresses the great majority of the legal and factual flaws in the Molland letter’s arguments and its attached “expert” evidence, Barella intends to submit a further response addressing the flaws in the 10/26/18 “economic analysis” letter report submitted by Michael Kavanaugh (“Kavanaugh letter”), and Molland’s/CARRQ’s misuse of the same.

I. RESPONSE TO CARRQ COMMENTS IN MOLLAND LETTER

A. The Molland Letter Materially Overstates The Number Of Haul Truck Trips That Will Occur Under The Already Approved Quarry Project

The Quarry project has been approved; its haul truck trips will ultimately occur without regard to the minor COA modifications Barella seeks. While the number of already-approved Quarry project haul truck trips is thus irrelevant to those modifications, it nonetheless bears pointing out (for the sake of an accurate factual context and “baseline”) that CARRQ grossly exaggerates that number. The Molland letter claims (at page 2) that it is undisputed that “over nearly [sic] **two million** gravel trucks will clog the County’s [roads] ... during the life of the project[.]” (Emph. in orig.)³ This overstates the total number of one-way haul truck trips during the project’s lifetime by well over 400,000, without even taking into account further truck trip reductions that will occur due to site conditions, and to the fact that there will be many “working” days each year when the Quarry cannot operate at all – and, hence, no truck trips will occur – because of inclement weather conditions.

The Quarry Use Permit limits the extraction of aggregate material from the Quarry to a maximum of 570,000 cubic yards per year for the Quarry’s permitted 20-year period of operation. Quarry Use Permit operational COA No. 150 also provides in relevant part:

Permitted hours of operation are 7:00 a.m. to 5:00 p.m. weekdays and 7:00 a.m. to 4:00 p.m. on Saturdays. There shall be no clearing or mining operations on Sundays or federal holidays.

(12/14/10 Bd. COAs and Mit. Monitoring Program for Roblar Road Quarry, File No. PLP03-0094, p. 39.)

Using the certified 2010 Final EIR’s figure of an average of 27 one-way trips per hour, the Quarry Use Permit’s restrictions would thus allow about 270 gravel truck haul trips per weekday and 243 trips each Saturday – significantly fewer trips than the 302 per work day figure asserted in the Molland letter and DSEIR.⁴ Accordingly,

³ The Molland letter is actually making a claim about the number of one-way truck trips, which is by definition twice the number of round trips, and not the number of actual trucks. This response addresses the substance of the Molland letter’s intended factual claim regarding the number of one-way haul truck trips.

⁴ The DSEIR’s bracketed insertion, at p. 3.4-8, of a daily figure of 480 trips taken from Table IV.E-6 of the 2010 FEIR – which were apparently incorrectly extrapolated from that document’s 43-trip peak hours figure – simply does not make sense for a number of reasons that are explained further below, including the limiting effect of the project Use Permit’s 570,000 cubic yard annual aggregate

the average number of already analyzed and permitted *daily one-way truck trips* on “working days” when the Quarry is actually allowed to operate is only 265.5. Using this number, and employing the Molland letter’s own formula (which assumes 300 working days per year, to account for Sundays and Federal holidays when the Quarry is not permitted to operate), results in the following calculation: 265.5 trips x 300 days x 20 years = 1,593,000 gravel truck haul trips over the entire permitted period of operation.

Another (and more accurate) way to calculate the maximum total number of truck trips is to: (1) divide 570,000 cubic yards (the maximum amount of aggregate permitted to be extracted from the Quarry in any year under the Use Permit) by 15 cubic yards (the individual capacity of a single haul truck); (2) take the resulting figure (38,000 trucks) and multiply it by two for travel each way, which would result in 76,000 annual truck trips; (3) and then multiply that figure by the Quarry project’s 20-year permitted operation. This calculation produces a total of 1,520,000 truck trips.⁵ As noted above, and in any event, by any reasonable and credible calculation, there will be more than 400,000 *fewer* truck trips than the “two million” trips claimed in the Molland letter – revealing an exaggerated total by CARRQ that is approximately 130% of the maximum number of truck trips that would actually occur consistent with permit limitations.

extraction limit, and the fact that the peak-hour number represents the number of trips occurring in the *busiest* hours of the day. An accurate estimate of total trips would (1) multiply the average (not peak) number of hourly trips by total hours of operation, and/or (2) divide the 570,000 cubic yard total annual aggregate limit by the 15 cubic yard individual truck capacity, then multiply by 2 (for travel each way), and then multiply by 20 years (the life of the project). As shown below, either of these calculation methodologies results in a total haul truck trip figure more than 400,000 trips *lower* than the grossly exaggerated number claimed by CARRQ.

⁵ This figure is confirmed by using relevant figures contained in the Kavanaugh letter, which converts cubic yards to tons by use of a 1.3 conversion factor. Mr. Kavanaugh calculates the 570,000 cubic yard maximum annual aggregate extraction limit to be equivalent to 11.4 million cubic yards over 20 years, which (using Kavanaugh’s 1.3 tons per cubic yard conversion factor) is equivalent to 14.82 million tons (which Kavanaugh then improperly rounds up to 15 million tons). An individual haul truck (which has a capacity of 15 cubic yards, or 19.5 tons using Kavanaugh’s 1.3 conversion factor) would need to make 769,231 round trips to haul 15 million tons, or 1,538,462 one-way trips to haul that amount (which is actually more tonnage than Barella is legally allowed to extract, assuming the accuracy of Kavanaugh’s 1.3 conversion factor). Using the correct (unrounded) figure of 14,820,000 tons (14.82 million tons) resulting from Kavanaugh’s calculations and dividing it by 19.5 tons per truck results in 760,000 round trips, or 1,520,000 one-way trips – a figure that is 480,000 less trips than the exaggerated “2 million” figure claimed in the Molland letter.

But exposing the Molland letter's flawed calculation regarding the maximum number of one-way gravel truck haul trips *theoretically* possible (under the annual extraction limit and COA 150) fails to reveal the full extent of that letter's error. That is because the theoretical maximum number does not account for other physical realities and factors that will come into play and affect the number of truck trips. In reality, the actual number of one-way truck trips will be substantially lower than the number theoretically allowed by the Quarry's Use Permit based on the FEIR's (already-conservative) figures. Further trip reductions will result from topographical conditions and related factors (i.e., the significant elevation changes trucks must navigate to get in and out of the Quarry, and the additional time required to do so), as well as weather-related factors that will preclude Quarry operations during severe inclement wet winter weather when trucks are unable to operate there.

Again, while not directly relevant to any substantive issues related to the DSEIR, the Molland letter's errors and gross exaggerations of the project's number of truck trips do raise legitimate issues as to the commenter's *credibility* – which *is* a relevant issue in assessing the commenter's arguments and proffered "evidence." (See, e.g., *Joshua Tree Downtown Business Alliance v. County of San Bernardino* (2016) 1 Cal.App.5th 677, 690-691 [while members of the public may "provide opinion evidence where special expertise is not required [,]" the "[i]nterpretation of technical or scientific information requires an expert evaluation" and public testimony "on such issues does not qualify as substantial evidence"]; *id.* at 691 ["dire predictions by nonexperts regarding the consequences of a project do not constitute substantial evidence"], citing *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1417.) The Molland letter's mistakes simply ignore the relevant evidence and are sufficiently egregious for the Board of Supervisors, should it so choose, to explicitly reject CARRQ's contentions based solely or in part on its demonstrated bias and lack of credibility. (*Joshua Tree Downtown Business Alliance, supra*, 1 Cal.App.5th at 692 [holding CEQA requires that "the lead agency [be given] the benefit of the doubt on any legitimate, disputed issues of credibility" and that "at a minimum, these were legitimate issues regarding the credibility of... opinions [offered by plaintiffs]" and "the County could deem them not substantial evidence" sufficient to support a fair argument].)

