

LEONA QUARRY

*Final Subsequent Environmental Impact Report
Limited to Hydrology
ER 01-33-SUBSEQ
SCH No. 1999042052*

January 14, 2004

*Prepared for
City of Oakland
Community and Economic
Development Agency*

*ER 01-33-SUBSEQ
Prior EIR SCH No. 1999042052*

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CHAPTER I

INTRODUCTION

A. CEQA PROCESS

On October 23, 2003, the City of Oakland (Lead Agency) released for public review a Draft Subsequent Environmental Impact Report (Draft SEIR) for the Modified Plan of the Leona Quarry Residential Project (ER 01-33-SUSBEQ). The initial 45-day public review and comment period on the Draft SEIR began on October 23, 2003, and was extended an additional 14 days to close on December 22, 2003. The Planning Commission held a public hearing on the Draft SEIR on November 19, 2003.

As discussed in the Draft SEIR, the City of Oakland prepared the SEIR to respond to a court order. Pursuant to *Dorsey et al. v. City of Oakland*, Alameda County Superior Court Action No. RG 03077607, the SEIR specifically addresses hydrological issues and any related effects to geology as a result of the hydrology analysis. Copies of the court's Judgment and Writ are included in Appendix A to the Draft SEIR.

The Draft SEIR for the Leona Quarry Residential Project, together with this Response to Comments, constitute the Final Subsequent Environmental Impact Report (Final SEIR) for the proposed project. The Final SEIR is an informational document prepared by the Lead Agency that must be considered by decision makers (including the Oakland City Planning Commission) before approving or denying the proposed project. This Final SEIR includes those elements required for a Final EIR, as follows:

- The Draft SEIR or a revision.
- Comments and recommendations received on the Draft SEIR either verbatim or in a summary.
- A list of persons, organizations, and public agencies commenting on the Draft SEIR.
- The response of the Lead Agency to significant environmental points raised in review and consultation process.

Any other information added by the Lead Agency.

This document has been prepared pursuant to the CEQA *Guidelines* and the court order. This Final SEIR incorporates comments from public agencies and the general public, and contains appropriate responses by the Lead Agency to those comments.

B. METHOD OF ORGANIZATION

This Final SEIR for the proposed Leona Quarry Residential Project contains information in response to comments received during the public comment period.

Following this introductory Chapter I, Chapter II of this document contains text changes (initiated by the Oakland Community and Economic Development Department staff and those resulting from comments on the Draft SEIR) and errata to the Draft SEIR.

Chapter III contains a list of all persons and organizations that submitted written comment on the Draft SEIR and that testified at the public hearing held on November 19, 2003.

Chapter IV contains comment letters received during the comment period and the responses to each comment. Each comment is labeled with a number in the margin and the response to each comment is presented immediately after the comment letter.

Chapter V contains a summary of the public comments received during the public hearing held on November 19, 2003, and the response to the comments received during the public hearing.

CHAPTER II

REVISIONS TO THE DRAFT SUBSEQUENT EIR

CHANGES TO THE DRAFT SEIR

The following corrections and changes are made to the Draft SEIR and are incorporated as part of the Final SEIR. Revised or new language is underlined (except where all of the indicated text is new). Deleted language is indicated by ~~striketrough~~ text.

Where a change is made as part of a response to a comment on the Draft SEIR, the comment number is noted in brackets at the end of the text change. Where no comment number is given, the change is initiated by City staff.

1. In Appendix B of the Draft SEIR, the following text is added to the list of State, Regional, and Local Agencies that submitted letters in response to the Notice of Preparation (NOP) for the project:

Keith H. Lichten, P.E.

California Regional Water Control Board, San Francisco Bay Region [E-1]

2. Mitigation Measure F.1a and Alternate Mitigation Measure F.1a, on pages V-20 and V-22 of the Draft SEIR respectively, are modified (see comment response D-1, page IV.D-1) to provide for a surface water drainage swale on the external berm of the detention basin, as follows:

Mitigation Measure F.1a: The Project sponsor shall be required to construct a stormwater management system, that includes a detention basin and outlet works capable of maintaining peak flows from the 24-hour, 25-year design storm at or below pre-project levels, and that will not fail structurally during a 100-year storm, as determined using the parameters resulting from the consensus process discussed in this SEIR. The basin shall be lined with an impermeable material to minimize leakage and contributions to local groundwater flow. A surface drainage swale shall be constructed along the base of the western-most external berm slope of the detention basin to capture surface water runoff from the berm and convey it to appropriate stormwater outlets. The stormwater management system reviewed in this SEIR, with the 15.6 acre-foot lower detention basin, meets these performance standards.

Alternate Mitigation Measure F.1a: The Project sponsor shall be required to construct a stormwater management system that will maintain peak flows from the

24-hour, 25-year design storm at or below pre-project levels, and not fail structurally during a 100-year storm, as determined using the parameters resulting from the consensus process discussed in this SEIR. The basin shall be lined with an impermeable material to minimize leakage and contributions to local groundwater flow. A surface drainage swale shall be constructed along the base of the westernmost external berm slope of the detention basin to capture surface water runoff from the berm and convey it to appropriate stormwater outlets. The stormwater management system reviewed in this SEIR, with a single basin with 20.5 acre-feet of detention capacity, meets these performance standards.

CHAPTER III

PERSONS AND ORGANIZATIONS COMMENTING ON THE DRAFT SUBSEQUENT EIR

A. PERSONS AND ORGANIZATIONS COMMENTING IN WRITING

- | | |
|---|--------------------|
| A. East Bay Municipal Utility District (EBMUD)
William R. Kirkpatrick | November 24, 2003 |
| B. California Department of Transportation (CalTrans)
Timothy C. Sable | November 3, 2003 |
| C. California Department of Transportation (CalTrans)
Timothy C. Sable | September 23, 2003 |
| D. California Department of Transportation (CalTrans)
Timothy C. Sable | December 19, 2003 |
| E. California Regional Water Quality Control Board
Keith H. Lichten | December 4, 2003 |
| F. California Regional Water Quality Control Board
Keith H. Lichten | September 5, 2003 |

B. PERSONS COMMENTING AT THE PUBLIC HEARING

The following persons provided public testimony at the Oakland City Planning Commission Public Hearing on the Draft SEIR, held at City Hall on Wednesday, December 8, 2003.

- Sanjiv Handa, East Bay News Service
- Planning Commissioners Lighty and Jang

A summary of the comments made at the public hearing is included in Chapter V of this document. A response is provided following the summary of each comment.

CHAPTER IV

RESPONSES TO WRITTEN COMMENTS ON THE DRAFT SUBSEQUENT EIR

This chapter includes copies of the comment letters received during the public review period on the Draft SEIR and responses to those comments. Where responses have resulted in changes to the text of the Draft SEIR, these changes also appear in Chapter II of this Final SEIR.



November 24, 2003

Ms. Claudia Cappio
City of Oakland Planning Division
250 Frank H. Ogawa Plaza, Suite 3330
Oakland, CA 94612

Dear Ms. Cappio:

Re: Draft Subsequent Environmental Impact Report - Leona Quarry Project

East Bay Municipal Utility District (EBMUD) appreciates this opportunity to comment on the Notice of Availability of the Draft Subsequent Environmental Impact Report (EIR) for the Leona Quarry Project. EBMUD commented on the Notice of Preparation for the Draft EIR on August 31, 2001, the Draft EIR on July 31, 2002, and completed a Water Supply Assessment on June 27, 2002 for the subject project.

EBMUD has no comments regarding the Draft Subsequent EIR for the Leona Quarry Project.

If you have any questions concerning this response, please contact Marie A. Valmores, Senior Civil Engineer, at (510) 287-1084.

