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Robert Salisbury, Senior Planner
Santa Clara County Department of Planning & Development
70 West Hedding Street, East Wing, 7th Floor
San Jose, CA 95110

Submitted via email to: sgtquarry.comments@pln.sccgov.org

Greenaction for Health and Environmental Justice Comments on Sargent Ranch Quarry Draft Environmental Impact Report

Greenaction for Health and Environmental Justice submits these comments on the Sargent Ranch Quarry Draft Environmental Impact Report and the proposed project on behalf of our members and constituents in Santa Clara County, and in support of the Amah Mutsun Tribal Band, whose sacred land is threatened by this proposed gravel and sand project.

Greenaction is a multiracial environmental justice organization founded and led by grassroots leaders from urban, rural, and Indigenous communities impacted by pollution and injustice.

The facts are clear. Santa Clara County must **deny** the permit for the proposed mine. The proposed project is not only immoral and racist, but as the Draft EIR documents, the proposed project would have an unacceptable and harmful significant impact that could never be mitigated to be less than significant. CEQA requires the rejection of the proposed project.

Greenaction stands with the Amah Mutsun Tribal Band in saying NO to sand and gravel mining at Juristac. From an Indigenous point of view, sacred sites, human and non-human relatives, the environment, the land, the water (including adjacent Sargent Creek, Tar Creek, and Tick Creek), and the sensitive wildlife corridor are inextricably interconnected. Native people are a part of nature, not separate from nature.

Government agencies and elected officials have a legal and moral responsibility to protect Indigenous sacred and culturally significant sites from destruction and desecration.

Our comments highlight the significant and unavoidable impacts the project would have on air quality, tribal and cultural resources, greenhouse gas emissions, water quality, and other environmental resources.

Greenaction calls for the rejection of this project and we support only Alternative I, in which no further development is approved. This area must be protected forever from harm, in collaboration and consultation with the Ahmuh Mutsun Tribal Band.

Air Quality

The proposed project would have **significant and unavoidable impacts** on air quality, according to BAAQMD guidelines, even after mitigation efforts. The emissions of ozone, PM₁₀, and PM_{2.5} have “non-attainment” status regarding California air quality standards, meaning that these emissions are above the state standards for emissions. The project would add to the already unhealthy local air quality and contribute to climate change.

As stated in the Sargent Ranch Quarry Draft Environmental Impact Report, the proposed project would emit pollutants such as O₃, NO_x, PM_{2.5}, and PM₁₀. The sources of these emissions include atmospheric chemical reactions of reactive organic gases, motor vehicle exhaust, construction activities, and industrial processes. As the Draft EIR states, the air pollution caused by this project would include the release of greenhouse gases into the atmosphere, conflict with the clean air plan, and potential health risks to those in surrounding residential areas.

Impact 3.3-1 and Impact 3.3-2 emphasize the fact that long-term NO_x emissions as a result of this project would **exceed significance thresholds**, and in turn, conflict with the implementation of the clear air plan. In particular, the vehicles required to move material excavated and construction equipment would emit large amounts of NO_x, VOC, PM_{2.5}, and PM₁₀. PM₁₀ would be especially of concern, as stated under Impact 3.3-2 of the report. Effects of PM₁₀ can be found on page 169, which include reduced lung function, aggravation of respiratory and cardiorespiratory diseases, increased cough and chest discomfort, and reduced visibility. The close proximity of the Betabel RV Park, as well as six residential areas, and the harmful effect this air quality will have on the health of people living in surrounding areas, should be taken into serious consideration in regard to the proposed project.

Impact 3.3-5 further outlines the significant and unavoidable impacts of NO_x, PM_{2.5}, and PM₁₀. It states that the emissions would exceed BAAQMD thresholds by 54 pounds per day for both NO_x and PM_{2.5}, and 82 pounds per day for PM₁₀. Despite Mitigation Measures 3.3-2a and 3.3-2b, the Draft EIR finds that the cumulative emissions of NO_x, PM_{2.5}, and PM₁₀ would be considered a **significant impact**.

The significant impacts of the emission of NO_x, VOC, PM_{2.5}, and PM₁₀ from the proposed project must result in the **rejection** of the project. Even if mitigation measures were implemented, the Draft EIR confirms that these emissions will have unavoidable, harmful, and serious impacts. Not only do these emissions surpass the BAAQMD thresholds, but as a result, they would also harm the environment, atmosphere, and the health of the people and wildlife.

Tribal and Cultural Resources

The proposed project would have a significant and unavoidable negative impact on the sacred site of Juristac and tribal cultural resources therein.

As the Draft Environmental Impact Report states, the proposed project would contribute to the loss of tribal and cultural resources of profound importance to the Amah Mutsun Tribal Band. According to the report, “the Project would have a **significant and unavoidable impact** both at the Project-specific level and cumulatively with regard to changes in the significance of tribal cultural resources within the proposed area of development, and the Juristac Tribal Cultural Landscape” (S-7).