B. The Molland Letter Misconstrues The DSEIR And Record Evidence In Arguing The Modifications Sought By Barella Will Not Meet Applicable Safety Standards; To The Contrary, Both The DSEIR And Substantial Evidence Elsewhere In The Record Show The DSEIR's Recommended 32-Foot Road Widening Will Satisfy Safety Concerns

The Molland letter next erroneously claims that "there is no question, no debate at all, that if the modifications are allowed Roblar Road will not meet ... safety standards" and "that the SEIR itself finds that significant and unavoidable environmental impacts will occur" if existing COAs governing the Roblar Road widening mitigation measure (COAs 49 and 59) are modified. (Molland letter, p. 2.)

Not so. For the record, Barella *does* “question” and “debate” these alleged conclusions because they are simply not true. In fact, as shown below, neither the DSEIR’s analysis nor the record evidence supports these false assertions. To the extent the DSEIR purported to find any “impact” based on the proposed road widening modifications’ alleged inconsistency with County general plan policies, that “impact” would be a *land use* issue for the Board of Supervisors’ ultimate determination, *not* an *environmental* impact within the purview of CEQA. (*The Highway 68 Coalition v. County of Monterey* (2017) 14 Cal.App.5th 883, 896 [“general plan consistency is not an issue reviewed under CEQA” and “CEQA does not require an analysis of general plan consistency”].)⁶

The Molland letter bases its argument in this regard on DSEIR statements that project-related truck traffic increases on Roblar Road “*could* introduce potential bicycle safety hazards” and “*could* introduce potential traffic safety hazards.” (Molland letter, p. 2, quoting DSEIR text re Impact 3.4-3 and Impact 3.4-4, *emph. added.*)⁷ The DSEIR’s actual analysis of these potential environmental issues shows that the new mitigation measures which it discusses, and to which the

⁶ The DSEIR’s purported findings of a significant “impact” after mitigation conspicuously omit the adjective “environmental,” and are not based on any expert opinion or other evidence that 11-foot travel lanes, 4-foot paved bike lanes, and 1-foot rock shoulder backing on the affected segment of Roblar Road would actually result in an *unsafe physical environment* for bicyclists or motorists. Rather, these findings are based *solely on plan consistency* issues, i.e., “the proposed travel lanes would not meet the *general* AASHTO 12-foot lane recommendation, and the proposed bicycle lanes would not meet the *general* specifications of the Sonoma County Bicycle and Pedestrian Plan, which would provide additional protections that include a 5-foot paved lane (Policy 2.08).” (DSEIR, pp. 3.4-12, 3.4-13, *emph. added.*) But not meeting general specifications that County plans provide for new roads, or not providing “additional protections,” does not mean the DSEIR’s proposed mitigation will result in unsafe conditions or will have adverse environmental impacts. Indeed, the DSEIR clearly concludes based on substantial evidence (as discussed in more detail below) that the proposed mitigation (described above) will *not* result in an unsafe condition. Moreover, as indicated above, general plan consistency is a land use issue entrusted to the County Board’s sound discretion after considering and balancing all relevant policies and considerations, not an “environmental” issue properly analyzed under CEQA. (*The Highway 68 Coalition, supra*, 14 Cal.App.5th at 896.)

⁷ The word “could” is carried over from the CEQA review of the originally proposed Quarry project without *any* road widening mitigation. These *potential* environmental impacts were discussed in the original project FEIR, and were the basis for imposition of the 40-foot road-widening mitigation measure (imposed in COAs 49 and 59) that Barella now seeks to modify. The DSEIR’s use of the word “could” is *not* intended to indicate that Barella’s proposed modifications *as mitigated by the DSEIR’s recommended mitigation* could result in any significant safety impacts.

Applicant has already expressly and unequivocally consented, would mitigate all potential bicycle and traffic safety impacts to an acceptable level. Keeping in mind Barella's application to modify COAs 49 and 59 was submitted over two years ago, in 2016, the DSEIR also analyzes that *initial* proposal by the Applicant to modify the travel lane and shoulder width on the affected segment of Roblar Road from 12-foot travel lanes and 6-foot paved shoulders to 11-foot travel lanes with paved shoulders of only 3 feet. (DSEIR, 3.4-9 – 3.4-10.) The DSEIR notes that *that* proposed modification – i.e., with 11-foot travel lanes and only 3-foot paved shoulders – would not conform to the latest published AASHTO road design guidance (on which the County General Plan bases its road design standards), as did the requirements of COAs 49 and 59. However, the DSEIR also notes that the relevant AASHTO publication expressly provides an *exception* “[o]n roadways to be reconstructed, [under which] an existing 22-foot traveled way may be retained where alignment and safety records are satisfactory.” (*Id.*, p. 3.4-10.) It then cites collision history statistics for Roblar Road (which is currently less than 22 feet in width with no paved shoulders) showing that its 2011-2015 rate of 0.64 collisions per million vehicle miles travelled (MVMT) was substantially less than the comparable collision rates for rural two-lane roads in Sonoma County (1.23 collisions per MVMT), Caltrans District 4 (1.09 collisions per MVMT), and Caltrans Statewide (1.01 collisions per MVMT), thus “indicat[ing] that a 22-foot travelled way could be used on Roblar Road” consistent with AASHTO. (*Ibid.*)

The DSEIR's conclusion confirming the acceptability of 11-foot travel lanes on Roblar Road, consistent with AASHTO and safety concerns, is amply supported by substantial evidence in the record. (See 5/11/16 CHS Consulting Group Technical Memorandum, at p. 3 [reproducing AASHTO Greenbook Table 5-5, which allows 11-foot travel lanes for the design traffic volume if there is no crash pattern data suggesting need for wider lanes]; 8/28/18 County DTPW Traffic Engineer Jeff Clark memo, pp. 1-2 [recommending County require as mitigation two 11-foot travel lanes, two 4-foot bike lanes, and two 1-foot unpaved road backing areas or a 32-foot cross-section, stating this will address potential truck/bicyclist conflicts, and noting that reconstructing Roblar Road to wider dimensions of “24 feet of travelled way with paved shoulders of 4 to 6 feet could result in [undesirable] increased speeds”].)

In further analyzing the issue, the DSEIR addresses bike lane/shoulder requirements and concludes that “the minimum acceptable roadway cross-section for Roblar Road would be two 11-foot travel lanes, two 4-foot bike lanes, and two 1-foot unpaved road backing areas, for a total 32-foot cross-section. This cross-section has been reviewed by the SCBPAC and was found to be the minimum acceptable cross-section for Roblar Road. The DTPW Director and Traffic Engineer have concurred with this recommendation (Clark, 2018).” (DSEIR, p. 3.4-11.) The DSEIR further states with respect to potential impact/mitigation measure 3.4-3: “The DTPW as well as the SCBPAC have reviewed the proposed project and determined that, ***as mitigated, it would be adequate for bicycle and traffic safety. The DTPW determined that 11-foot wide travel lanes would safely handle Quarry trucks because this segment of Roblar Road would be***

improved with paved shoulders at least 4 feet in width.” (*Id.* at p. 3.4-12, *emph. added.*) With respect to potential impact/mitigation measure 3.4-4, the DSEIR consistently states it would ensure “4-foot wide bicycle lanes with 1-foot unpaved shoulders along the improved segment, consistent with the SCBPAC recommendation” and that “[*t*he DTPW has determined the proposed project [*as so mitigated*] would not be unsafe with respect to traffic safety impacts.” (*Id.*, p. 3.4-13, *emph. added.*)

