



**LAND USE SERVICES DEPARTMENT
PLANNING DIVISION
PLANNING COMMISSION STAFF REPORT**

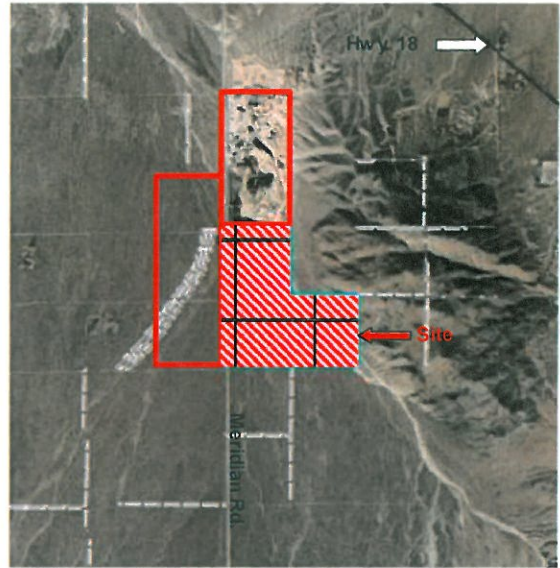


HEARING DATE: February 20, 2014

AGENDA ITEM 3

Project Description

APN: 0449-111-23
APPLICANT: Hi-Grade Materials Company
COMMUNITY: Lucerne Valley/3rd Supervisorial District
LOCATION: EMERALD ROAD, NORTH SIDE; MERIDIAN ROAD BOTH SIDES
PROJECT NO: AP20120009/RMC (LUCERNE VALLEY PIT)
CONTRACT STAFF: Reuben J. Arceo
REP(S): WEBBER & WEBER MINING CONSULTANTS
PROPOSAL: AN AMENDED MINING CONDITIONAL USE PERMIT AND RECLAMATION PLAN TO PROVIDE FOR THE 113 ACRE EXPANSION OF THE EXISTING EAST PIT AREA ONTO LAND OWNED BY THE STATE AND MANAGED BY THE STATES LANDS COMMISSION WITH INSTALLATION OF AN ASPHALT BATCH PLANT



17 Hearing Notices Sent On: February 7, 2014

Report Prepared By: Reuben J. Arceo,

P.C. Field Inspection Date: (Reuben attempting to schedule)

SITE INFORMATION:

Parcel Size: 113 acres (Includes installation of asphalt batch plant producing 800 tons per day)
Terrain: Gently sloping Alluvial Fan composed of cobbles, sand, gravel and silt
Vegetation: Blackbrush and Mojavean Creosote Scrub / Joshua Tree woodland

SURROUNDING LAND DESCRIPTION:

AREA	EXISTING LAND USE	LAND USE ZONING DISTRICT
SITE	Existing Gravel Pit	LV/IC (Lucerne Valley Community Plan/Industrial)
North	Vacant Undeveloped Land	LV/RL-20(Lucerne Valley Community Plan/Rural Living)
South	Vacant Undeveloped Land	LV/RL-20(Lucerne Valley Community Plan/Rural Living)
East	Vacant Undeveloped Hillside	LV/RL-20&LV/RC(Lucerne Valley Community Plan/Rural Living/Resource Conservation)
West	Vacant Undeveloped Land	LV/RL-20&LV/IR(Lucerne Valley Community Plan/Rural Living/Regional Industrial)

	<u>AGENCY</u>	<u>COMMENT</u>
City Sphere of Influence:	N/A	N/A
Water Service:	Onsite Well/Bottled Water	N/A
Sewer Service:	Portable Toilets	N/A

STAFF RECOMMENDATION: That the Planning Commission **APPROVE** the **Revised** Mining/Reclamation Plan 2006M-01 subject to the attached Conditions of Approval and incorporated Mitigation Measures, and **FILE** the Notice of Determination.

NOTE: The Development Code provides for the action of the Planning Commission to be appealed to the Board of Supervisors (Section 86.08.010).