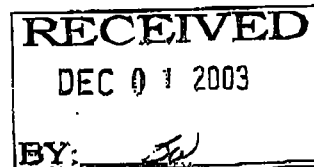
Sincerely,

A handwritten signature in black ink, appearing to read 'William R. Kirkpatrick', is written over a horizontal line.

WILLIAM R. KIRKPATRICK
Manager of Water Distribution Planning

WRK:OAH:sb
sb03_320.doc

cc: DeSilva Group
ESA



RESPONSES TO LETTER A

**EAST BAY MUNICIPAL UTILITIES DISTRICT (EBMUD)
NOVEMBER 24, 2003**

A-1) The comment is noted.

DEPARTMENT OF TRANSPORTATION
111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5505
FAX (510) 286-5513
TTY (800) 735-2929



*Flex your power!
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November 3, 2003

ALA580715
ALA-580-38.3
1999042052

Ms. Claudia Cappio
Community and Economic Development Agency
City of Oakland
250 Frank H. Ogawa Plaza, Suite 3330
Oakland, CA 94612-2032

Dear Ms. Cappio:

LEONA QUARRY PROJECT – NOTICE OF PREPARATION

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the Leona Quarry Project. The following comment is based on the Notice of Preparation:

Please clarify the hydrology issues cited in previous correspondence from the Department to the City dated September 23, 2002 (enclosed). These include capacity of the culvert beneath Interstate 580, potential risks, including backwater effects, associated with the proposed storm water detention basin, and basin maintenance.

Please feel free to call or email Patricia Maurice of my staff at (510) 622-1644 or patricia_maurice@dot.ca.gov with any questions regarding this letter.

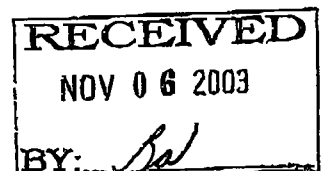
Sincerely,

A handwritten signature in black ink that reads "Timothy C. Sable".

TIMOTHY C. SABLE
District Branch Chief
IGR/CEQA

c: Philip Crimmins, State Clearinghouse
Terry O'Hare, City of Oakland

Enclosure



RESPONSES TO LETTER B

CALIFORNIA DEPARTMENT OF TRANSPORTATION NOVEMBER 3, 2003

- B-1)** In response to the comment, the referenced letter (September 23, 2002) is included in this Final SEIR as Letter C, followed by the responses to each issue raised. It should be noted that the September 23, 2002 California Department of Transportation letter provides comments to the technical report titled: *Analysis of Hydrologic Opportunities and Constraints at Leona Quarry, City of Oakland, California*, prepared by Balance Hydrologics, Inc., and dated July 2001.

DEPARTMENT OF TRANSPORTATION

P. O. BOX 23660
OAKLAND, CA 94623-0660
(510) 286-4444
TDD (510) 286-4454



September 23, 2002

File #ALA580715
ALA-580-38.3
SCH #1999042052

Ms. Claudia Cappio
Community and Economic Development Agency
City of Oakland
250 Frank H. Ogawa Plaza
Suite 3330
Oakland, CA 94612-2032

Dear Ms. Cappio:

Leona Quarry Development – Hydrology Report

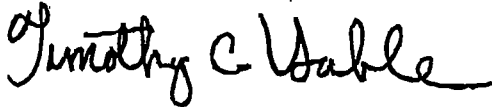
We have reviewed the hydrology report titled, "Analysis of Hydrologic Opportunities and Constraints at Leona Quarry, City of Oakland, California," prepared for the proposed residential development on the Leona Quarry site at 7100 Mountain Boulevard, and have the following comments to offer.

1. It is not clear from the report whether an analysis was performed to determine the hydraulic capacity of the existing 39-inch Reinforced Concrete Pipe (RCP) beneath Interstate 580 (I-580). The Department's As-Built plans for this portion of I-580 show this City culvert to be existing at the time the freeway was constructed. The hydrologic studies should include a determination as to whether the existing culvert can convey the proposed design flows without causing objectionable backwater or flooding. If the existing culvert cannot convey the design flows, supplementation of that culvert or further reductions in the peak flows may be required to prevent flooding of the surrounding areas and I-580. C-1
2. It does not appear that the stage discharge curve for the hypothetical storm water detention basin has addressed the constriction or backwater effects associated with the existing 39-inch RCP. C-2
3. The report indicates that the location of the proposed 12.0 Acre-feet hypothetical storm water detention basin would be near the entrance to the existing 39-inch RCP. The rating curve shown in Figure 6 suggests that to obtain the desired storage volume, the containment berm would have an elevation of at least 313.5. This appears to be about 13 feet above existing ground elevations near the 39-inch RCP. The report should identify the potential risks that are associated with this concept, and whether they are increased by the proximity to known fault zones. C-3
4. The report indicates that the Alameda County Flood Control and Water Conservation District (ACFCWCD) would assume maintenance responsibilities for a storm water detention basin constructed within the Quarry sub-basin. Will ACFCWCD also maintain the existing storm water detention basin located in the northern section of the Quarry property? As stated in the C-4

previous review, ownership and maintenance of proposed detention basins should be the responsibility of a public entity. C-4
cont.

Should you require further information or have any questions regarding this letter, please call Paul Svedersky of my staff at (510) 622-1639.

Sincerely,



TIMOTHY C. SABLE
District Branch Chief
IGR/CEQA

c: Terry O'Hare, City of Oakland
Terry Bowen, Gray-Bowen and Company

RESPONSES TO LETTER C

CALIFORNIA DEPARTMENT OF TRANSPORTATION SEPTEMBER 23, 2002

- C-1)** The comment letter refers to the original Leona Quarry EIR, and was written before publication of the Draft SEIR. In preparation of the original Leona Quarry EIR, both Balance Hydrologics Inc. (BH) and Philip Williams and Associates Ltd. (PWA) reviewed and evaluated the hydrologic characteristics on the site. Following completion of the final Leona Quarry EIR, experts from BH, PWA, the City of Oakland, and the ACFCWCD conferred and reached consensus on a more conservative set of hydrologic parameters than evaluated in the original Leona Quarry EIR. The results of this consensus approach are discussed in detail in the Draft SEIR and its appendices. The hydraulic capacity of the existing 39-inch Reinforced Concrete Pipe (RCP) culvert was addressed by BH in 2001 and again by PWA in November 2001 and October 2002. Details of the evaluation are provided as Appendix C and D of the Draft SEIR. The capacity of the culvert has been estimated at about 180 cubic feet per second (cfs) by staff at ACFCWCD. Balance Hydrologic estimated that the culvert has a maximum non-pressurized flow capacity of 172 cfs (DEIR, Appendix D, page 12). PWA concluded:

It is standard engineering practice to determine precisely how the proposed Project stormwater system (including the detention pond, the proposed pond outlet structure, the junction box between the proposed pond and the I-580 culvert, and all connections to and from the junction box) will accommodate the constraints of downstream facilities during the final design stages. The final design details of the stormwater system should be reviewed to confirm the conclusions of this report; the review should include a detailed hydraulic evaluation of the junction point in the context of upstream and downstream facilities and conditions. This analysis would be used to determine the flow characteristics under which post-project flows will be released. The flow characteristics are controlled by the final design of the outlet structure, its configuration and its connection to the junction box. This analysis would therefore be used to confirm that the Project (as discussed herein) would not worsen the peak flow rates and that applicable ACFCWCD and City of Oakland stormwater management requirements would be met.

The authors of this SEIR concur in these conclusions.