The Molland letter, at page 2, claims “the [D]SEIR concedes that to allow the proposed modifications will create a county road unsafe for motorists, bicyclists and anyone unfortunate enough to be present near its haul route.” It parrots this false contention at various places throughout its text. (See, e.g., Molland letter, p. 4 [summarizing arguments and asserting “the SEIR itself shows the proposed modifications to the existing conditions will make the project unsafe and constitute a significant and unavoidable environmental impact”]; pp. 6-7 [asserting same argument].) But even giving these arguments in the Molland letter (like those in its accompanying Daniel Smith letter, discussed below) the benefit of the doubt as to their credibility, they are plainly mistaken and irrelevant for one basic reason: they all address and attack *no longer proposed* modifications calling for a road with 3-foot paved bicycle lanes. (See, e.g., Molland letter at p. 6 [asserting and assuming “Applicant ... proposes to construct improvements to Roblar Road that would include ... two 3-foot wide paved shoulders, and two 2-foot wide rock shoulders”].) **Contrary to this incorrect assumption, however, the Applicant has unequivocally accepted the County’s and SCBPAC’s recommended mitigation, developed during the CEQA process, just as it is stated in the DSEIR.** Accordingly, Barella has been diligently pursuing a 32-foot road section (with 11-foot travel lanes, 4-foot paved bicycle lanes, and 1-foot rock shoulder backing) that is fully compliant with that DSEIR-recommended mitigation. (See, e.g., 10/26/18 Scott Briggs comment letter at p. 3.)

In short, the Molland letter attacks a “straw man” and ignores relevant evidence in the administrative record, including that contained in the Applicant’s above-cited comment letter, which itself will become part of the Final SEIR. This fatal omission completely undermines the substance (and credibility) of all of the Molland letter’s (and its “expert’s”) arguments on the traffic/bicycle safety issues.⁸

C. The Daniel Smith Opinion Letter Is Also Irrelevant Because It Fails To Address The DSEIR’s Mitigation Measure And Does Not

⁸ The Molland letter’s statements plainly do not address the reduced road-widening mitigation actually recommended in the County’s DSEIR and supported by the County’s and Barella’s experts. Even if they did, however, they would still directly conflict with the DSEIR statements quoted above stating that the County-recommended mitigation adequately addresses the Project’s potential bicycle and traffic safety impacts.

**Constitute Substantial Evidence Undermining The DSEIR's
Traffic/Bicycle Safety Conclusions**

**1. Like The Molland Letter, The Smith Letter Addresses The
Wrong Issue And Does Not Constitute Relevant Or
Substantial Evidence**

The Molland letter offers as its “Exhibit 1,” and as allegedly relevant to the traffic/bicycle safety issue, a 5-page letter from Daniel T. Smith, Jr., P.E., dated October 26, 2018 (the “Smith letter”). The Smith letter states various opinions of Mr. Smith and the bases therefor. With respect to the traffic/bicycle safety issues addressed in the DSEIR, the Smith letter opines that “the DSEIR’s analysis is unreasonable, inadequate and does not support changing the required design of Roblar Road to a substandard one under findings of overriding considerations.” (Smith letter, p. 4.)⁹ But the Smith letter’s opinions of inadequate separation of bicycles and motor vehicles, and inadequate space for bicyclists to pass one another or avoid “wind buffering effects” or potential hazards, are not based on the road and bicycle lane dimensions called for by the DSEIR’s proposed mitigation. Rather, they address the *initially proposed* modification to COAs 49 and 59 – modifications which the record makes clear that the County is not recommending and that the Applicant is no longer proposing or pursuing. (See Smith letter, p. 3 [basing analysis and opinions on “sub-standard design with only 3 feet of paved shoulder” for bicycle lanes].) Like the Molland letter, the Smith letter thus attacks a “straw man.” It is fundamentally and fatally flawed as supposed substantial and relevant evidence, since its conclusions are all based on a materially erroneous factual premise.

While this error alone negates the Smith letter and its opinions as supposedly constituting “substantial evidence,” the Smith letter also contains other material errors which render it irrelevant (and insubstantial) evidence on the traffic/bicycle safety issue. (See, e.g., Smith letter at p. 2 [calculations fail to consider actual dimensions of trucks and bike lanes and Applicant engineer’s (BKF) exhibits

⁹ Because Mr. Smith is an engineer, not an attorney, his speculation regarding “findings of overriding considerations” is unusual and unpersuasive, to say the least. Overriding considerations are *unnecessary* to approve a proposed project where mitigation measures imposed as conditions of approval substantially mitigate or lessen, or reduce its potential environmental effects to a less-than-significant level. (2 Kostka & Zischke, Practice Under the Environmental Quality Act (CEB 2d ed., 2018 Update), § 17.32, pp. 17-33 – 17-34, and cases cited.) While the Board could, perhaps, approve Barella’s proposed modifications pursuant to a statement of overriding considerations out of an abundance of caution, there is no substantial evidence that they will result in significant and unmitigated environmental effects which would require such findings. More to the point, there is substantial evidence in the DSEIR and record that, as mitigated, Barella’s proposed modifications will *not* result in significant environmental effects.

showing same and clearances]; pp. 2-3 [suggesting roadway should be designed in way that would actually have adverse environmental effects (per engineers Clark and Penry) by inducing higher speeds and that would accommodate *illegal* motor vehicle uses of bicycle lane]; p. 3 [opining as to “windblast effects” without ever analyzing or accounting for actual separation distances with 4-foot bicycle lanes, or for speed limits and likely truck speeds on relevant segment of Roblar Road]; p. 4 [opining recognized AASHTO exception to standard recommended 12-foot lanes, allowing for 11-foot travel lanes based on documented low collision rate history of Roblar Road, should not be applied based on same erroneous and grossly exaggerated project haul truck trip figures stated in Molland letter].) As confirmed in traffic engineer Jeff Clark’s August 28, 2018 memo to the County, the reconstruction and widening of the section of Roblar Road between the Quarry site access and Access Road 2 beyond what is now recommended as mitigation in the DSEIR (and being proposed by Barella) could result in *increased speeds* due to drivers feeling more comfortable on the wider roadway. Increased speeds would result in less, not more, safety on the road.

Another factor that the Smith letter failed to consider, and which further undermines its credibility and status as supposed substantial evidence, is the existence and potential effect of the Three Feet for Safety Act. That law, which was added by Stats. 2013, c. 331 (A.B. 1371), § 3, and became operative on September 16, 2014, is codified at California Vehicle Code Section 21760 and provides in relevant part as follows:

- (b) The driver of a motor vehicle overtaking and passing a bicycle that is proceeding in the same direction on a highway shall pass in compliance with the requirements of this article applicable to overtaking and passing a vehicle, and shall do so at a safe distance that does not interfere with the safe operation of the overtaken bicycle, having due regard for the size and speed of the motor vehicle and the bicycle, traffic conditions, weather, visibility, and the surface and width of the highway.
- (c) A driver of a motor vehicle shall not overtake or pass a bicycle proceeding in the same direction on a highway at a distance of less than three feet between any part of the motor vehicle and any part of the bicycle or its operator.
- (d) If the driver of a motor vehicle is unable to comply with subdivision (c), due to traffic or roadway conditions, the driver shall slow to a speed that is reasonable and prudent, and may pass only when

doing so would not endanger the safety of the operator of the bicycle, taking into account the size and speed of the motor vehicle and bicycle, traffic conditions, weather, visibility, and surface and width of the highway:

(Vehicle Code, § 21760, subds. (b), (c), (d).)