SUMMARY/BACKGROUND

On August 2, 2011, Webber & Webber Mining Consultants on behalf of Hi-Grade Materials Company (Hi-Grade), located at 17671 Bear Valley Road (Hesperia), filed a revision application to amend the existing Mining Conditional Use Permit (CUP) and Reclamation Plan (collectively “the Project”) to permit the expansion of its mining and processing operations onto 113 acres of property owned and managed by the California State Lands Commission (CSLC) as shown in the Plot Plans, attached as Exhibit A. Hi-Grade is a subsidiary of Robar Enterprises. The Hi-Grade Lucerne Valley Pit is located in Lucerne Valley as noted on Figure 1, which was originally established and vested on 40 acres and has been in operation for over 60 years. The company is engaged in the manufacture of ready mix concrete and aggregate products, with eight locations serving Victor Valley, Antelope Valley and the Morongo Basin.

Hi-Grade received Planning Commission approval in May 2006 for a new Reclamation Plan which administrates its existing 90 acre pit and legalizes its 120 acre West Pit Expansion area located to the west, across Meridian Road, adjacent to their current mining pit operation. Combined, the two pits provide approximately 60 million tons of mineral reserves and could yield between 450,000 to 1,000,000 tons of product annually for a period of fifty years, although the West Pit entitlement caps production at 500,000 tons annually. The West Pit entitlement is effective for 20 years and terminates on May 1, 2026, with a provision for an additional 20 year extension subject to documented compliance and approval by the Planning Director. The proposed State Lands entitlement expansion terminates on December 1, 2038, and through the extension of the 20 year West Pit approval, Hi-Grade will obtain an additional eight years to mine the West Pit through 2046, once the State Lands approval terminates in 2038. As the market warrants, the proposed 113 acre expansion area will be opened for excavations to supplement existing sand and gravel production.

In accordance with the the State Mining and Geology Board Regulations (California Code of Regulations, Section 3502(h)(1)), where a surface mining operation has an approved Reclamation Plan and financial assurances covering the entire surface mining operation, and the mining operator proposes to disturb new lands that is not included in the approved Reclamation Plan, the operator may amend the existing Reclamation Plan to encompass the new area designated for use together with any other changes necessary to amend the Reclamation Plan to conform to current SMARA standards. The Applicant’s Reclamation Plan has been reviewed by County staff as well as the California Department of Conservation, Office of Mining Reclamation (OMR), and found to be in compliance with Public Resources Code (PRC) Section 2770 of the Surface Mining and Reclamation Act of 1975 (“SMARA”).

The Applicant’s Reclamation Plan, (Exhibit I) details the methods and procedures; specifically the phasing sequences to be employed to reclaim existing disturbed areas and the proposed expansion area and establishes a monitoring program and financial assurances as required by SMARA to ensure that reclamation is completed in accordance with the approved Reclamation Plan.

Figure 1
Regional Location Map
Lucerne Valley Pit



On October 4, 2013, the County was informed by OMR that with the exception of two comments, which have since been addressed and incorporated into the revised Reclamation Plan and Conditions of Approval, that OMR's comments with respect to the Applicant's Reclamation Plan have been adequately addressed. In accordance with the PRC Section 2774(d)(2), the County provided OMR thirty (30) days advance notice of its intent to recommend approval of the Applicant's amended Mining/Reclamation Plan to the Planning Commission at the February 20, 2014 public hearing.

PROJECT PROPOSAL

The applicant proposes the expansion of the existing pit area southward into adjacent lands owned in fee by the State as noted in Figure 2. As shown in Figure 3 photos, the expansion areas are relatively flat with a slight slope to the north and are located at elevations ranging from about 3,260 to 3,700 means sea level (MSL). There are approximately five mining operations within the Project vicinity. They include Specialty Minerals' Arctic, Cushenbury and Furnace Canyon quarries and processing plant, Cushenbury Cement Mine and processing plant, Omya's processing plant, and Robertson's Crystal Hills and Cushenbury sand and gravel operations.

