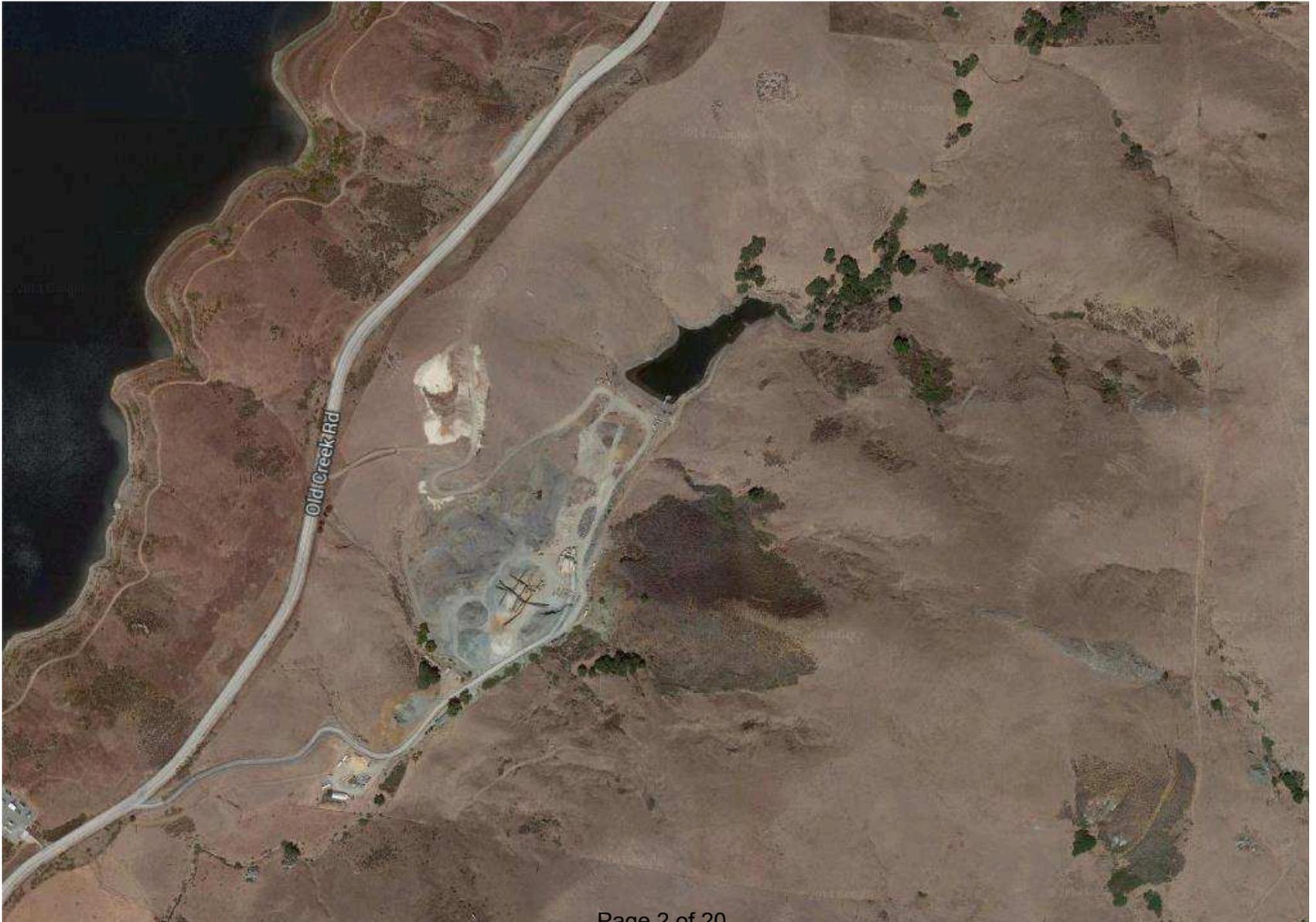


Attachment E

Whale Rock Quarry



Mine Parcel Certified as Vested in 1980



Vested Mining Rights

Hansen Bros. Enterprises v. Nevada County (1996) 12 Cal.4th 533

1. A vested mining operation is entitled to expand – “diminishing asset doctrine”. (p. 553)
2. The entire parcel is vested if subject to actual mining at the vesting date – other parcels are vested if the owner showed the objective intent to devote the parcel to mining-related uses. (pp. 555-556)
3. A vested mining operation is entitled to increase production to meet market demand. (pp. 571-572)
4. Vesting includes the overall business enterprise, including all individual components of the use. (p. 565-566)