- C-2)** See response to comment C-1 above. See also the Draft SEIR at page IV-17 and pages 11-12 of Appendix D to the Draft SEIR.
- C-3)** The stormwater management system has undergone substantial refinements to further improve hydrologic conditions since Balance Hydrologics completed its "*Analysis of*

Hydrologic Opportunities and Constraints at Leona Quarry, Oakland California” report in July 2001. The Modified Plan now involves a stormwater basin that has a total detention volume of 15.6 acre feet with a top of berm elevation of 315 feet above mean sea level. As analyzed in the original Leona Quarry EIR (section IV) and reevaluated relative to the hydrologic effects in the Draft SEIR (page V-2), the Leona Quarry site is not located within an Alquist-Priolo Fault Rupture Hazard Zone but is in an area susceptible to ground shaking from an earthquake. The original Leona Quarry EIR provided appropriate mitigation for hazards related to minor shear zone offsets and determined that rupturing of the surface during an earthquake was less than significant. The project site is located near the Hayward fault and could experience extreme ground shaking for an extended duration. The original Leona Quarry EIR provides mitigation to ensure that impacts related to earthquake ground shaking would remain less than significant. No information has been presented that would require a supplemental analysis relating to earthquake ground shaking, and this seismic condition, as analyzed in the original Leona Quarry EIR, does not change due to the revisions to stormwater impact mitigation, including larger basins, which used the more conservative hydrology analysis in this SEIR.

- C-4)** The long term maintenance and repair responsibilities for the proposed detention basin at the project site and the required budget to support basin maintenance, would be provided by the Geologic Hazard Abatement District (GHAD), which was formed in December 2002. The requirements of the GHAD are defined as Condition of Approval 24 and Resolution 77545 approving formation of the Leona Quarry GHAD. These include requirements that the applicant provide sufficient start-up funding and that the GHAD be fully operational, with all required financing in place, prior to recordation of the first final map. Refer to Appendix A to this Final SEIR, City resolutions regarding the Leona Quarry Geologic Hazards Abatement District (GHAD).

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION

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December 19, 2003

ALA580715
ALA-580-38.3
1999042052

Ms. Claudia Cappio
Community and Economic Development Agency
City of Oakland
250 Frank H. Ogawa Plaza, Suite 3330
Oakland, CA 94612-2032

Dear Ms. Cappio:

**LEONA QUARRY PROJECT – DRAFT SUBSEQUENT ENVIRONMENTAL
IMPACT REPORT**

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the Leona Quarry Project. The following comments are based on the Draft Subsequent Environmental Impact Report (DSEIR):

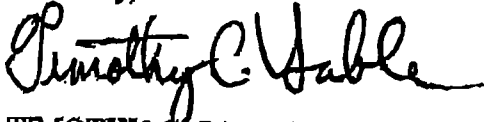
Hydrology

- 1. Runoff from the proposed external berm adjacent to Interstate 580 (I-580) should be collected onsite and conveyed to an appropriate outlet. D-1
- 2. The condition of the City's existing 39-inch pipe located beneath I-580 should be determined and any necessary rehabilitation of the pipe should be completed before construction of the proposed detention basin. D-2
- 3. Since the lower detention basin is the most significant stormwater control feature of the proposed project and will be constructed during the initial phase of development, the near-term and long-term responsibility for its maintenance, repair and funding should be clearly defined in the DSEIR. The DSEIR states that long-term slope stabilization would be maintained by a Geologic Hazard Abatement District (GHAD) comprised of future residents of the development site. The DSEIR does not discuss or identify the entity that will be responsible for the maintenance, inspection and repair of the proposed detention basins. If the GHAD is intended to also finance the maintenance of the basins, it is unclear when sufficient funds would be available to perform such work. With a proposed development schedule of six to ten years, it does not appear that a sufficient tax base within the GHAD would be available in the foreseeable future to fund its responsibilities. D-3

4. Design of the infiltration basins should avoid any sulfur bearing mineral veins to prevent potential ground water contamination. | D-4

Please feel free to call or email Patricia Maurice of my staff at (510) 622-1644 or patricia_maurice@dot.ca.gov with any questions regarding this letter.

Sincerely,



TIMOTHY C. SABLE
District Branch Chief
IGR/CEQA

c: Terry Roberts, State Clearinghouse

RESPONSES TO LETTER D

CALIFORNIA DEPARTMENT OF TRANSPORTATION DECEMBER 19, 2003

- D-1)** The exterior berm of the proposed detention basin would be vegetated and therefore, would reduce the rate and volume of stormwater flowing off the berm and towards the Caltrans I-580 easement. In addition, as is standard engineering practice, a swale and drain system would be constructed to collect and convey water away from the toe of the berm. To make this point explicit, the Mitigation Measure F.1a and Alternate Mitigation Measure F.1a have been modified to require, expressly, a swale. The corresponding text change is shown in Chapter II of this document.
- D-2)** Refer to comment response C-1.
- D-3)** Refer to comment response C-4.
- D-4)** The proposed detention basin would have a lined interior and would not be considered an infiltration basin, as stated in the comment. The issue of sulfur bearing mineral veins was evaluated in the original Leona Quarry EIR (see page IV.D-31) and the impact was considered less than significant because quarry operations have not exposed sulfur-bearing ores and placement of fills, appropriate vegetation, and landscaping during site development would further reduce the potential for surface water contact with mineralized ores. No information has been presented that would require a supplemental analysis. The Draft SEIR addresses sulfur-bearing ores (page V-4) and concludes that the findings in the original Leona Quarry EIR would not change due to the changes made to the mitigation of stormwater impacts resulting from the more conservative analysis.



California Regional Water Quality Control Board

San Francisco Bay Region

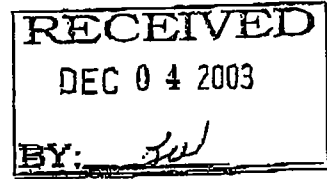
Letter E



Gray Davis
Governor

Justin H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov>
1515 Clay Street, Suite 1400, Oakland, California 94612
Phone (510) 622-2300 • FAX (510) 622-2460



Via Hand Delivery and U.S. Mail

December 4, 2003
File No. 2198.09 (KHL)

Ms. Claudia Cappio
City of Oakland
250 Frank H. Ogawa Plaza, Suite 3300
Oakland, CA 94612

**Subject: Leona Quarry Draft Subsequent EIR, Oakland.
City's Case No. ER 01-33-SUBSEQ
SCH No. 1999042052**

Dear Ms. Cappio:

We recently received the above-referenced Draft Subsequent Environmental Impact Report (DSEIR) for the Leona Quarry Project. Thank you for the opportunity to comment on it. In our letter of September 5, 2003, mailed to you and the State Clearinghouse, we commented on the Notice of Preparation for the DSEIR. However, our comment letter is not listed in Appendix B of the DSEIR, and based on our review of the DSEIR, including its appendices, our comments have not yet been addressed. We strongly encourage the City to review our September 5 letter and to appropriately address the comments within the project's CEQA process. We have the following additional comments.

E-1

Should the project include work in jurisdictional waters of the United States, such as replacement of culverts and outfall structures, or other work, then it could likely require a permit from the U.S. Army Corps of Engineers pursuant to Section 404 of the federal Clean Water Act (CWA). Such permits also require a project proponent to apply and receive Water Quality Certification from the Water Board pursuant to Section 401 of the CWA. We would review the issues discussed in our September 5 letter as a part of making the determination required as a part of issuing Water Quality Certification, that a project complies with State water quality standards.

E-2

Additionally, should the project require work in waters that would be considered jurisdictional waters of the U.S., except that they have been excluded from federal jurisdiction as isolated waters under the U.S. Supreme Court's SWANCC decision, or the work is dredging-only work that is excluded from permitting under the Corps' current Tulloch Rule interpretation, we would continue to regulate that work under the California Water Code (CWC), and the project proponent should submit a Report of Waste Discharge for work in those waters pursuant

E-3

Ms. Claudia Cappio

- 2 -

Leona Quarry Project

to the applicable requirements of the CWC. Our review in that case would be similar to the review conducted to issue Water Quality Certification.