While substantial evidence in the record (which the Smith letter failed to consider) shows that haul trucks will be able to pass bicycles traveling in the four-foot paved shoulder on the widened section of Roblar Road, while still staying entirely within the 11-foot travel lane, the new law ensures that at least 3 feet (or a safe separation distance) *shall* be maintained – taking into account all relevant conditions, including the “surface and width of the highway” – or a truck cannot pass. For example, even if a bicyclist were unlawfully operating in the travel lane rather than the four-foot paved shoulder on a future, improved stretch of Roblar Road, it would be unlawful for the truck to pass at a distance of less than 3 feet, meaning that if the truck were unable to safely utilize the unoccupied opposite travel lane to pass safely – as motor vehicles commonly do – it would have to slow down and wait until it was safe to do so before overtaking and passing the bicyclist. This *additional layer of legal* protection provides additional safety for bicyclists on *all* California roads – whatever their dimensions and whether or not they have demarcated paved bike lanes or shoulders for bicycle travel – and traffic engineer Smith’s letter’s failures to acknowledge, analyze, or take this law into account further undermine its conclusions and evidentiary “substantiality.”¹⁰

¹⁰ A point appropriate to be clarified here, in light of some apparent confusion revealed by discussions at the last public hearing concerning the DSEIR, is that ***the Three Feet For Safety Act does not require any public agency to widen any public street or highway to any degree whatsoever, regardless of its current dimensions.*** Compliance with the law is required of ***motorists*** and regardless of the width of the road, and under the statute’s clear and plain language no road widening of any sort is required by any local agency, city or county to comply with the law. This is confirmed by the Legislature’s cost reimbursement findings in Section 4 of Stats. 2013, c. 331 (A.B. 1371), which state: “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, within the meaning of Section 17556 of the Government Code or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.” In other words, the Three Feet for Safety Act legislation will not result in any other costs than for those reasons specified above, and specifically does not result in any “costs mandated by the State” because it did not mandate any “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California

“Substantial evidence”, for CEQA and land use purposes, of course, is not synonymous with *any* evidence. It includes “facts, reasonable assumptions predicted upon facts, and expert opinions supported by facts” (14 Cal. Code Regs., § 15384(b)); it does *not* include “[a]rgument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment[.]” (§ 15384(a).) As shown above, the Smith letter fails to address the relevant issue (and relevant factors), and contains material errors and omissions that render it speculative, unsubstantiated, and clearly erroneous and inaccurate.¹¹ In sum, the Smith letter’s opinions are insubstantial, as they are based on inaccurate and unreasonable factual assumptions, argument and speculation. They are not supported by the facts, and are clearly erroneous and inaccurate. Accordingly, they do not qualify as “substantial evidence” for purposes of CEQA analysis in the context presented here.

2. **Even If, Solely For The Sake Of Argument, The Smith Letter’s Opinions On Bicycle/Traffic Safety Constituted Substantial Evidence, They Would Not Undermine The DSEIR’s Contrary Conclusions Or The Substantial Evidence Supporting Those Conclusions.**

Even if, solely for the sake of argument, the Smith letter were actually relevant and did constitute substantial evidence on the bicycle/traffic safety impacts of the DSEIR’s proposed mitigation (which, as noted, is the same as Barella’s currently proposed modification to the road widening mitigation measure embodied in COAs 49 and 59), it would not undermine the expert evidence and opinion and other substantial evidence supporting the DSEIR’s contrary factual conclusion. Under CEQA’s long-settled and deferential standard of review of project EIRs, their factual conclusions and determinations will be upheld if supported by *any* substantial

Constitution.” (Gov. Code, § 17514.) This would obviously not be true if the new law required local agencies to construct wider roads, streets and highways to achieve compliance.

¹¹ Moreover, and quite unfortunately, the Smith letter’s opinions, while signed by a licensed engineer, in their actual substance more often resemble attorney *arguments* than they do a professional engineer’s objective analysis. (See, e.g., Smith letter, p. 2 [referencing “naïve and superficial perspective of absolute change in lane width”]; p. 4 [opining it would be “unreasonable ... to degrade the mitigation” and predicting “County would incur substantial liability should it do so and a probable unfortunate incident should occur”]; p. 4 [referencing allegedly “massive changes in the character of traffic Roblar Road” from already approved project]; p. 4 [opining without any supporting evidence that requested modification to COA 133 by “inserting the words “as feasible” guts the intended protection of that condition for the convenience of the applicant”].)

evidence, contradicted or uncontradicted, and a disagreement of experts does not invalidate an EIR.

It is well settled that the County's and SEIR's factual findings contrary to those of CARRQ's expert will be judicially reviewed (should they be challenged) under a highly deferential substantial evidence standard (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 984), and that courts "must indulge all reasonable inferences from the evidence that would support the agency's determinations and resolve all conflicts in favor of the agency's decision." (*Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 117.) "Substantial evidence" that is sufficient to support an agency's or its EIR's conclusions does *not* mean *uncontradicted* evidence. Rather, it means enough relevant information and reasonable inferences that a "fair argument" can be made to support the conclusion – even though other conclusions might be reached – and "[a] court may not set aside an agency's approval of an EIR on the ground that an opposite conclusion would have been equally or more reasonable." (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 393; 14 Cal. Code Regs., §§ 15088.5(a), 15384(a).)

Accordingly, even a legitimate disagreement among credible experts does not make an EIR invalid. (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 940; see *North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. of Directors* (2013) 216 Cal.App.4th 614, 642-643; *California Native Plant Society, supra*, 172 Cal.App.4th at 625-626.) Thus, even if the Smith letter somehow constituted credible "substantial evidence" on the relevant point – which, for all the reasons stated above, it does *not* – it would nonetheless not undermine the DSEIR's contrary factual conclusions. Those conclusions, which are in fact uncontradicted, state that modification of the road-widening COAs (to provide for a 1-4-11 – 11-4-1 road segment configuration) would be acceptable and adequate mitigation that would not produce unsafe physical environmental effects from a traffic/bicycle safety perspective.

D. The Molland Letter Misunderstands And Misstates The Law Regarding When Mitigation Measures May Be Deleted Or Modified, And Fails To Show That No Substantial Evidence In The Record Would Support Barella's Requested Modifications

The Molland letter, at page 4, enumerates and summarizes a total of six "reasons" (i.e., CARRQ's arguments) challenging the legal sufficiency of the DSEIR. The lack of merit of the second of these arguments (pertaining to the traffic/bicycle safety issue) has been fully addressed above. Four of the remaining five arguments are closely related to one another, as they all pertain to the legal standards for modifying CEQA mitigation measures and for showing such measures are "infeasible."

Following the Molland letter's numbering scheme, and summarizing its arguments, the first argument asserts that mitigation measures may only be modified as the result of a "sudden and unforeseen development." The third argument asserts that only a showing of *economic* infeasibility can support the Applicant's requested modifications, and further claims that such a showing must be based on "the expected economic returns of the enterprise." The fourth argument contends the DSEIR must make the allegedly required showing of economic infeasibility and does not. The fifth argument addressing feasibility issues claims the record (but not the DSEIR) contains some evidence of the possibility that the existing COAs Barella seeks to modify are economically feasible to comply with as written, and that the DSEIR should discuss such evidence. Each of these meritless arguments is addressed below.

1. **CEQA Requires Only That A Governing Body State A Legitimate Reason Supported By Substantial Evidence To Delete Or Modify An Earlier Adopted Mitigation Measure; There Is No Requirement That The Reason Must Be Based On A "Sudden And Unforeseen Development."**

In arguing that a "sudden and unforeseen development" is required to modify or delete previously adopted CEQA mitigation measures (Molland letter, pp. 4-6), the only legal authority the Molland letter cites to support this position is CEQA Guidelines § 15163(d). That provision sets forth the standards under which a supplement to an EIR, rather than a subsequent EIR, may be prepared. The Molland letter, at page 6, purports to block-indent quote from this Guideline section. In fact, it paraphrases from the *preceding* Guidelines section 15162(a)(3)(A) – (D), which sets forth standards for when a subsequent EIR may be required based on a lead agency's evidence-supported findings that "[n]ew information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete[.]"