The general Project area supports a relatively undisturbed creosote bush community typical of the area. Dominant species include creosote bush, Joshua trees, Ephedra and burrobush. The site supports suitable habitat for the desert tortoise. Populations of desert tortoises were identified in a Focused Study undertaken on May 24, 2012 approximately five miles northwest of the site. Tortoise population levels in the region are relatively low with populations ranging from approximately one to three tortoises per square mile. The desert tortoise is listed as a threatened and protected species under the Endangered Species Act of 1973.

The total expansion area southward into State lands will cover an additional 108 acres plus an additional five acres of State lands previously permitted. State lands are managed by the CSLC, which is the steward of lands, waterways, and resources which are sovereign and have unique restrictions in their management and use. The State has entrusted local municipalities (trustees) to manage in trust these lands, which include school lands held in fee ownership and reserved mineral interest. Revenues from school lands benefit the Teachers' Retirement Fund. The Project's Conditions of Approval incorporate CSLC's comments received by the County on January 2, 2014.

With the expansion onto State lands, the total mining area included in the Reclamation Plan will increase from 215 to 328 acres. The Applicant proposes to install an asphalt batch plant onsite that will utilize excavated sand and gravel for asphalt production. The asphalt plant will be a standard portable plant that will be located at various locations within the expansion area. The asphalt plant will produce approximately 800 tons of material per day during normal operating hours. The asphalt operation is not anticipated to have cumulative impacts to traffic. The findings from a Traffic Scope Analysis, dated October 16, 2013, determined that the intersection of Highway 18 and Meridian Road was operating at an acceptable level of service (LOS) and would continue to operate at an acceptable LOS B through 2035, with the proposed expansion. The current mining operation generates approximately 70 to 170 daily auto and truck trips and as the current proposal is an expansion of the existing mined area but does not contemplate a significant increase in mining operations, the number of trips is not anticipated to increase beyond the range that the facility currently generates.

The following is a breakdown of the mine's operation.

- The site will be mined to a depth of approximately 200 feet.
- Project will operate up to seven days per week 12 months per year and 24 hours per day.
- Extraction site is anticipated to yield 450,000 to 1,000,000 tons annually.
- 800 tons of asphalt will be produced per day.
- Approximately 70-170 trucks trips per day are anticipated.
- Base crusher will operate three to four times per year lasting one to two weeks per visit to crush asphalt and concrete which are stockpiled for sale.
- Employment projected to increase from 15 personnel to 20 at full production.

Shown below in Table 1 is a comparison of the existing and proposed Project modifications.

Table 1: Project Comparison

	Current	Proposed
Acreage	220	108
Production Rate	500,000 ton cap	450,000 – 1,000,000 tons
No. of Employees	15	20
Days of Operation	7 Days/Daylight	7-Days/24 Hrs.
Truck Trips	70-170 trips	70-170 trips
Operational Mining Period	May 2026	December 2038
Asphalt Production	None	800 tons