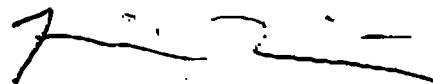
E-3
cont.

While we would work to address our comments should there be a separate State Water Quality Certification or Order for Waste Discharge Requirements, we recognize that such processes often go most smoothly when the issues are addressed up-front and early in a project's planning process—particularly in a project's CEQA document. In addition, the impacts we have outlined are those that should be addressed at an appropriate level of detail under CEQA, regardless of possible later regulatory requirements.

E-4

If you have any questions or further comments, please contact me via email to khl@rb2.swrcb.ca.gov, or at (510) 622-2380.

Sincerely,



Keith H. Lichten, P.E.
Water Resource Ctrl. Engineer

Enclosure: Comment letter of 9/5/3

cc: Dale Bowyer, RWQCB

State Clearinghouse
1400 Tenth Street
Sacramento, CA 95814

RESPONSES TO LETTER E
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
DECEMBER 4, 2003

- E-1)** A letter dated September 5, 2003 from the California Regional Water Quality Control Board was received in response to the Notice of Preparation and prior to the end of the comment period, Monday, September 19, 2003. Although this letter was inadvertently omitted from Appendix B of the Draft SEIR, a copy of the letter is contained within the Leona Quarry project files located at the City of Oakland, Community and Economic Development Agency Planning Department offices (250 Frank H. Ogawa Plaza, 3rd Floor, Oakland, CA 94612), as stated in the Draft SEIR. A copy of the letter is included, and responded to, in this Final SEIR as Letter F. The corresponding text change in response to this comment is shown in Chapter II of this document.
- E-2)** The original Leona Quarry EIR (page IV.B-10), included an assessment of wetlands and other waters of the United States. None of the manmade basins in the Lower Development Area meet all three criteria of the federal wetland definition, as constructed settling ponds and are excluded from regulation under Section 404 of the Clean Water Act. Other depressions will not be disturbed. Therefore, no wetlands under the jurisdiction of the Army Corps of Engineers or California Department of Fish and Game (CDFG) will be filled as part of the proposed project. Although Chimes Creek is subject to Corps jurisdiction as “waters of the United States” under Section 404 proposed project construction would take place more than 100 feet from Chimes Creek and not result in any fill within the creek or any indirect impact to its flow. Nothing in the revised hydrologic analysis presented in the SEIR affects these findings.
- E-3)** The comment is noted. The project does not include work in waters that would be considered jurisdictional waters under the U.S., except that they have been excluded from federal jurisdiction as isolated waters under the U. S. Supreme Court’s SWANCC decision, or the work is dredging-only work that is excluded from permitting under the Corps’ current Tulloch Rule interpretation. Instead, the determination was made that no waters of the United States will be disturbed based on the factors set forth in the original Leona Quarry EIR. See comment response E-2.
- E-4)** The comment is noted. See responses to comments E-1 through E-3 above.



California Regional Water Quality Control Board
San Francisco Bay Region

Letter F



Gray Davis
Governor

ston H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov>
 1515 Clay Street, Suite 1400, Oakland, California 94612
 Phone (510) 622-2300 • FAX (510) 622-2460

KHL

Date: SEP 05 2003
 File No. 2198.09 (KHL)

Ms. Claudia Cappio
 City of Oakland
 250 Frank H. Ogawa Plaza, Suite 3300
 Oakland, CA 94612

Subject: Leona Quarry NOP for Subsequent EIR, Oakland.
City's Case No. ER 01-33-SUBSEQ
SCH No. 1999042052

Dear Ms. Cappio:

We recently received the above-referenced Notice of Preparation (NOP) for a subsequent Environmental Impact Report (SEIR) for the Leona Quarry Project. Thank you for the opportunity to comment on it.

Project

The proposed project would reclaim the existing quarry and construct 477 housing units and associated infrastructure on it. The City is preparing an SEIR to better address hydrological issues and to provide additional review of related issues, as necessary.

The project has potential impact to water quality and beneficial uses of waters of the State including:

- Discharge of pollutants during construction (e.g., sediment, construction wastes, etc.);
- Post-construction discharge of pollutants once the project is complete (e.g., oil and grease, heavy metals, sediment, pesticides, etc.); and,
- Alterations to the site's runoff hydrograph that can cause downstream erosion, flooding, and other impacts.

The City addressed a number of these impacts in its Draft EIR (DEIR) of June 10, 2002, and its Final EIR (FEIR) of September 23, 2002, and these comments take into account the information presented in those documents.

Construction-Stage Impacts

The information presented on construction-stage impacts generally appropriately takes into account the applicable state permits on construction, including both the NPDES General Permit for Discharges of Stormwater Associated with Construction Activity (Construction Stormwater Permit) and the need to obtain appropriate approvals for temporary dewatering discharges during construction. However, DEIR page IV.F-10 notes that the Construction Stormwater Permit is required for sites of five acres or more. On March 10, 2003, the threshold for permit coverage dropped to one acre. Also, please note that the Leona Quarry project would be considered a single common plan of development. As such, even if individual parcels in the project smaller than an acre were sold off to individual property owners for separate development, construction on those parcels would still require coverage under the Construction Stormwater Permit. This should be noted in the project's CEQA document.

F-1

Post-Construction Impacts

The project's potential post-construction impacts include the discharge of urban runoff pollutants such as fertilizers, petroleum products, heavy metals, and pesticides, and significant changes in the site's runoff hydrograph, which can cause or contribute to erosion, deposition, and flooding impacts in the receiving waters. Pursuant to Provision C.3 of Board Order No. R2-2003-0021, the Alameda Countywide Municipal NPDES Stormwater Permit (Alameda Municipal Permit), of which the City is a co-permittee, the project design must include: appropriate design measures to minimize the impervious surface associated with the project; source controls to prevent the discharge of pollutants; and, treatment controls to treat runoff prior to discharge to the local storm drain, creeks, or the Bay.

F-2

These measures should be incorporated into project design as early in the project planning process as is feasible. We have also enclosed an electronic copy of BASMAA's Start at the Source: Design Guidance Manual for Stormwater Quality Protection. The manual describes innovative design techniques for structures, parking lots, drainage systems, and landscaping. Additional information is available on-line in the form of the California BMP Handbooks, downloadable from www.cabmphandbooks.org.

F-3

DEIR mitigation measure F.4a requires that the project incorporate appropriate BMPs, including "...preparation of a stormwater discharge plan to minimize stormwater runoff and associated offsite migration of stormwater pollutants." Examples of several BMPs are then given. The FEIR further describes an aspect of the proposed detention basin design that may provide a water quality treatment benefit (FEIR p. V-8). We appreciate that this requirement and additional information have been included. However, with the adoption of the Alameda Municipal Permit, this mitigation measure should be made more specific, using the language in Provision C.3 of the Permit. In particular, the measure should require that appropriate design

F-4

measures and source controls be implemented in the project. Examples are listed in the Provision, which is enclosed.

F-4
cont.

Additionally, the SEIR should require sizing of stormwater treatment controls to treat at least 80-90 percent of average annual runoff from the project site, using the sizing methods in the Permit, and taking into account the Permit's provisions for groundwater protection and other applicable issues. We note that while the implementation of a particular BMP (i.e., choosing between a water quality pond and a bioretention area to treat runoff from a given project area) is within the discretion of an individual permittee, subject to Board review, the overall requirement to appropriately treat post-construction project runoff would remain.

F-5

The DEIR listed several potential treatment controls, including small detention basins below large parking areas, grassy swales, and routing roof runoff to landscaped areas. We note that detention basins under parking areas may provide a peak flow benefit, but we have not yet seen information demonstrating that they provide a significant long-term water quality benefit. If such a design is considered, issues to address would include how the underground basins would be maintained, and how they would be designed to prevent transport of removed pollutants during subsequent larger storms.