The Molland letter's assertion that the DSEIR does not show or demonstrate such new information does nothing to undermine the legal validity of the DSEIR. More to the point, it does not speak at all to the relevant legal standards for deleting or modifying an original EIR's adopted mitigation measures or show that substantial evidence does not support the Applicant's showing of infeasibility of the measures he seeks to modify here.¹²

¹² The Molland letter engages in a pointless – and in many instances materially inaccurate – "rehash" of the two meritless lawsuits that CARRQ and its members previously filed, litigated for years in the trial court and on appeal (between 2010 and 2015), and ultimately lost. (Molland letter, pp. 5-6.) While the reasons for the Molland letter's irrelevant recounting of the past litigation are not entirely clear, they appear to be intended to support its assertion that "[a]t no time in this litigation, did the Quarry's attorneys challenge the feasibility of the mitigation measures or the conditions of approval[.]" (*Id.*, p. 6.) To which the appropriate response is: so what?

The legal standards for deleting or altering mitigation measures and showing infeasibility were addressed in detail in my October 29, 2018 comment letter submitted on Barella's behalf on that topic. That letter, which is already part of the record of these proceedings, is hereby incorporated by reference, and its analysis need not be repeated herein. In sum, the law requires only a "legitimate reason" supported by substantial evidence, which may be provided by showing a measure is infeasible or impracticable on *any number of grounds* – including, but in no way limited to, a showing of its economic infeasibility. No relevant law has ever stated that infeasibility must result from a "sudden and unforeseen development," as the Molland letter incorrectly argues.

2. **The Molland Letter Mistakenly Assumes That Barella Must Show Economic Infeasibility, Misstates The Legal Standards For Showing Economic Infeasibility, And Fails To Address Substantial Evidence In The Record Showing Infeasibility On Numerous Grounds**

As pointed out in detail in my October 29 comment letter submitted on behalf of the Applicant, mitigation measures may be found infeasible on any or all of numerous grounds – e.g., environmental, legal, social, and technological – and not just based on economic infeasibility (as the Molland letter appears erroneously to assume by focusing on just that single potential ground). But even addressing just the limited area of economic infeasibility to which the Molland letter is directed, that letter materially misstates the applicable legal standards.¹³

Barella's attorneys had no reason or obligation to do so. While it was recognized at the time the Final EIR was certified that the road widening measure *could* be infeasible (thus resulting in significant impacts) *if* eminent domain would be required to provide the necessary right of way, the best available information *from County sources* at the time was that sufficient County prescriptive right of way existed to build improvements of the exact dimensions improvidently required. It was not until much later – after the conclusion of the litigation – that it was learned through subsequent investigation that County's and the original FEIR's assumption in this regard was factually mistaken. Moreover, as noted in Scott Briggs' prior correspondence submitted on behalf of the Applicant, the County's 2010 Quarry project approval findings overrode any unmitigated significant impacts identified in the original FEIR. Similarly, the infeasibility of the other mitigation measures regarding wetland setbacks – due to their inherent conflict (as mistakenly drafted) with the road widening simultaneously required by COAs 49 and 59 – was not discovered until after the litigation concluded in County's and Barella's favor and Barella set out in earnest to satisfy the COAs. The Molland letter cites no contrary evidence and no law requiring Barella to have raised the infeasibility of the COAs he now seeks to modify during CARRQ's litigation.

¹³ While the Molland letter's meritless legal arguments in this regard are refuted below, as noted above Barella intends to submit subsequent correspondence further

Barella agrees with the Molland letter to the extent it asserts that a showing of economic infeasibility generally requires evidence that the additional costs or lost profitability associated with the mitigation measure in question must be great enough to make it impracticable to proceed with the project. Further expanding on this principle, the law provides that the test for economic feasibility of alternatives to a project as proposed “is not whether [the project proponent] can afford the proposed alternative, but whether the marginal costs of the alternative as compared to the cost of the proposed project are so great that a *reasonably prudent property owner* would not proceed with the [alternative].” (*The Flanders Foundation v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603, 622 (“*Flanders*”), *emph. in orig.*, quoting *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 600; see also, *SPRAWLDEF v. San Francisco Bay Conservation and Development Commission* (2014) 226 Cal.App.4th 905, 918 (“*SPRAWLDEF*”).) But the Molland letter is patently *incorrect* in asserting that the law requires evidence of the very specific types of economic data it argues must be analyzed, and further *incorrect* when it asserts such data and analysis (or any economic data or analysis at all) must be contained in the EIR itself.

The reason for this logically flows from CEQA’s “first principles.” Because an EIR is an informational *environmental* report, it generally need *not* contain analysis or conclusions as to the *economic* feasibility of the project or alternatives. (*Flanders, supra*, 202 Cal.App.4th at 618-619 [rejecting plaintiff’s contrary contention, and holding economic analysis relied on by City as constituting substantial evidence supporting its ultimate findings of infeasibility, did not need to be included in EIR itself so long as it existed somewhere in the administrative record].) Moreover, CEQA case law addressing the issue of economic infeasibility “does not require any particular economic analysis or any particular kind of economic data, but requires generally ‘some context’ that allows for economic comparison.” (*SPRAWLDEF, supra*, 226 Cal.App.4th at 918, citing *Town of Woodside, supra*, 147 Cal.App.4th at 600-601.) The courts have “declined to limit the ways in which economic infeasibility could be shown, noting they could be numerous and vary depending on the circumstances.” (*Id.* at 919.) Further, economic information showing the economic infeasibility of the proposed project or alternatives may properly be provided by the real party in interest, and may not be discounted or ignored simply because it comes from that source. (*Id.* at 921.)

SPRAWLDEF is instructive. In that case, following years of environmental review and CEQA litigation, a plaintiff group (*SPRAWLDEF*) filed a writ petition challenging the decision of the San Francisco Bay Conservation and Development Commission (BCDC) rejecting administrative appeals and upholding (as modified) Solano County’s landfill expansion permits for the Potrero Hills Landfill in the Suisun Marsh. *SPRAWLDEF* claimed the permits violated regulations prohibiting filling water courses unless no reasonable alternatives were available, and specifically alleged

addressing the flaws in the Kavanaugh letter and Molland’s/CARRQ’s misuse of that letter.

no substantial evidence supported BCDC's rejection (as economically infeasible) of a reduced-size expansion alternative that would have protected the Spring Branch watercourse from alteration. The Court of Appeal reversed the trial court's judgment which had granted SPRAWLDEF's petition on that sole ground; it analyzed SPRAWLDEF's arguments as to the "no reasonable alternative" ordinance provision by "employing CEQA's definition of 'feasible,' and the CEQA case law concerning economic infeasibility, [concluding this was] an appropriate [analytical] approach since the term embraces the concept of reasonableness." (*Id.* at 917.)

In analyzing the economic feasibility issue, the Court of Appeal noted the "real party [landfill operator]... did not simply baldly assert the [reduced-size] alternative was not economically feasible" but, rather, "provided comparative figures and explained why an expansion that did not have 54 to 59 million cubic yards of capacity was not financially viable" and thus "provided the Commission with 'some context' to permit" its assessment of the alternative's economic feasibility. (*Id.* at 920.) Such evidence included a report contained in the administrative record that real party had prepared for the Army Corps of Engineers, examining in detail alternatives involving lesser changes to the watercourse at issue and comparing them in terms of "the per unit cost, capacity, and life of the landfill, for the proposed expansion and the alternatives. The costs per ton of the alternatives ranged from \$3.04 to \$11.53, compared to \$2.66 for the project as proposed. The capacities ranged from 10.1 million cubic yards to 15 million cubic yards, compared to 61 million cubic yards, for the project as proposed. And the life of the landfill ranged from 5.9 to 8.7 years, compared to 35 years for the project as proposed." (*Id.* at 920.) The Court held: "The disparity in these figures is so great it amply supports the [BCDC's] conclusion a reduced-size alternative of the magnitude necessary to avoid implicating Spring Branch was not economically feasible." (*Id.* at 920.)