Figure 2
 Lucerne Valley Pit
 Project Expansion Area

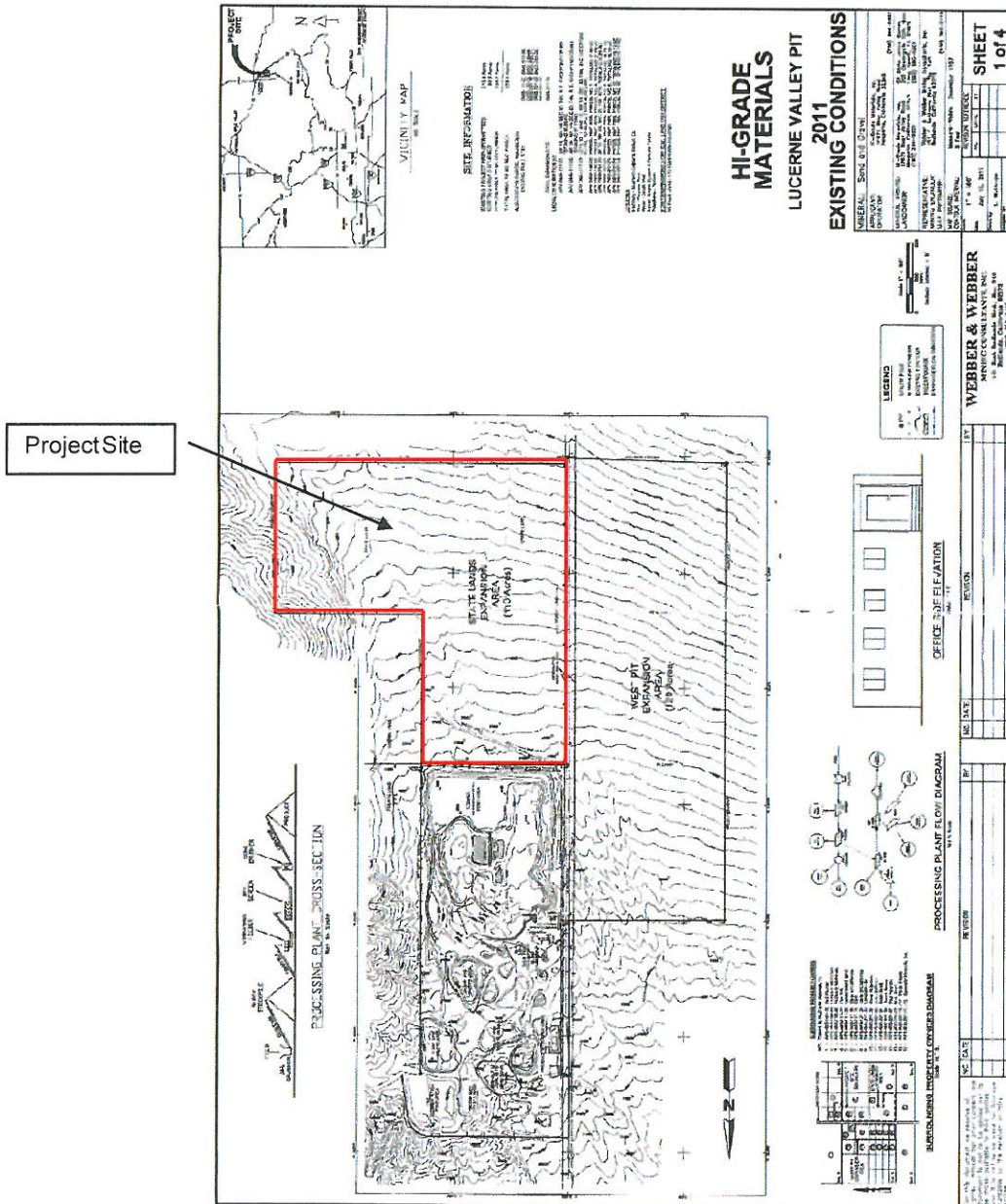
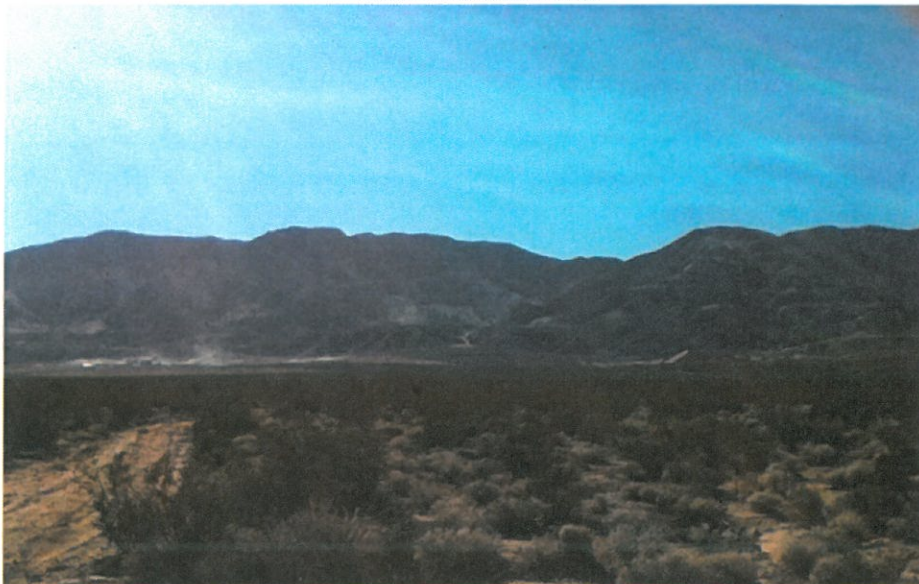