F-6

Further, the proposed water quality design of the flood flow detention basins is not fully clear. The description on FEIR page V-8 appears to describe a low-flow basin design that would treat the bottom of a basin as a flow-based treatment control, such as a swale, rather than by treating water through detention or retention. Yet it also seems to indicate that there would be periodic ponding associated with storm events. In general, we would support a water quality pond design that incorporates either a permanent pool, or detention of between 48 and 72 hours. Each of these designs should include appropriate measures to control vectors such as mosquitoes.

F-7

In summary for this section, please use the enclosed Provision C.3 requirements as a template for the project's post-construction water quality mitigation requirements.

Runoff Hydrograph and Erosion

The project's CEQA documents note that the existing quarry and downstream development have impacted Chimes Creek through increases in erosive flows, and may also have impacted Lions Creek, to which Chimes Creek is tributary. Impacts include eroding creek banks and associated discharge of sediment and loss of riparian vegetation. We appreciate that the proposed project's hydrologic analyses included an analysis of the 2-year storm. The analysis noted that the peak discharge for the 2-year storm event would be reduced by about 30 percent from the existing value. However, this analysis falls well short of an analysis that could show that the project would be expected to reduce downstream impacts due to a modified runoff

F-8

Ms. Claudia Cappio

- 4 -

Leona Quarry Project

hydrograph, because it does not make the connection between flows from the project site and those that may be causing erosion downstream.

F-8
cont.

The SEIR should require a fuller analysis of downstream creek conditions, including a shear stress/erosion analysis that looks at the creeks in the field in order to determine what sorts of flows are causing the erosion. This is a crucial analysis, because it is possible that a well-intentioned attempt to reduce low flows can actually exacerbate erosion problems in a creek.¹ Additionally, the flood control requirement to empty the flood portion of the basin within 24 hours could have a similar effect, and should be analyzed for that. An analysis that looks only at changes in flows from the project site, without an understanding of how those flows may be interacting with the downstream creek, is necessarily inconclusive. The Santa Clara Valley Urban Runoff Pollution Prevention Program recently completed a literature review on the effects of hydromodification, which is available at www.scvurppp.org, and which would be of use to the subject project.

F-9

Summary

In summary, the SEIR should incorporate recent changes to applicable permits, and should require a more detailed hydromodification analysis that completes the loop on upstream flow modifications and downstream impacts. We have enclosed several documents to assist in the preparation of the SEIR.

F-10

If you have any questions or further comments, please contact me via email to khl@rb2.swrcb.ca.gov, or at (510) 622-2380.

Sincerely,



Keith H. Lichten, P.E.
Water Resource Ctrl. Engineer

cc: Dale Bowyer, RWQCB
State Clearinghouse

¹ For a good discussion of this, see MacRae, C.R., "Experience from morphological research on Canadian streams: Is control of the two-year frequency runoff event the best basis for stream channel protection?" in Effects of Watershed Development and Management on Aquatic Ecosystems (1997), Larry Roesner, ed. Washington, D.C.: American Society of Civil Engineers. Copy enclosed.

RESPONSES TO LETTER F

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SEPTEMBER 5, 2003

- F-1)** The comment is noted. The City of Oakland published the Final Leona Quarry EIR on September 23, 2002 prior to the March 10, 2003 change in the Construction Stormwater Permit threshold requirements. The change to a one acre threshold is acknowledged. Regardless of whether the threshold is 1-acre or 5-acres, the Leona Quarry development project would comply with current stormwater permit requirements because the proposed development site totals 128-acres. The Leona Quarry development does not intend to sell lots under 1-acre for individual development.
- F-2)** The proposed project was designed with careful consideration of the pertinent requirements related to stormwater management cited by the RWQCB in its comments on the Draft SEIR. (A copy of the Alameda County wide Municipal NPDES Stormwater Permit, referred to by the commenter throughout comment letter F, is available at the Oakland Public Works Agency.) Reduction of impervious surfaces for a residential development in Leona Quarry is challenging considering that a large portion of the quarry is covered with naturally impervious bedrock surfaces. However, as noted in prior Condition of Approval 23 (referred to as COA 23 in this Final SEIR), which is proposed to be imposed in any project re-approval, the proposed project shall develop a site drainage plan that shall include detailed measures to detain storm water run-off to the maximum feasible degree, given geotechnical and other constraints through infiltration opportunities; bio-swales or grassy swales; and creating a vegetated swale in the Village Green area. COA 23 requires implementation of mitigation measures described in Section F of the MMRP which requires compliance with provisions of the Clean Water Act and preparation of a stormwater discharge plan to minimize migration of stormwater pollutants. For instance, source control mitigation includes a vegetation control and/or fertilizer management plan for landscaped areas that would reduce discharge of landscaping chemical to the local waterways. The 15.6-acre foot detention basin proposed in the Draft SEIR reserves the lowermost 3 feet of the basin for water quality treatment to remove sediment and other constituents of concern. The single-basin alternative reserves three acre-feet of capacity for water quality purposes. Under either alternative, the water treatment capacity in the basin would be the primary treatment control facility. The water quality controls are as stated in the original Leona Quarry EIR and nothing in the revised hydrologic analysis, as evaluated in the SEIR, affects those findings.
- F-3)** The comment is noted. The suggested innovative design techniques have been incorporated to the extent feasible considering the unique condition of the site. See the letter from Balance Hydrologics, the applicant's consultant, to Ms. Claudia Cappio, dated January 9, 2004, included in Appendix B. The presence of shallow bedrock, the topography of the site, the need for extensive fill, and the limited development area preclude additional measures. Requirements for water quality source control and

- treatment are to be implemented as Conditions of Approval at the time the project is approved and prior to issuance of the grading permit. See response to comment F-2. (“Start at the Source: Design Guidance Manual for Stormwater Quality Projection,” prepared by the Bay Area Stormwater Management Agencies Association, and referred to in the commenter’s letter, is available on-line, downloadable at www.oaklandpw.com.)
- F-4)** Balance Hydrologics, Inc (BH), the project design hydrologists, participated in the formulation of the treatment control requirements contained in Provision C.3 of the Alameda County Municipal NPDES Stormwater Permit and therefore are aware of the design and source control measures required under the Alameda Municipal Permit. In their involvement with the design phase of this project, BH has proposed a stormwater management plan that will treat over 90 percent of the runoff leaving the site. For example, the proposed 15.6 acre-foot detention basin would function as a dual-use facility with an additional lowermost 3 feet of depth reserved for water quality purposes. The outlet design was specifically chosen to achieve appropriate residence times based on the “flow hydraulic design basis” presented in the Alameda Municipal Permit. Draft SEIR Mitigation Measure F-4a, would be implemented under COA 23, which requires implementation of mitigation measures in compliance with provisions of the Clean Water Act. Please refer to comment responses F-2 and F-3.
- F-5)** The proposed drainage system would convey storm water from the project site and detain that runoff either in an existing upper detention basin and a detention basin with an active storage volume of 15.6 acre feet, or a larger, single detention basin. This conveyance and detention system is designed to treat over 90 percent of the runoff leaving the site, and to provide additional sediment capture in the bottom of the lower basin. Flow through the lowermost portion of the basin will be configured to achieve the residence times required for the “flow hydraulic design basis” outlined in the Alameda Municipal Permit. The design of the stormwater detention facilities is a result of a combined effort between hydrologist and engineers from two private engineering firms, the ACFCWCD and the City of Oakland. The hydrologic assumptions for the Leona Quarry site and the design and sizing of the proposed detention basin is provided in the Draft SEIR. Please also refer to comment response F-2 and F-3.
- F-6)** As described in the Draft SEIR, the proposed drainage system would convey storm water from the project site and detain that runoff either in an existing upper detention basin and a detention basin with an active storage volume of 15.6 acre feet, or a larger, single detention basin. As required by COA 23, the project shall develop a site drainage plan that shall include detailed measures to detain storm water run-off to the maximum feasible degree, given geotechnical and other constraints through infiltration opportunities, bio-swales or grassy swales, and creating a vegetated swale in the Village Green area. Underground basins would be infeasible on the Leona Quarry site given the shallow underlying bedrock and slope topography. See comment response F-2.
- F-7)** Since the completion of the original Leona Quarry EIR, the detention and water quality design of the stormwater system was refined with more conservative parameters through