Because the record evidence sufficiently allowed for an economic comparison between the project and proposed alternatives, and "a reasonable person could have reached the conclusion the [BCDC] reached[,]” the *SPRAWLDEF* Court found its inquiry was effectively ended, holding that:

There is no basis for the trial court's view that real party in interest had to produce significantly more detailed economic data showing net profit figures. As we have discussed, the courts have eschewed requiring any particular economic showing and have, instead, recognized that what is sufficient will depend on the particular context. In this case, the Commission had an adequate record before it to fairly determine the smaller alternatives were not economically reasonable.

(*Id.* at 921.)

The cases cited in the Molland letter fail to support its contrary claim that detailed and specific cost, income, and profitability data are legally required to demonstrate economic infeasibility. In a two-sentence analysis, *Burger v. County of Mendocino* (1975) 45 Cal.App.3d 322 rejected a developer's unsupported claim that a reduced-size alternative recommended by the EIR and planning department for a motel project was economically infeasible, noting: "There is no estimate of income or expenditures, and thus no evidence that reduction of the motel from 80 to 64 units, or relocation of some units, would make the project unprofitable." (*Id.* at 327.)

Citizens of Goleta Valley v. Board of Supervisors (1988) 197 Cal.App.3d 1167 held that the record did not contain substantial evidence supporting the County's finding that a reduced-size alternative for a coastal resort hotel project (with 340 instead of 400 units) was economically infeasible – the County's *sole* basis for finding infeasibility there – where the developer presented "estimates of annual revenues, infrastructure costs and overall project costs" for the proposed project but "[n]one of [its] figures purport[ed] to relate to estimated costs, projected income, or expenses for the 340-unit alternative." (*Id.* at 1180.) The Court unsurprisingly held that the limited scope of the data proffered by the developer "provide[d] no basis for a comparative analysis between the project actually approved and the 340-unit alternative" and that "[i]n the absence of such comparative data and analysis, no meaningful conclusions regarding the feasibility of the alternative could have been reached." (*Id.* at 1180-1181, citing *Burger, supra*, 45 Cal.App.3d at 326-327.) What the Court did *not* hold was that the specific types of economic evidence presented by the developer there were required or were the *only* types of evidence that can acceptably be used under CEQA to show economic infeasibility. The Molland letter's erroneous legal arguments in this regard are directly contradicted by *SPRAWLDEF*'s extensive contrary analysis and holdings that CEQA "does not require any particular economic analysis or any particular kind of economic data, but requires generally 'some context' that allows for economic comparison" and that courts have "declined to limit the ways in which economic infeasibility could be shown, noting they could be numerous and vary depending on the circumstances." (*SPRAWLDEF, supra*, 226 Cal.App.4th at 918-919.)

Economic infeasibility is not a ground that Barella has expressly relied on, and Barella does not need to rely on it to show the conditions he seeks to modify are infeasible. That being said, it seems rather obvious that a reasonably prudent property owner would not choose to incur additional purchase, construction, and mitigation costs, and additional delays from acquisition of additional lands through condemnation litigation proceedings, to build a wider-than-necessary road which will actually cause more adverse environmental impacts as a result of its construction, due to its greater impervious surface area and "footprint," and its

consequently greater impacts on wetlands, CTS habitat, and Williamson Act-protected agricultural lands.¹⁴

Attached hereto as Group Exhibit 1 are three sets of documents obtained, compiled and prepared by project biologist Ted Winfield, Ph.D. The first is a County document consisting of color map titled "Williamson Act – 2019 Calendar Year," which depicts (through a color-coded legend) lands throughout the County that are subject to Williamson Act contracts, and which has been annotated in red on the map to show the Roblar Road Improvement Corridor (i.e., the area of Roblar Road to be widened as a County-required mitigation measure for the Quarry Project). The second set of documents consists of copies of County PRMD Parcel Reports printed out by Dr. Winfield in January 2019, for the 10 relevant parcels abutting Roblar Road in the relevant area; these documents show that all 10 parcels "reside within" Williamson Act contracts, and all but two (APN #s 022-290-005 and -007) also "reside within" designated CTS (California Tiger Salamander) habitat. The third document is a one-page map of the relevant Roblar Road Improvement Corridor Area annotated in red to depict the locations of the relevant parcels (designated by APN) that are the subject of the preceding Parcel Reports. These documents comprising Group Exhibit 1 make it readily apparent that widening Roblar Road to 40 feet, rather than the 32 feet now proposed by Barella and the DSEIR, would require the taking and paving of a substantially greater incremental area of CTS habitat and Williamson Act lands – an environmental, social and economic impact that could be avoided with construction of the 32-foot road. ***In sum, a 40-foot road***

¹⁴ The Quarry Project's engineer and biologist have confirmed the wider 40-foot road's potential to impact sensitive habitat features (e.g., wetlands) and Williamson Act contracted lands to a substantially greater degree than the 32-foot road proposed as mitigation in the DSEIR, as well as its potential adverse impacts on parts of the Wilson property encumbered by an Agricultural and Open Space Conservation Easement. (See, e.g., DEIR Figure IV A. 4 [showing Williamson Act lands], and modified project plans submitted by BKF engineers.) With the 40-foot road design, retaining walls would likely be used to avoid impacting wetlands on adjoining properties, especially those on the Wilson property near where the left turn onto the private roadway would occur. There is a relatively large wetland that is near the road in that area that has the potential to be impacted by the wider road design. This would also add to the cost of the wider roadway. Retaining walls would also be used to keep the impact area from the wider roadway from possibly encroaching onto the Wilson property adjacent to Barella's property and impacting land that is encumbered by an Agricultural and Open Space Conservation Easement. The 40-foot road would also require an 8-foot wide strip of property that is encumbered by a Williamson Act contract to be taken from the Steinbeck Ranch property by eminent domain, while such a taking would be unnecessary for the proposed 32-foot wide road design. These factors and others would also undoubtedly add to the cost of the wider roadway, which as noted is *both unnecessary and more environmentally harmful* than the 32-foot road now recommended in the DSEIR.

would thus violate and adversely impact and impair numerous important County and State policies to a far greater degree than the now-proposed 32-foot road. It is well settled that mitigation measures that are *undesirable* from a *policy* standpoint may be found infeasible for that reason. (See 10/29/18 Coon letter to Hillegas, at p. 6, and cases cited.)

In addition to its legally flawed argument that specific types of economic data are needed to establish economic infeasibility under CEQA, the Molland letter compounds that legal error by erroneously asserting that such specific and detailed economic data are also required to show a measure is *legally* infeasible due to its violation of the constitutional requirement that it be “roughly proportional” to the impact of the project. (Molland letter, p. 9 [claiming quantified cost and income data are required to show such violation].) This unsupported assertion also fails. Economic, legal, social, environmental and technological factors may constitute *separate* and *independent* bases for an agency’s finding that a mitigation measure or alternative is infeasible (Pub. Resources Code, §§ 21061.1, 21081(a)(3)), and a mitigation measure that is not “roughly proportional” to the impacts caused by the project is plainly *unconstitutional* and therefore *legally* infeasible. (14 Cal. Code Regs., § 15126.4(a)(4)(B), citing *Dolan v. City of Tigard* (1994) 512 U.S. 374, 390; *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854.)