Staff Recommendations

1. **Geographic Scope =**
Approx. 7 acres

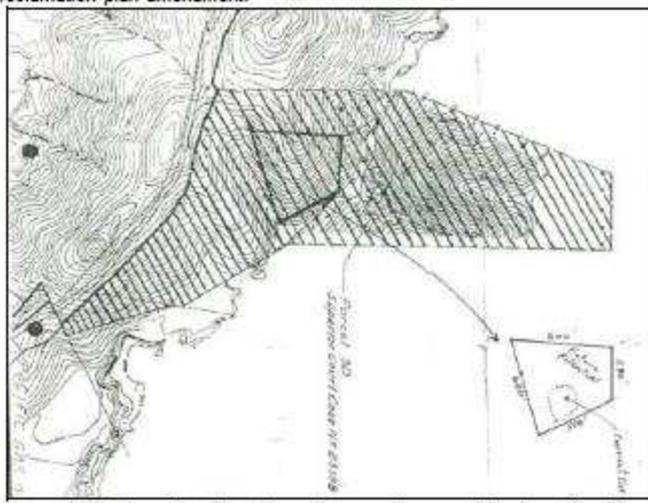


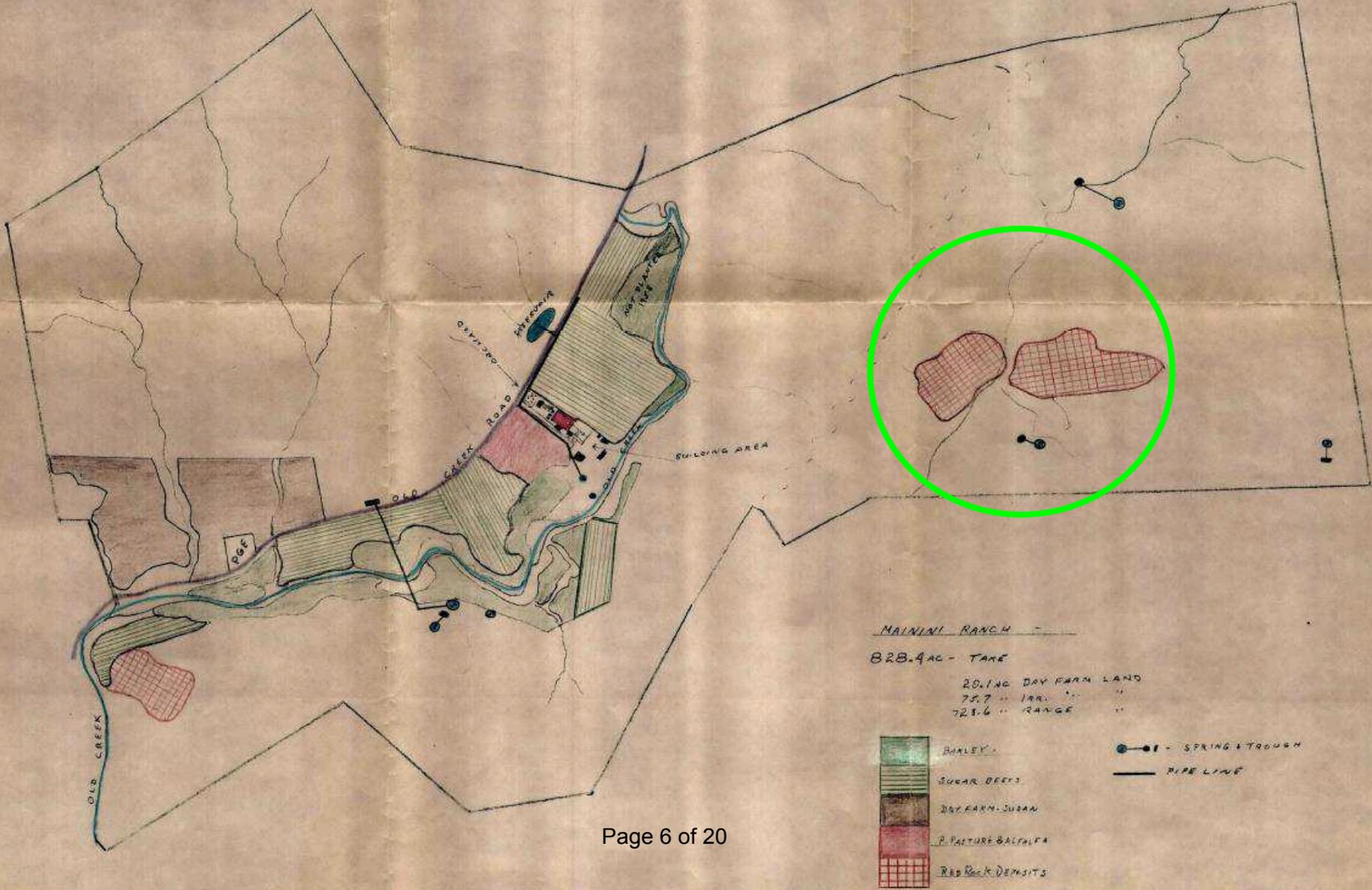
Figure 4 - Reclamation Plan Map. Source: Approved Reclamation Plan

2. **Production Limit =**
8,000 cu.yds.