a consensus process between two private engineering firms, the City of Oakland and the ACFCWCD. Please refer to the Draft SEIR for design details. As discussed above, the proposed detention basin includes 15.6 acre feet of detention volume and 3-feet reserved for water quality improvement. The bottom of the basin is designed, and will be managed, so that the basin can function as one element in the stormwater quality management strategy at the project site. Under this design there would be no permanent ponding within the basin, but the existing sustained baseflows at the site will support vegetation that will improve the removal of constituents of concern in the runoff. A detailed Operations and Maintenance Manual will fully-address issues such as vegetation management and vector control with specific monitoring schedules.

- F-8)** The mitigation measures proposed in this SEIR are not intended primarily to reduce existing downstream impacts, but rather to address impacts attributed to the project. The natural open-channel sections of Chimes Creek downstream of I-580 are degraded and in some areas, exhibit signs of historic instability. Erosion and bank failures continue to occur under existing stormwater runoff conditions. It is important to note that downstream of I-580, the majority of Chimes Creek flows through underground culverts and only a fraction (total of 1,300 linear feet) of the stream flows in natural open channels with developed vegetation. .

Comment letter F discusses hydromodification as a potential concern related to development of the project site. This comment notes that the hydrologic analyses prepared for the project considered the potential impact of the proposed detention basin on the more important channel-forming flows, such as the 2-year event. The more conservative hydrologic parameters included in the Draft SEIR show that the proposed basin will slightly reduce the peak discharge for the 2-year event at I-580 from 71 to 70 cubic feet per second (cfs).

The hydrologic analyses were extended downstream of I-580 to include the additional drainage area in the Burckhalter neighborhood. This was done in order to assess the need for additional studies of downstream impacts, such as those mentioned in the comment. These analyses show that the total runoff at the ultimate discharge of the storm drain system into Chimes Creek will increase from approximately 35.4 acre-feet to 37.1 acre-feet. The difference of 1.7 acre-feet is equivalent to less than 1 cfs per day. This value compares with a total predicted peak discharge of 123 cfs at the same outfall. BH reviewed the literature included in the Santa Clara Valley Urban Runoff Pollution Prevention Program and found no citations that indicate flows less than 1 percent of the predicted peak lead to hydromodification. On this basis, it is reasonable to expect that the proposed project will have no significant adverse impacts in Chimes Creek with respect to hydromodification.

Two additional points are important in this regard. First, roughly 20 percent of the above-cited increase in total runoff is the result of redirecting 4.5 additional acres of developed area from the Ridgemont development through the Leona Quarry stormwater management system. Diversion of this flow from the canyon above Leona Street will

have a significant overall benefit in helping to control the pronounced erosion at that location.

Secondly, the SCS hydrologic modeling parameters used in the Draft SEIR analyses were those suggested by ACFCWCD and are most appropriate for assessing large storm events (e.g. those larger than the 10-year storm) immediately after restoration of the bare rock surfaces in the Quarry. As the restoration of the quarry slopes proceeds, the overall runoff from the upper slopes will decrease significantly for storms such as the 2-year event. The long-term consequence is that the change in total runoff volume from the site will likely be less than the values cited above and the total may indeed be less than in the existing conditions, as would be consistent with the objective of and measures endorsed in the State's Surface Mining and Reclamation Act of 1975 (SMARA).

F-9) As noted in Response F-8 above, a sub-regional analysis of total anticipated runoff volume at the head of the downstream open-channel reach of Chimes Creek shows that the project will not have significant impacts with respect to channel stability and erosion. This appropriately complements the mitigation to avoid increases in peak flows.

F-10) Comment noted. Please refer to comment responses F-2 through F-9.

CHAPTER V

RESPONSES TO COMMENTS AT THE PUBLIC HEARING ON THE DRAFT SUBSEQUENT EIR

The City of Oakland Planning Commission conducted a public hearing on December 8, 2003 to provide the public an opportunity to comment on the Draft SEIR. Following is a summary of comments received from members of the public and members of the Planning Commission.

Comment

SANJIV HANDA commented that when attempting to access City documents, such as the Draft SEIR, on the City's website, he frequently encounters error messages, long download times, and download errors. He also commented that messages to more than five people are frequently returned as undeliverable, apparently filtered by the City's email spam filter. Mr. Handa commended the decision of the applicant to extend the comment period, particularly since when California courts tread into the area of EIR process (which they do reluctantly) and order an EIR thrown out or redone, it is because an egregious violation has occurred.

Response

The factors raised by the commenter do not affect the validity of the CEQA analysis for the project. The Notice of Availability (NOA) that the City issued for the Draft SEIR pursuant to CEQA, included specific information on where and how the Draft SEIR document could be obtained and reviewed. It also provided the City staff contact's email address and phone number. The NOA provided and emphasized to whom and the mailing address where comments were to be submitted. The NOA did not state that comments could be submitted by e-mail. E-mail and web access is provided by the City only for convenience and is not considered a primary, required, or reliable source for the delivery or distribution of time-sensitive correspondence.

Comment

COMMISSIONER LIGHTY commended the work of staff and ESA. He stated that the SEIR looked at the 100-year flood in a usable way, and that the additional work should allay the community concerns about the ability of the detention basin and the project to deal with hydrology impacts. Commissioner Lighty asked if there had been much public comment or any other comments or submissions on the Draft SEIR.

Response

No comments or submissions had been received by the City as of the date of the Planning Commission hearing other than those presented in the Commission packets. Staff responded orally to Commissioner Lighty's comments by noting that settlement discussions were underway and probably accounted for the lack of comments.

Comment

COMMISSIONER JANG questioned the approach of having two basin alternatives that seemed to be almost equal in solution in how they address the hydrology issue. He also inquired about the comparative configuration of the alternatives.

Response

The SEIR analyzed two alternative detention basin systems: one consisting of a 15.6-acre foot detention pond and the upper Ridgemont detention basin, and another comprised of a single-basin. The conclusions were the same for both systems because both systems were designed to achieve the same goal of satisfying the criteria of managing the 25-year, 24-hour storm. Also, the prior conditions of approval required analysis of the stability of the Ridgemont basin, and thus allowed the possibility that the upper basin might not be used. The project was also required to adhere to recently-adopted water quality treatment criteria, which could be achieved by reserving the lowermost area of the lower basin for water quality treatment.

The single-basin system, in which the capacity of the Ridgemont basin has been moved to be included in the single lower basin, fits within the same footprint that both the basin studied in the original Leona Quarry EIR and the 15.6 basin proposed in the Draft SEIR. The Draft SEIR also analyzes design modifications for potentially expanding the capacity of the proposed detention basin, to produce an oversized basin. The Draft SEIR concludes that the design modifications do not result in further impacts.

APPENDIX A

CITY RESOLUTIONS RELATED TO THE GEOLOGIC HAZARDS ABATEMENT DISTRICT (GHAD)

OAKLAND CITY COUNCIL

FILED
OFFICE OF THE CITY CLERK
OAKLAND

RESOLUTION No. 77524 C.M.S.