The “rough proportionality” analysis focuses primarily on causation and precludes a government agency from requiring a project developer, through conditions of approval, to provide public benefits clearly in excess of (and thus “disproportionate” to) the mitigation that would be required simply to mitigate the adverse environmental impacts caused by or attributable to the developer’s project.

This legal infeasibility has amply been shown here with respect to the road widening mitigation measure imposed by COAs 49 and 59. Roblar Road is currently in a substandard condition (with only 8 ½ - 10 foot travel lanes and no shoulders), and the *only* basis to require Barella to widen and improve it at all is to mitigate the potentially significant traffic/bicycle safety impacts that could otherwise be caused by his Quarry’s Project’s operations. As shown above, the DSEIR confirms that widening the impacted road segment to 11-foot travel lanes, with 4-foot paved shoulders for bicyclists, will be adequate to mitigate the Quarry project’s potential bicycle and traffic safety impacts under all the circumstances here to an acceptable level. While requiring more paved surface to satisfy the letter of *aspirational* County plans (which County wholly lacks funding to implement) might produce some additional *desirable public benefits*, it is *not* required to mitigate any environmental impacts caused by Barella’s project. The law does not allow the County to require Barella to build a road or to acquire and dedicate property simply because it would provide some public benefit – and additionally, as noted above, the unnecessary widening would also result in significantly greater environmental impacts. Accordingly, COAs 49 and 59 as written are *legally* infeasible (regardless of whether they are also independently found by the County to be economically infeasible).

The Molland letter also misapprehends the record evidence showing that the road widening called for by COAs 49 and 59 is infeasible because it would require extensive takings by eminent domain of substantial amounts of private property from unwilling sellers needed to obtain the necessary right of way that County currently lacks. This evidence, which is discussed further in this letter's following section, is relevant because case law has recognized as legitimate reasons supporting a finding that transportation improvement mitigation measures are infeasible the facts that the measures in question are not sufficiently funded and that they "would require extensive right-of-way takings from the adjacent properties[.]" (*Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 363.)

Finally, as noted above and previously, determining the feasibility of mitigation measures for CEQA purposes "involves a balancing of various economic, environmental, social, and technological factors[]" and "[i]n this sense ... encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors." (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001, citing and quoting *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401, 417; see also *Los Angeles Conservancy v. City of West Hollywood* (2017) 18 Cal.App.5th 1031, 1041 [same, collecting cases, and also noting that "agency's finding of infeasibility for this purpose is "entitled to great deference" and "presumed correct.""]).) A finding of infeasibility may thus be based on an evidence-supported finding that a proposed mitigation measure or alternative "is impractical or undesirable from a policy standpoint." (*Los Angeles Conservancy, supra*, 18 Cal.App.5th at 1041, citation omitted.) Such determinations are particularly appropriate where, as here, an undesirable and infeasible measure (40-foot road), as written, would have more adverse secondary environmental, economic and social impacts than would a proposed feasible alternative measure (32-foot road), and would frustrate or hinder development and accomplishment of an approved project (the Roblar Road Quarry) that itself greatly advances important economic, environmental and social interests (e.g., State policies and need for local aggregate source, reduction of GHG emissions from aggregate imports, etc.). ***There is absolutely no doubt that abundant substantial evidence exists to support a finding that the 40-foot road COAs are undesirable and infeasible from a policy standpoint on a number of grounds, and can thus be modified.***

E. The Molland Letter's Arguments Regarding The Realignment Of A Portion Of Americano Creek Lack Merit

The Molland letter makes three concluding arguments why Barella's proposal to realign and enhance a portion of Americano Creek is either unnecessary or prohibited. (Molland letter, pp. 13-14.) All these arguments lack merit.

First, the Molland letter argues "relocation" of Americano Creek will have "attendant environmental impacts" (which the Molland letter fails to identify) and that it is

“necessary” only if it is infeasible for Barella to acquire lands west of Roblar Road from McKnight or the Schelling Trust. The Molland letter further asserts that the DSEIR and “the record reviewed by CARRQ to date” do not show such land acquisition is infeasible. These assertions are unsupported and mistaken. The potential need to relocate a portion of Americano Creek was anticipated in the original FEIR, as a result of County’s improvident imposition of the original 40-foot road widening safety mitigation measure. It is not a result of Barella’s currently proposed modifications, which would *reduce* the widened road’s impervious footprint, and with it any adverse secondary “attendant environmental impacts,” and also substantially *enhance* the creek’s habitat value and better protect it from future road maintenance operations.

The Molland letter’s unsupported assertion that the relocation could somehow be avoided if Barella’s requested modifications are not approved makes no sense. Interestingly, this assertion is also directly contrary to the “expert opinion evidence” submitted by engineer Daniel Smith. (See Smith letter, p. 4 [asserting Americano Creek relocation issues are irrelevant to roadway design, and that “[t]he Applicant’s proposed sub-standard roadway design necessitates the same creek relocation as would the required roadway design that complies with applicable design standards”].) As deeply flawed as engineer Smith’s letter is in other respects, it is correct on this pertinent point: denying Barella’s reasonable request to modify COAs 49 and 59 so as to require widening Roblar Road to 32 rather than 40 feet will certainly not eliminate the road widening’s encroachment on, and the resulting need to realign, portions of Americano Creek.

The Molland letter also ignores the record evidence showing Barella has made *more* than reasonable and diligent efforts to acquire the McKnight and Schelling Trust properties – at *more* than fair market value – to provide additional County right of way (ROW), and that those owners have either ignored these efforts or expressly refused to sell. (See 10/29/18 Coon letter, and attached 6/23/17 Barella letter to property owners, 6/6/18 Steve Butler letter to property owners [offering to purchase property for ROW at well over high-end fair market value of \$11,200 per acre].) McKnight failed to respond at all to these repeated efforts, and the Schelling Trust responded negatively by June 13, 2018 email to Mr. Barella, expressly declining the offer and stating: “We are not interested in selling any of our portion of the Steinbeck Ranch at this time.” As noted above (see fn. 14), modification of the road widening requirement to 32 feet will avoid the necessity of eminent domain proceedings to take Williamson Act-contracted land from the Steinbeck Ranch’s hostile and unwilling owners.

Regardless of which portions of the record CARRQ has or has not reviewed “to date,” no more evidence is required to demonstrate the infeasibility of voluntary acquisition (without eminent domain litigation) of the ROW lands that would be needed to build the originally required 40-foot road. The Molland letter’s insinuation that Barella should be required to make additional offers even further in excess of

fair market value, based on the Quarry's supposedly "expected profits," in order to demonstrate infeasibility, is absurd.¹⁵

Moreover, as already noted above, economic feasibility is not relied on by Barella and is far from the only basis of infeasibility supported by the facts here, as the Molland letter incorrectly assumes. The need for County to invoke eminent domain to acquire substantial amounts of property from private owners unwilling to sell even for more than fair market value would entail expensive and lengthy litigation, further substantially *delaying* an already approved and beneficial project and consuming further County and developer resources.¹⁶ Unreasonable delays *alone* may also suffice to render a CEQA mitigation condition or alternative infeasible. (See Pub. Resources Code, § 21061.1 [“Feasible” means capable of being accomplished *in a successful manner within a reasonable period of time*, taking into account economic, environmental, social, and technological factors”], *emph. added*; see also, *Napa Citizens for Honest Government, supra*, 91 Cal.App.4th at 362-363 [County's legitimate reasons for deleting mitigation measure as infeasible included legal “rough proportionality” limits on mitigation measures, and need for extensive right-of-way takings from adjacent properties].) Combined with all of the other factors showing that pursuit of a 40-foot wide road is highly undesirable and thus infeasible from a policy standpoint, and the showing that the 32-foot wide road will adequately satisfy the safety concerns that prompted the original mitigation measure, the question of County's ability to find the measure infeasible and modify it to require that 32-foot wide road now proposed and recommended as mitigation is not even a close one: County clearly can and should do so.