3. **Operational Limit =**
Bulldozer only



Intent To Mine Entire Parcel



Intent To Mine Entire Parcel

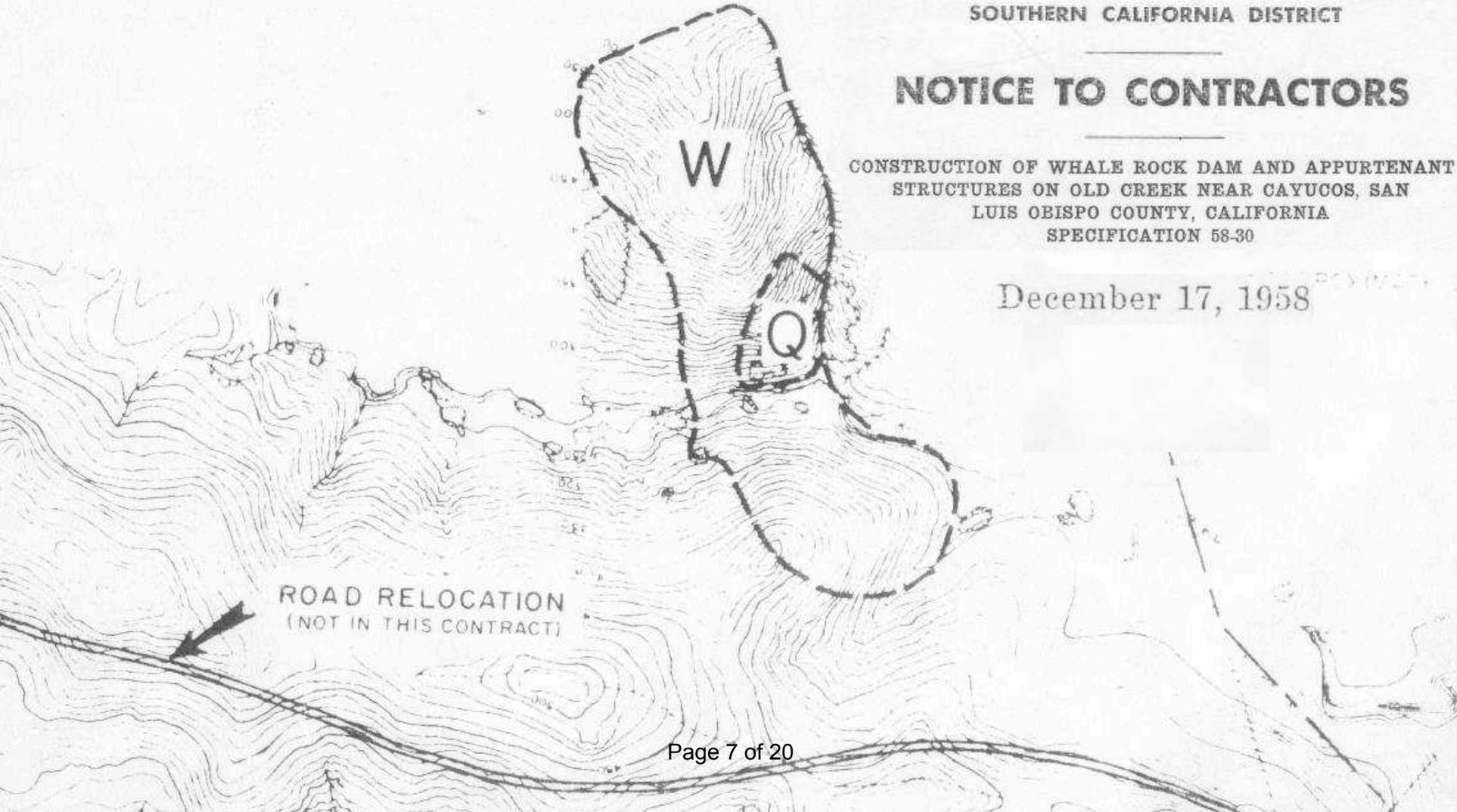
- Item 7. 50,000 cubic yards overburden excavation, Quarry Areas Q and W.
- Item 11. 40,000 cubic yards drain material from Quarry Area Q.
- Item 12. 16,300 cubic yards bedding material for riprap, from Quarry Area Q.
- Item 13. 50,000 cubic yards riprap from Quarry Area Q.