The desecration and destruction of a sacred site is not a mitigable action. It would be a violation of Indigenous rights, human rights, and civil rights.

There are four known tribal cultural resources on the project area that have been acknowledged in the Draft EIR. The entire area in which the Project would be located is designated as the Juristac Tribal Cultural Landscape (JTCL), defined as a “place where the Tribe’s spiritual traditions blended seamlessly with the habitation of the village sites, the numerous natural resources nearby, and the sacred areas of the springs, waterways, and hills.”

As noted in the Draft EIR, “Sargent Hills and parts of the adjacent waterways, including Sargent Creek, Tar Creek, and Tick Creek... includ[e] numerous archaeological sites, resource collection areas, and landscape features” (3.5-25). This deeply important landscape encompasses the Project area and would suffer unmitigable harm upon approval of the Project. Specific areas within the JTCL that hold significant import for the Amah Mutsun Tribal Band include Beteval Bluff, a sacred site associated with the Big Head Dance healing ceremony; SCL-577/H, a pre-colonial site at the northern end of the project area that is home to at least six burial sites; and CA-SCL-578/H, a site of post-mission Indigenous survival and refuge (3.5-26). These locations support Amah Mutsun connections to their culture, heritage, ancestors, and landscape. Additionally, all four of these TCRs were found to be eligible for the California Register of Historic Resources (CRHR).

The Draft EIR, while acknowledging that approval of the Project would result in many significant and unavoidable harms to the significance of tribal resources within the Project area,

also claims that some mitigation efforts could reduce this impact **below significant levels**. Greenaction **disagrees** with this assertion and views many of the proposed mitigation efforts as additionally harmful to the Amah Mutsun Tribal Band.

The primary proposed mitigation effort would involve the use of a company-appointed archeological monitor. While this monitor is required to communicate with a Tribal representative, the monitor maintains discretion over determining the “identity, integrity, and significance” of any encountered archeological deposit, *after* which point they submit a report of findings to the County and Tribal representative (3.5-31). Not only does this limit Tribal involvement in recovering artifacts or other culturally significant findings, but it contributes to the **erasure** of Indigenous needs and perspectives by placing the power to determine cultural significance in the hands of a company-appointed person. This is unacceptable.

Mitigation efforts may also include the offering of a conservation easement (3.5-40), which furthers Indigenous erasure by continuing the history of removal from sacred lands. The easement would not actually give land to the tribe, but rather commit to conserving a different area against development. This does nothing to preserve or compensate for the cultural significance of the proposed Project area on Juristac.

Greenaction agrees with the conclusion of the Draft EIR that changes to tribal cultural resources are **significant and unavoidable** if the Project were to be approved. **No mitigation measures could reduce this impact**. Further, the proposed mitigation measures reliant on a corporate archeologist and the pay-out of a conservation easement perpetuate harm against Indigenous peoples and the Amah Mutsun Tribal Band. For these reasons, we call for the rejection of the project.

Approval of the Proposed Project Would Violate Civil Rights Laws

As mentioned above, the desecration and destruction of these sacred and culturally significant sites would be a violation of Indigenous religious, human, and civil rights.

As a recipient of state and federal funding, Santa Clara County is subject to state and federal civil rights laws: California Government Code 11135 as well as Title VI of the United States Civil Rights Act of 1964 and its implementing regulations. To comply with civil rights requirements, the County must not take any actions that would have a discriminatory and disproportionate negative impact on protected classes of people, and the Indigenous people of the Amah Mutsun Tribal Band are protected by civil rights laws. Permitting a project that would desecrate and destroy a culturally significant site would be a violation of civil rights laws. As the County is committed to upholding civil rights, denial of the proposed project is required.

Wildlife Corridor

The Project would disrupt a key wildlife corridor (landscape linkage) between the Santa Cruz Mountains, Diablo Range, and Gabilan Range for species such as mountain lion, bobcat, gray fox, striped skunks, wild pig, and black-tailed deer. Mine operations and truck/train traffic would interfere with important Highway 101 under-crossings at Tick Creek, Tar Creek, and Pajaro River (see Impacts 3.4-15, 3.4-22) and increase wildlife disruptions (p. 239, 3.4-34)

Wildlife movement/dispersal between ranges is key to avoiding genetic isolation and local extinction of species in the Santa Cruz mountains and beyond. Moving the quarry project footprint from one part of the property to another would not reduce the severity of impacts on wildlife connectivity in a meaningful way.

Greenhouse Gas Emissions

Though emission of greenhouse gases falls under the Draft EIR's "Less Than Significant Impact with Mitigation Efforts" category of the potential impacts of the proposed project, there is still the potential for the mitigation efforts to fall short of the emission reductions needed to follow California state law in regards to emissions, leading to a significant impact on the environment and atmosphere.