02 OCT 31 PM 1:56

INTRODUCED BY COUNCILMEMBER _____

AS REQUIRED BY PUBLIC RESOURCES CODE 26500 et seq. PRIOR TO FORMATION OF ANY GHAD FOR THE LEONA QUARRY RESIDENTIAL PROJECT, A RESOLUTION DECLARING THAT THE CITY OF OAKLAND IS SUBJECT TO THE GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD) LAW

WHEREAS, Division 17 (Sections 26500, *et seq.*) of the California Public Resources Code ("GHAD Law") permit the formation and operation of geologic hazard abatement districts within the City provided the legislative body of the City has adopted a resolution declaring that it is subject to the provisions of the GHAD Law; and

WHEREAS, the City is desirous of considering the formation of a GHAD for a proposed residential development on the site of a quarry, and such action has been recommended by the City Planning Commission as part of their action to approve the Leona Quarry Residential Project;

NOW, THEREFORE, the City Council of the City of Oakland resolves and orders that:

1. The City Council of the City of Oakland hereby declares that it is subject to the provisions of the GHAD Law.
2. The City Clerk is directed to forward a copy of this resolution to the State Controller.
3. City Council finds and determines that this Resolution is exempt from CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Exemption with the Alameda County Clerk and the State OPR on the basis that this Resolution is not considered a "project" under CEQA.
4. The custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, 3rd floor, Oakland CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA.

Planning & Zoning Division, 250 Frank H. Ogawa Plaza, 3rd floor, Oakland CA.;
and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA.

5. The recitals contained in this resolution are true and correct and are an integral part of the City Council's decision.
6. This resolution shall become effective immediately upon its adoption.

In Council, Oakland, California, NOV 12 2002, 2002

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, CHANG, MAYNE,
NOES- 2 NADEL, REID, SPEES, WAN
ABSENT- 0 AND PRESIDENT DE LA FUENTE - 8
ABSTENTION- 0

Attest:



CEDA FLOYD
City Clerk and Clerk of the
Council of the City of
Oakland, California

OAKLAND CITY COUNCIL

RESOLUTION No. 77525 C.M.S.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

INTRODUCED BY COUNCILMEMBER _____

02 OCT 31 PM 1:56

AS REQUIRED BY PUBLIC RESOURCES CODE SECTION 26557, A RESOLUTION ACCEPTING THE PETITION FOR FORMATION OF THE LEONA QUARRY GEOLOGICAL HAZARD ABATEMENT DISTRICT AND SETTING A PUBLIC HEARING FOR DECEMBER 3, 2002 TO CONSIDER THE PETITION FOR FORMATION OF THE LEONA QUARRY GHAD, WHICH MUST BY STATE LAW OCCUR AT LEAST TWENTY DAYS PRIOR TO SUCH PUBLIC HEARING.

WHEREAS, this resolution is made pursuant to Division 17 (Sections 26500 et. seq.) of the Public Resources Code; and

WHEREAS, on October 28, 2002, the City Council was presented with the Petition for Formation of the Leona Quarry Geologic Hazard Abatement District (GHAD Petition), including a plan of control (Plan of Control). Pursuant to Public Resources Code Section 26554, the Clerk of the City Council has determined that the Petition (and Plan of Control) are substantially in the form required by Sections 26551 and 26552 and has verified that the signatures affixed to the GHAD Petition represent owners of not less than ten percent of the real property to be included in the proposed GHAD.

WHEREAS, upon recommendation of the Council Clerk, the Council concludes that the GHAD Petition is in the form prescribed by Sections 26551 and 26552 of the Public Resources Code.

NOW, THEREFORE, the City Council of the City of Oakland resolves that the GHAD Petition is hereby accepted as the basis to consider the formation of the Leona Quarry GHAD.

FURTHER resolved that the Council is hereby setting a public hearing (Hearing) on the GHAD Petition as required by Public Resources Code Section 26557, which Hearing will be held on Tuesday, December 3, 2002 at 7:00 p.m. in the City Council Chambers, City Hall, One Frank H. Ogawa Plaza, Oakland, California, 94612. At the Hearing, any objections to the proposed formation shall be presented.

FURTHER resolved that the City Council hereby directs that Notice of the Hearing shall be mailed to all owners of real property to be included within the proposed district as shown on the assessment roll last equalized by the County. Notice of the Hearing shall be mailed by first class postage certified mail with return receipt requested and postmarked not less than 20 nor more than 30 days preceding the date of the Hearing. Notice of the Hearing shall include a copy of the GHAD Petition. Notice of the Hearing shall indicate where the Plan of Control may be reviewed or duplicated. Notice of the Hearing shall also set forth the address where objections to the proposed formation may be mailed or otherwise delivered up to and including the time of the hearing.

FURTHER resolved that at any time not later than the time set for hearing objections to the proposed formation, any owner of real property within the proposed district may make a written objection to the formation. Such objection shall be in writing, shall contain a description of the land owned by the objector by lot, tract, and map number, and shall be signed by such owner. Objections shall be mailed or delivered as specified in the notice procedure in Paragraph 5 of this Resolution. If the person whose signature appears on such an objection is not shown on the assessment roll last equalized by the County as the owner of the subject property, the written objection shall be accompanied by evidence sufficient to indicate that such person is the owner of such property.

FURTHER resolved that, the City Council finds and determines that this Resolution is exempt from CEQA pursuant to Public Resources Code Section 26559 and the Environmental Review Officer is directed to cause to be filed a Notice of Exemption with the Alameda County Clerk and the State OPR.


FURTHER resolved that, the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, 3rd floor, Oakland CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA.

FURTHER resolved that, the recitals contained in this resolution are true and correct and are an integral part of the City Council's decision.

In Council, Oakland, California, NOV 12 2002, 2002

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, CHANG, MAYNE,
NOES- *e* NADEL, REID, SPEES, WAN
ABSENT- *e* AND PRESIDENT DE LA FUENTE — 8
ABSTENTION- *e*

ATTEST: 
CEDA FLOYD
City Clerk and Clerk of the Council of the
City of Oakland, California

FILED
OFFICE OF THE CITY CLERK
OAKLAND

02 DEC -5 AM 10:03

OAKLAND CITY COUNCIL

RESOLUTION No. 77545 C.M.S.

REVISED
12-3-02

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION APPROVING FORMATION OF THE LEONA QUARRY GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD) AND APPOINTING THE CITY COUNCIL OF THE CITY OF OAKLAND AS THE GHAD BOARD OF DIRECTORS.

WHEREAS, pursuant to the provisions of Section 26550 of the California Public Resources Code, the City Council adopted Resolution No. _____ declaring that the City Council is subject to the provisions of Division 17 (Sections 26500 *et seq.*) of the Public Resources Code, and forwarded a copy of Resolution No. _____ to the State Controller; and

WHEREAS, pursuant to Division 17 of the Public Resources Code, a Petition dated October 25, 2002, was filed with the Clerk of the Council for the formation of the Leona Quarry Geologic Hazard Abatement District (GHAD); and

WHEREAS, on November 12, 2002, the City Council adopted Resolution No. _____ accepting the Petition, initiating the proceedings for the formation of the GHAD and setting a hearing on the Petition for Formation on December 3, 2002 at 7:02 p.m.; and

WHEREAS, notice of the hearing on the filed Petition for Formation was given in accordance with the provisions of Public Resources Code Sections 26557-58 and 26561-63; and

WHEREAS, a public hearing before the City Council on the formation of the GHAD was held on December 3, 2002 at 7:00 p.m.; and

WHEREAS, at the time set for the hearing, no owner of real property within the proposed GHAD had made a written objection to its formation in accordance with the provisions of Public Resources Code Section 26564; and

WHEREAS, at the hearing, the owners of more than 50 percent of the assessed valuation of the real property within the proposed GHAD did not object to the GHAD's formation; the City Council closed the hearing; and

WHEREAS, upon adoption of this Resolution, the GHAD shall be immediately formed as a governmental district, a political subdivision of the State of California, governed in accordance with Public Resources Code § 26500, *et seq.*, and a legal entity entirely distinct and separate from the City of Oakland.