Figure 3
Project Site
South View Orientation



South View Orientation



Project Site
South View
Adjacent Hills



Project Site
North View
Berm and Existing Mine 90 Acre Mine Pit



To ensure the orderly mine phasing and minimize land disturbances from the existing pit, west pit and the proposed State lands expansion area, the following outline denotes the excavation sequence. The Reclamation Plan lists the concurrent sequences for both mining and reclamation. The timing of each sequence and time period cannot be predicted as each event is subject to industry market forces and situations.

Phase I

- Mining in East Pit to excavate any limited remaining sand & gravel materials.
- Continue construction of Meridian Road Slope to 2:1

Phase II

- Mining at south end of existing pit progressing southward into the State Lands expansion area.
- Continue construction of Meridian Road slope to 2:1
- Commence construction of conveyor/tunnel system under Meridian Road in preparation of mining excavations in the West Pit.

Phase III

- Continue excavations south and east into State lands expansion area.
- Complete construction of conveyor/tunnel system under Meridian Road.
- Mining commences in north 40 acres of West Pit concurrent with mining any remaining reserves in East Pit or State Lands expansion area.
- Mining advances into southern 80 acres of the West Pit.

As the amended Reclamation Plan cites, reclamation treatment of disturbed areas will occur on those areas that will not be further impacted by continuing Project activities. Preparation includes removal of any equipment, final grading of slopes and ripping. In mining areas where soil compaction has occurred, such as haul roads and quarry floors, ripping will be accomplished to facilitate natural and enhanced vegetation. Sites will be principally revegetated in late Fall to coincide with the region's rainy weather patterns. Inactive mined areas and recontoured slopes will be planted only with site indigenous plant species. Hi-Grade will be responsible for adhering to and executing the Maintenance and Monitoring Program and Revegetation Plan based on the approved Reclamation Plan and Conditions of Approval, which will be annually verified by on-site inspections conducted by qualified SMARA inspectors.

Upon completion of final reclamation activities, the Project site will be contoured in a manner according to the surrounding topography and forming a storm water depression collecting runoff emanating downward from the north slopes of the San Bernardino Mountains. Revegetating with native plant life will occur as cited in Exhibit F, "Revised Revegetation Plan". After the cessation of reclamation activities, the site will return to vacant open space.

In compliance with PRC Sections 2770 and 2773.1, Hi-Grade currently maintains a letter of credit with the County and the State Department of Conservation to assure successful reclamation in the unlikely event Hi-Grade cannot fulfill their reclamation responsibilities in accordance with the existing approved Reclamation Plan. SMARA requires that Financial assurances be annually reviewed and adjusted commensurate to current and proposed disturbances.

ANALYSIS:

Land Use Compatibility. The site is located within the "Lucerne Valley/Rural Living" land use zoning district, which allows a limited number of uses, including mining operations, subject to County approval of a CUP. The properties surrounding the site are similarly zoned Rural Living, Resource Conservation and Regional Industrial. The Proposed Project would not physically divide an established community, and is consistent with all applicable land use policies and regulations of the County's General Plan and Development Code.

The Project area is located in the Northern and Eastern Mojave planning area of the California Desert Conservation Area (CDCA) Compliance with the Mitigation Measures for biological resources contained within the Initial Study ensures that the Project would not conflict with an adopted Habitat Conservation Plan, Natural Community Conservation Plan or any other approved local, regional or state habitat conservation plan.