The Draft Environmental Impact Report finds that the proposed project would both, directly and indirectly, contribute to climate change through the emission of greenhouse gases, as stated in Impacts 3.8-1 and 3.8-2. Though the Draft EIR states that with mitigation efforts, there is the potential for this impact to become less than significant, on page 14, the report states that "implementation of the Project could result in significant impacts in the following areas," one of which is greenhouse gas emissions. Even with mitigation efforts, as written in the environmental impact report, there is no guarantee that there will not be a significant and unavoidable impact in this area. Construction emissions, off-road equipment exhaust, on-site vehicle exhaust, rail emissions, off-site vehicle emissions, and electricity usage combined would emit an additional 7,408 metric tons of CO₂ annually.

Though the Draft EIR points out that these emissions would supposedly decrease year by year, the peak amounts of predicted CO₂ emissions still classify this as a significant and unavoidable impact on our environment and atmosphere.

The proposed so-called mitigation measures are unacceptable, including purchasing carbon offset credits or making offset payments annually. There is no guarantee that this will disincentivize the project from emitting the 7,408 metric tons of CO₂ each year, therefore

continuing the release of greenhouse gas emissions into our atmosphere and increasing the average global temperatures.

Very importantly, carbon offset credits or payments are a farce and charade to make excuses for polluting projects. This would not lessen the harmful environmental impacts and devastating impacts on tribal resources and culturally significant sites.

These emissions would violate California's SB 32, the CARB 2017 Scoping Plan, and Executive Order B-55-18, which are all aimed at reducing greenhouse gas emissions. The proposed project would not comply with California's plan for reducing climate change and the release of CO₂ into the atmosphere. Even with the mitigation measures listed above, there is still no guarantee that these measures would disincentivize the project's emission of greenhouse gases, once again contributing to the rise in global temperatures and the release of greenhouse gas emissions into the atmosphere.

Greenhouse gas emissions by the proposed project could potentially have a significant and unavoidable impact on the environment and atmosphere, even with the mitigation measures listed in the Draft EIR.

Water Quality

Though Water Quality is listed under the impact areas with "Less Than Significant Impact with Mitigation Efforts," the report states on page 14 that "implementation of the Project could result in significant impacts in the following areas," including hydrology and water quality. Even with mitigation measures, this project has the potential to have a significant impact on the water quality of the surrounding area.

Impact 3.10-1 states that runoff from construction would substantially degrade surface and groundwater quality in the area. This construction would lead to soil-disturbing activities, which would become a source of pollutants in stormwater runoff. This would make the soil more susceptible to erosion, changing the topography of the area and polluting the water. In addition, the possibility of materials such as paint, solvents, concrete, and petroleum products poses a threat to water quality in the area. Considering that the processing plant, truck access, and conveyor belt all come close to water sources, including Tar Creek, the chances of water contamination by materials other than sediment are high.

With the historic drought continuing, we need to increase the protection of water quality, not allow it to be degraded.

Hazards and Hazardous Waste

While the report states in 3.9-1 that the use, transport, and disposal of hazardous waste would be less than significant after mitigation measures, it is important to consider where these wastes would be disposed of. In California, the two commercial hazardous waste landfills are located in Kettleman City and Buttonwillow in the Central Valley. Both are farmworker communities that the state itself acknowledges are highly impacted and at risk from pollution. Both of these giant toxic waste landfills are improperly allowed by the State to operate on expired permits - and permits for both landfills were issued with racially discriminatory permit processes including police intimidation of residents.

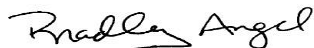
If the County approved the proposed quarry project, it would be responsible for contributing to the pollution and health disparities in the two communities where toxic waste is improperly dumped in our state.

Conclusion

Greenaction agrees with the Draft EIR in stating that approval of the Project would have a **significant and unavoidable impact** on air quality, tribal and cultural resources, the viability of the wildlife corridor, and the health of wildlife. Upon reviewing the Draft EIR, it is clear that the project would also have a significant potential impact on water quality, and would significantly contribute to greenhouse gas emissions and the production of hazardous waste. No mitigation measures could adequately address any of these impacts.

As the proposed project would clearly have totally unacceptable, harmful, and significant impacts that cannot be mitigated to be less than significant, Greenaction for Health and Environmental Justice calls on Santa Clara County to reject the proposed project.

Respectfully submitted,



Bradley Angel, Executive Director

Greenaction for Health and Environmental Justice

Greenaction for Health and Environmental Justice
315 Sutter Street, 2nd floor, San Francisco, CA 94108
www.greenaction.org (415) 447-3904 greenaction@greenaction.org