Second, the Molland letter's assertion that the County should defer action on Barella's proposal to modify COAs 49 and 59 until the California Department of Fish and Wildlife (“DFW”) acts on a Streambed Alteration Agreement also lacks merit, and betrays a fundamental misunderstanding of how the CEQA process operates. The *County* is the CEQA lead agency for the approved Quarry project (and for the

¹⁵ As shown above, even considering economic infeasibility in isolation (which Barella has *never* suggested should be done), it is not based on whether a particular developer could afford a particular expense, but whether a *reasonably prudent property owner* would incur such an expense. A reasonably prudent developer who has already offered more than the high end of fair market value would not “bid against himself” to offer even higher above-market prices to hold-out owners who are members of a dedicated NIMBY opposition group obviously and adamantly opposed to his project and who are in effect trying to exercise a “pocket veto.”

¹⁶ The irony of project opponents insisting a more extensive road widening is necessary for public safety, yet refusing to sell even for above fair market value the lands needed to make that widening possible, should not be lost on the County. Taking positions such as this only adds to Molland's and CARRQ's long and well-documented “track record” of advancing unmeritorious legal and factual arguments and positions, and provides a further basis for finding they simply lack credibility.

proposed modified project) here, and neither CARRQ nor any other person has ever contested its lead agency status. The lead agency conducts CEQA review because it is principally responsible for carrying out or approving the subject development project proposal *as a whole*. (Pub. Resources Code, § 21069; 14 Cal. Code Regs., §§ 15367, 15050(a), 15051.) The DFW, by contrast, is a trustee agency which has jurisdiction over natural resources affected by the project and has permitting authority over a *portion* of the work needed to carry out the project. (Pub. Resources Code, § 21070; 14 Cal. Code Regs., § 15386.) Under CEQA, such a responsible or trustee agency is generally required by law to rely on the lead agency's CEQA review, and does not prepare its own CEQA document. Rather, the procedure is for the responsible or trustee agency to consider a legally adequate CEQA document prepared by the lead agency and to make appropriate findings as to aspects of project approval within its limited scope of jurisdiction prior to acting on or approving the project. (14 Cal. Code Regs., §§ 15050(b), (c), 15052; *Riverwatch v. Olivenhain Mun. Water Dist.* (2009) 170 Cal.App.4th 1186.) A responsible or trustee agency does not issue any discretionary approval of its own until CEQA review is complete, which necessarily requires that the lead agency has completed CEQA review and acted on the project. A responsible or trustee agency acts only *after* reviewing and considering the lead agency's final CEQA document, and *after* it has participated (through comments and consultation) to the extent it deems necessary in the lead agency's CEQA process.

The Molland letter fundamentally misunderstands these basic CEQA processes and concepts, which further undermines its and the commenter's credibility. Deferring action until DFW acts on a Streambed Alteration Agreement is not a legal option for the County, and the Molland letter's incorrect suggestion that it should do so provides no basis whatsoever for the County to deny Barella's proposed minor COA modifications.

Third, the Molland letter's argument that the relocation of Americano Creek (or any other aspect of the Quarry project or Applicant's requested modifications) would violate the setback or other provisions of County Code Chapter 26A (based on post-Quarry project approval 2012 modifications to the General Open Space Element's critical habitat maps) is also meritless. The DSEIR correctly indicates that the provisions CARRQ seeks to invoke do not apply retroactively and are inapplicable to quarry projects (such as the Roblar Road Quarry Project) which were already approved and permitted by the County following CEQA review prior to those changes in law. Further, the required realignment of Americano Creek is not (as the Molland letter incorrectly argues) "an independent and subsequent development" that should be subject to these changes in law (which were never intended to affect the approved Quarry project); rather, it is a necessary consequence and secondary effect of the approved project due to the road-widening mitigation measure originally imposed by the County when it approved the Quarry Project in 2010, and (as pointed out in my earlier letter) was expressly contemplated and discussed in the original EIR. (AA 2:503 [original DEIR stating "the proposed widening of Roblar and

Pepper Road may directly impact portions of Americano Creek, necessitating the alteration of this creek through realignment and/or culverting”].¹⁷

Finally, County Code § 26A-09-040(d) directly and definitively refutes the Molland letter’s meritless argument *as a matter of law*. That section clearly, expressly and unambiguously provides: **“Setbacks from designated critical habitat do not apply to sites that were reviewed pursuant to the California Environmental Quality Act and approved prior to the designation of the relevant critical habitat in the general plan.”** (emph. added.) This ordinance provision was adopted by the County Board of Supervisors as a clarification of existing law at a duly noticed public hearing on September 11, 2018. Neither CARRQ nor any other entity or person has ever challenged this ordinance, and any challenge to it is now time barred. (Gov. Code, § 65009(c)(1)(B).) A true and correct copy of the County’s Ordinance enacting this language, and the accompanying staff report and related documents, are attached hereto for the record as Group Exhibit 2. The Molland letter’s arguments are wholly meritless.

F. Conclusion Re: CARRQ/Molland Letter Comments

Neither the Molland letter, nor any of its exhibits, provide any legal or factual bases undermining Barella’s evidence that the mitigation measures he seeks to modify are infeasible. Nor does the letter or its exhibits undermine the DSEIR’s conclusions that the modified measures now recommended and proposed will not have any significant adverse environmental effects, and that the DSEIR’s recommended mitigation will be adequate to mitigate potential traffic and bicycle safety (and other potential environmental) impacts of the Quarry project. The Molland letter truly evinces but one thing: that CARRQ lacks credibility and remains willing to advance any argument – no matter how meritless and unreasonable it may be – in its single-minded and unremitting efforts to derail construction of a much-needed, long-planned and ultimately environmentally beneficial Quarry project approved by the County over eight years ago. The Molland letter’s and CARRQ’s arguments are not credible, not supported by substantial evidence, and should be rejected. The

¹⁷ As noted above, even the “expert” evidence submitted by CARRQ in support of its position contradicts the Molland letter on this point, stating: “The Applicant’s proposed sub-standard roadway design necessitates the same creek relocation as would the required roadway design that complies with applicable design standards.” (Smith letter, p. 4.) Setting aside Mr. Smith’s substantive errors and unnecessary adjectives, Barella agrees with the essential substance of his assertion here in this regard: when compared to the Applicant’s current proposal for a modified 32-foot road widening measure and associated realignment and enhancement of a portion of Americano Creek, the 40-foot road widening currently called for by COAs 49 and 59 also necessitates – and clearly in no way avoids – relocation of the creek. Accordingly, the need to realign Americano Creek is not an “independent” consequence of Barella’s current COA modification proposal, but clearly is inextricably tied to the original and existing Project approval.

DSEIR and record evidence amply support County's approval of Barella's requested modifications.

II. RESPONSE TO CALTRANS COMMENT

Caltrans' letter raised only one substantive concern, which is that the Stony Point/Roblar Road intersection be designed to allow implementation of the planned Petaluma-Sebastopol Trail. This concern is satisfied because the proposed trail follows the existing railroad right of way and is beyond the limits of work for the relevant intersection improvements. The Proposed Petaluma Sebastopol Trail Study Area Diagram prepared by Sonoma County Regional Parks shows the trail coming from Petaluma and departing from Stony Point Road approximately 1,000 feet south of the subject intersection, then continuing northwesterly until it crosses Roblar Road approximately 3,000 feet west of the intersection, and then continuing northerly towards Sebastopol along Peterson Road across from Dunham Elementary School. In sum, the sole substantive concern expressed by the Caltrans letter will not come to pass and provides no basis for objection to Barella's proposed modifications.

Very truly yours,

MILLER STARR REGALIA



Arthur F. Coon

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