Initial Study. In compliance with the California Environmental Quality Act (CEQA), an Initial Study, attached as Exhibit D, was completed and routed to the State Clearinghouse for circulation (SCH# 2013121017). The 30-day comment period ended on January 6, 2014. Comments were received from the State of California Department of Fish and Wildlife (CDFW); Native American Heritage Commission (NAHC), CSLC and California Department of Transportation. Staff has reviewed the comments and determined that concerns raised in the comment letters have been adequately addressed in the Initial Study (Ref. Section IV Biological Resources and Section V Cultural Resources and Section XVI Transportation and Traffic). Please refer to Exhibit E for copies of the Comment Letters and the responses to same.

The comments and County response, attached as Exhibit E did not trigger the need for substantial revisions or re-circulation of the document due to the reasons discussed in the following paragraphs following the summary of mitigated environmental factors.

Mitigated Environmental Factors. Of the environmental factors potentially affected, mitigation measures are being recommended for Biological Resources and Cultural Resources.

1. Biological Resources: Based on a literature review, a search of the United States Department of Wildlife (USDWS) and CDFW data bases, and search of the California Natural Diversity Database, it was determined that there are three (3) sensitive wildlife and three (3) sensitive plant species that have been documented within five (5) miles of the Project site. These species include: desert tortoise, Mohave ground squirrel, LeConte's thrasher, alkali mariposa lily, Parish's alkali grass and salt spring checkerbloom. In accordance with CEQA, a Biological survey was conducted on the Lucerne Pit on May 18, 2012, and focused desert tortoise surveys on May 21, 22, and 23, 2011. A report dated May 24, 2012, was prepared for submittal to the County as part of the documents required for review of the proposed mining Project. The results of the Biological Resources Assessment determined that no significant cumulative impacts on the general biological resources occurring on the property or in the surrounding region would result. The observations from the survey noted no sensitive species. In that the Initial Study determined with mitigation, the Project would have no impacts, the mine operator shall implement the following mitigation measures to avoid potential impacts to the desert tortoise. These measures include: the operator informing all personnel regarding the desert tortoise and how to deal with tortoises if they are

encountered; implementing a litter control program; requiring inspection for tortoises under vehicles to avoid accidental harm; allowing only authorized biologists to handle tortoises; and ceasing all work in an area upon discovery of a desert tortoise until the tortoise is relocated. With regard to the burrowing owl, prior to 30 days to initiating mining activities, a pre-construction survey must be conducted for the burrowing owl by a qualified biologist. To mitigate riparian habitat/wetlands impacts, prior to commencing mining activities the Project applicant shall obtain a Section 404 Permit from the United States Army Corps of Engineers, a Section 1602 Streambed Alteration Agreement from CDFW and a Section 401 Water Quality Certification from the Regional Water Quality Control Board (RWQCB).

2. Cultural Resources: In that the County received responses from the CSLC concerning matters involving archaeological sites and historic resources and from the NAHC concerning findings of Native American objects and remains, mitigation measure have been incorporated requiring that if at any time potential evidence of human remains are found, all work is to cease and a certified archaeologist and a culturally affiliated Native American with knowledge in cultural resources should be contacted. With regard to archaeological or historic findings on state lands, all work shall cease and the County shall consult with the CSLC prior to permitting mining operations to commence.

Water Supply Assessment – SB 610 and SB 221. The California Supreme Court in *Vineyards (Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (April 2007) 40 Cal. 4th 412) held that CEQA requires local governments to undertake significant water supply planning before approving development projects, even to the point of demonstrating that projects must have a “likelihood” of obtaining sufficient water supplies. The water supply assessment must describe whether sufficient water supplies are available to meet the proposed project’s needs over a twenty-year period, accounting for the water supplier’s existing and planned future uses under different scenarios. In 2002, the State passed SB 610 to require public water supply agencies to provide information regarding the availability of water supplies for proposed projects. Similarly, SB 221 requires local governments to impose a condition requiring that sufficient water supply is available for the Project.