NOW, THEREFORE, the City Council resolves and orders that:

1. The City Council approves and orders the formation of the Leona Quarry Geologic Hazard Abatement District as described in the petition dated October 25, 2002 and in the GHAD Plan of Control dated November 21, 2002.
2. In addition to all other legal requirements, the GHAD shall be subject to the following:
 - (a) The GHAD shall defend, hold harmless and indemnify the City and its respective officers, agents and employees (whether the action is on behalf of the City, the GHAD or otherwise) (“Indemnified Parties”) and their insurers against any and all liability, damages, claims, demands, judgments, losses or other forms of legal or equitable relief related to the formation and operation (including, without limitation, maintenance of GHAD-owned property) of a GHAD and in the case of the City Council members, actions taken by said members while acting as the GHAD Board of Directors (“Indemnified GHAD Claims”). This indemnity shall include, without limitation, payment of all litigation expenses associated with any action herein. The Indemnified Parties shall have the right to select counsel to represent the Indemnified Parties, at the GHAD’s expense, in the defense of any action specified herein. The Indemnified Parties shall take all reasonable steps to promptly notify the GHAD of any claim, demand, or legal actions that may create a claim for indemnification. Within 90 days of formation of the GHAD, the GHAD shall be required to enter into an Indemnification Agreement in a form acceptable to the City Attorney to establish in more specific detail the terms and conditions of the GHAD’s indemnification obligations set forth herein. Any failure of any party to timely execute such Indemnification Agreement shall not be construed to limit any right or obligation otherwise specified herein.
 - (b) The GHAD shall obtain general liability insurance and directors’ insurance for the GHAD Board of Directors to the extent that the GHAD Board determines in its sole discretion that such insurance is available at commercially reasonable rates. In the event subsidence insurance becomes available, the GHAD also shall obtain such insurance provided that the GHAD Board of Directors determines that the premiums for such insurance are a prudent expenditure of the GHAD’s financial resources.
 - (c) The assessments authorized for the GHAD must be determined by the GHAD Board following a thorough financial analysis and must include adequate funding for the indemnity and insurance obligations set forth in this resolution. The GHAD’s attorney and the City’s attorney shall also review the adequacy of the funding for the indemnity and insurance and may make recommendations regarding such funding.
 - (d) The GHAD will be responsible for hiring its own staff (or contracting with non-City parties to perform such staff services), including all workers who will undertake operation, maintenance, replacement, repair and other activities of the GHAD, and no City employees, including employees of the City Attorney’s office, shall perform such services for GHAD facilities and improvements. Further, the City shall not fund or otherwise administer any of the GHAD’s operations, property or facilities.
3. The Conditions of Approval for the Leona Quarry Project (PUD 02-437) are hereby revised to incorporate provisions presented to and considered by this Council relating to the Project Applicant’s indemnification of the City for any liability associated with the GHAD, which revisions are incorporated into Exhibit C to Resolution No. C.M.S., dated December 3, 2002, entitled “Resolution Denying the Appeal of Maureen Dorsey and Sustaining the Decision of

the City Planning Commission in Approving the Application of the DeSilva Group to Close the Leona Quarry, Reclaim It and Redevelop the Site for 477 Residential Units at 7100 Mountain Boulevard.”

4. In accordance with Public Resources Code Section 26567, the City Council appoints itself as the Board of Directors of the Leona Quarry GHAD (GHAD Board).
5. The Council determines that the GHAD shall be fully consistent with and comply with all conditions, requirements and other standards as set forth in the Conditions of Approval for the Leona Quarry Planned Unit Development (PUD 02-437) as approved by the City Council on December 3, 2002 with the adoption of Resolution No.
6. This resolution shall become effective immediately upon its passage and adoption. The GHAD shall become operational only after the parcels within the boundaries of the GHAD have been successfully assessed in accordance with Public Resources Code Section 26650 and Article XIII(D) of the California Constitution. The GHAD Board intends to adopt separate Resolutions to initiate the establishment and authorization of an assessment on the real property included in the GHAD.
7. In the event that all of the following have not occurred on or before October 31, 2003, (i) the City of Oakland has not approved the Leona Quarry project, (ii) a grading permit has not been issued pursuant to Condition of Approval 13, Construction Phase B, for the Leona Quarry project, and (iii) the first Final Map for the Leona Quarry project has not been approved by the City of Oakland and recorded in the Official Records of Alameda County, and if the petitioner for formation of the Leona Quarry GHAD owns 100 percent of the assessed valuation of the real property within the GHAD, the GHAD shall be dissolved pursuant to the procedures set forth in Sections 26567.1 et seq. of the Public Resources Code.

FURTHER, the Council finds that the formation of the GHAD is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*) in accordance with Public Resources Code Sections 21080(b)(4) and 26559 and directs staff to file a Notice of Exemption with the Alameda County Clerk.

FURTHER resolved that, the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council’s decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, 3rd floor, Oakland CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA.

FURTHER resolved that, the recitals contained in this resolution are true and correct and are an integral part of the City Council’s decision.

IN COUNCIL, OAKLAND, CALIFORNIA, DECEMBER 3, 2002

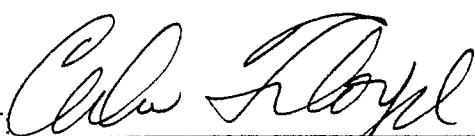
PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, CHANG, MAYNE, ~~NADEL~~, REID, SPEES, WAN, AND
PRESIDENT DE LA FUENTE -7

NOES- -0

ABSENT- -0

ABSTENTION- NADEL -1

ATTEST 
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

APPENDIX B

LETTER FROM BALANCE HYDROLOGICS, INC.



Balance Hydrologics, Inc.

841 Folger Avenue • Berkeley, CA 94710-2800
(510) 704-1000 • (fax) 704-1001 • email: office@balancehydro.com

January 9, 2004

Ms. Claudia Cappio
Community and Economic Development Agency
City of Oakland
250 Frank H. Ogawa Plaza, Suite 3300
Oakland, California 94612

**RE: Response Comments from the Regional Water Quality Control Board
on the DSEIR for the Leona Quarry Project, City of Oakland**

Dear Ms. Cappio:

I have reviewed the comments submitted by the San Francisco Bay Regional Water Quality Control Board (RWQCB) on the Draft Subsequent Environmental Impact Report (DSEIR) for the Leona Quarry project. We appreciate the RWQCB's involvement in this project.

The proposed project has been designed with careful consideration of the pertinent requirements related to stormwater management that are cited by the RWQCB in their letters. Several of the proposed conditions of approval directly address use of a wide range of BMPs for reducing direct runoff from the site and improving runoff water quality.

Balance Hydrologics staff was a participant in the formulation of the treatment control requirements contained in Provision C.3 of the Alameda County Municipal NPDES Stormwater Permit. Our involvement in the design phase of the project has led to a proposed plan that will treat over 90 percent of the runoff leaving the site. An excellent example is the configuration of the proposed detention basin as a dual-use facility with the lowermost 3 feet of depth reserved for water-quality purposes. The proposed outlet design was specifically chosen to achieve appropriate residence times based on the "flow hydraulic design basis" presented in the Alameda Municipal Permit.

Again, we appreciate the RWQCB's interest in a final project design that forwards the goals of maintaining and enhancing runoff water quality. The project, with the proposed conditions of approval, is just such a design.

Sincerely,

Edward D. Ballman, P.E.
Civil Engineer / Hydrologist

cc: The DeSilva Group
Environmental Science Associates

200057 Response Letter to RWQCB.doc