The Watermaster’s office of the Mojave Water Agency (MWA) is assigned the task of monitoring the extractions of all wells within the adjudicated area. Well owners are responsible for informing the Watermaster’s office with annual metered ground water extractions. In accordance with SB 610 and SB 221, a ground water resource evaluation was undertaken to assess the water resources available for the Project. The report, dated May 31, 2013, cites the following findings:

- According to the Watermaster, Hi-Grade developed an initial ground water pumping right of 442 acre feet per year. Hi-Grade’s production allowance for the subject property is about 354 acre feet per year to account for the 20 percent diminution to allow for basin safe yield. In 2012, Hi-Grade pumped 114 acre feet, and has consistently pumped below their allocation.
 - Ground water is located at depths of between 150 and 400 feet depending on location. Individual well yields should easily exceed 20 to 100 gallons per minute depending upon the depth of the well and size of the pump. Although not specifically proposed, new water well as such could be drilled and constructed almost anywhere on the subject
-

property with good results.

- The subject property is situated near the central (southern) portion of the Este subarea of the Mojave River Basin. Ground water levels in the vicinity show zero to minimal decline over the past 60 years.
- Based on the USGS study, most of the ground water in the area is excellent and acceptable for all uses.
- The only potential impacts that the proposed Project could have on the ground water basin are quantity and quality, neither of which will be significantly impacted.
- Hi-Grade has a historic water right to pump from the Este Subarea. Currently Hi-Grade pumps less than 33 percent of their legally allowed extraction limit under adjudication. Based on their water historic usage, the study found that Hi-Grade has more than sufficient water to supply the Project without impacting the ground water basin.
- Risk for ground water contamination is minimal.

Concerning drainage and erosion controls, erosion occurring within the Project area during and after reclamation will be retained within the Project boundary. The Applicant will adhere to drainage control measures recommended in a Drainage Study prepared on January 10, 2013 by Hall and Foreman, Inc., a copy of which is attached as Exhibit G. Moreover, in that the mine expansion will impact CDFW regulated streambed and banks, a Streambed Alteration may also be required prior to Project implementation. In accordance with the Jurisdictional Water Delineations For Lucerne Pit, prepared on December 15, 2011 by Agcon Inc, attached as Exhibit H, a report of waste discharge must also be filed with the RWQCB to obtain Waste Discharge Requirements for actions that may affect groundwater in a diffused manner (e.g., erosion from soil disturbance or waste discharges to land). A Permit Registration Documents package must be submitted to the RWQCB to obtain a General Permit for discharges of storm water associated with mining activity.

In conclusion, the Initial Study and corresponding studies determined that the proposed use, with the implementation of mitigation measures, will not have a significant effect on the environment, and a Mitigated Negative Declaration is recommended. This proposed determination represents the independent judgment of the County. All mitigation measures are included in the Conditions of Approval and are implemented through the post approval review.

RECOMMENDATION: That the Planning Commission:

- 1) **ADOPT** the Mitigated Negative Declaration based on a finding that the Initial Study was completed in compliance with CEQA, that it has been reviewed and considered prior to approval of the Project, and that the Initial Study/Mitigated Negative Declaration and supporting documents reflects the independent judgment of the County of San Bernardino;
- 2) **ADOPT** the Findings as attached with this Staff Report (Exhibit B);
- 3) **APPROVE** a Reclamation Plan 2006M-01 for the proposed 108 acre mining expansion;
- 4) **FILE** a Notice of Determination.

FIGURES:

1. Regional Location Map
2. Vicinity Map

ATTACHMENTS: (Provided on CD)

- Exhibit A: Plot Plans
- Exhibit B: Findings
- Exhibit C: Conditions of Approval
- Exhibit D: Initial Study/Mitigated Negative Declaration
- Exhibit E: Response to Comments
- Exhibit F: Revised Revegetation Plan for Lucerne Valley Pit Expansion Area
- Exhibit G: Drainage Study
- Exhibit H: Jurisdictional Waters Delineation Report
- Exhibit I: Lucerne Valley Pit Amended Mining and Reclamation Plan No. 2006M-01