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES
DIVISION OF DESIGN AND CONSTRUCTION
SOUTHERN CALIFORNIA DISTRICT

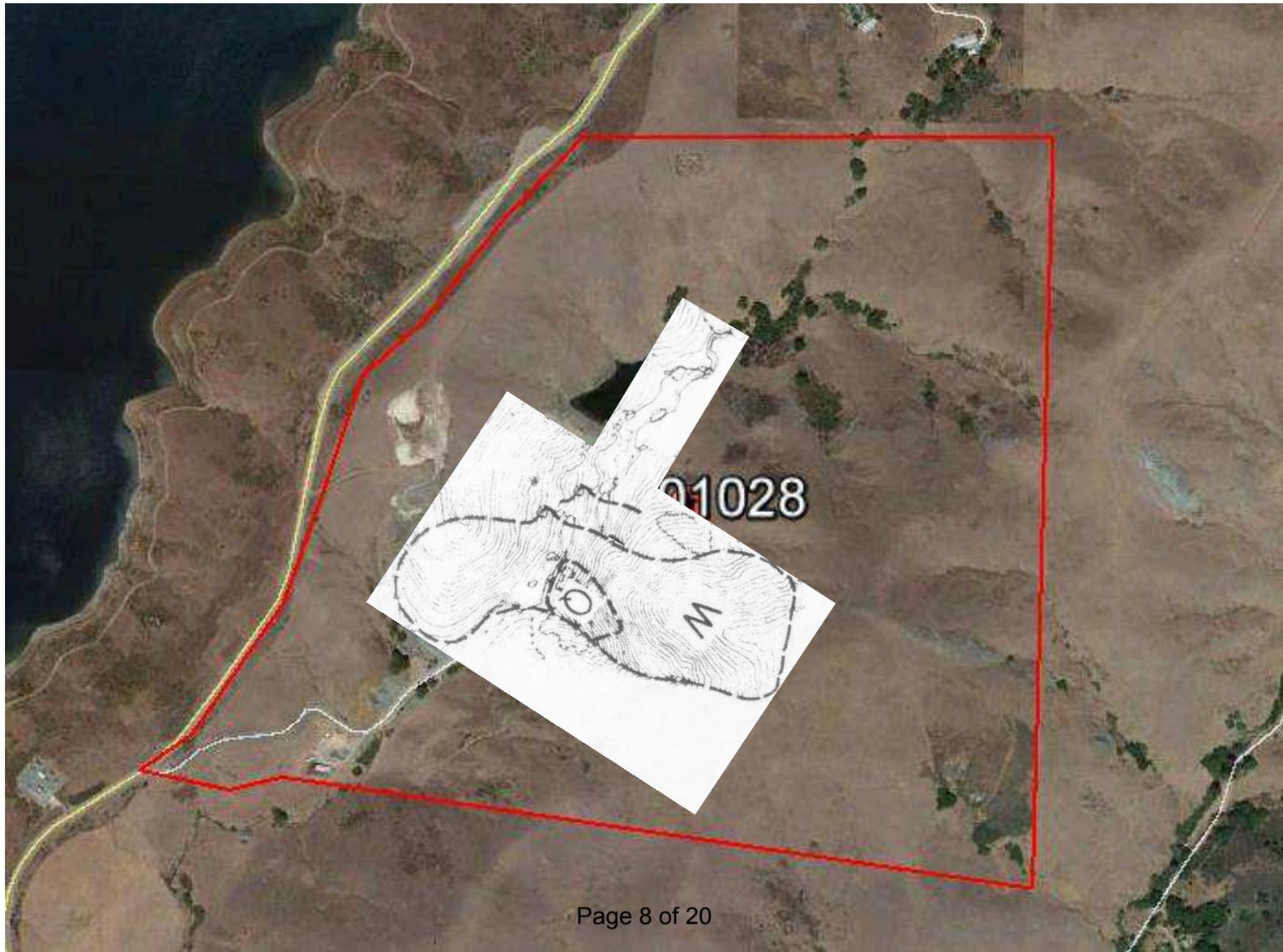
NOTICE TO CONTRACTORS

CONSTRUCTION OF WHALE ROCK DAM AND APPURTENANT
STRUCTURES ON OLD CREEK NEAR CAYUCOS, SAN
LUIS OBISPO COUNTY, CALIFORNIA
SPECIFICATION 58-30

December 17, 1958

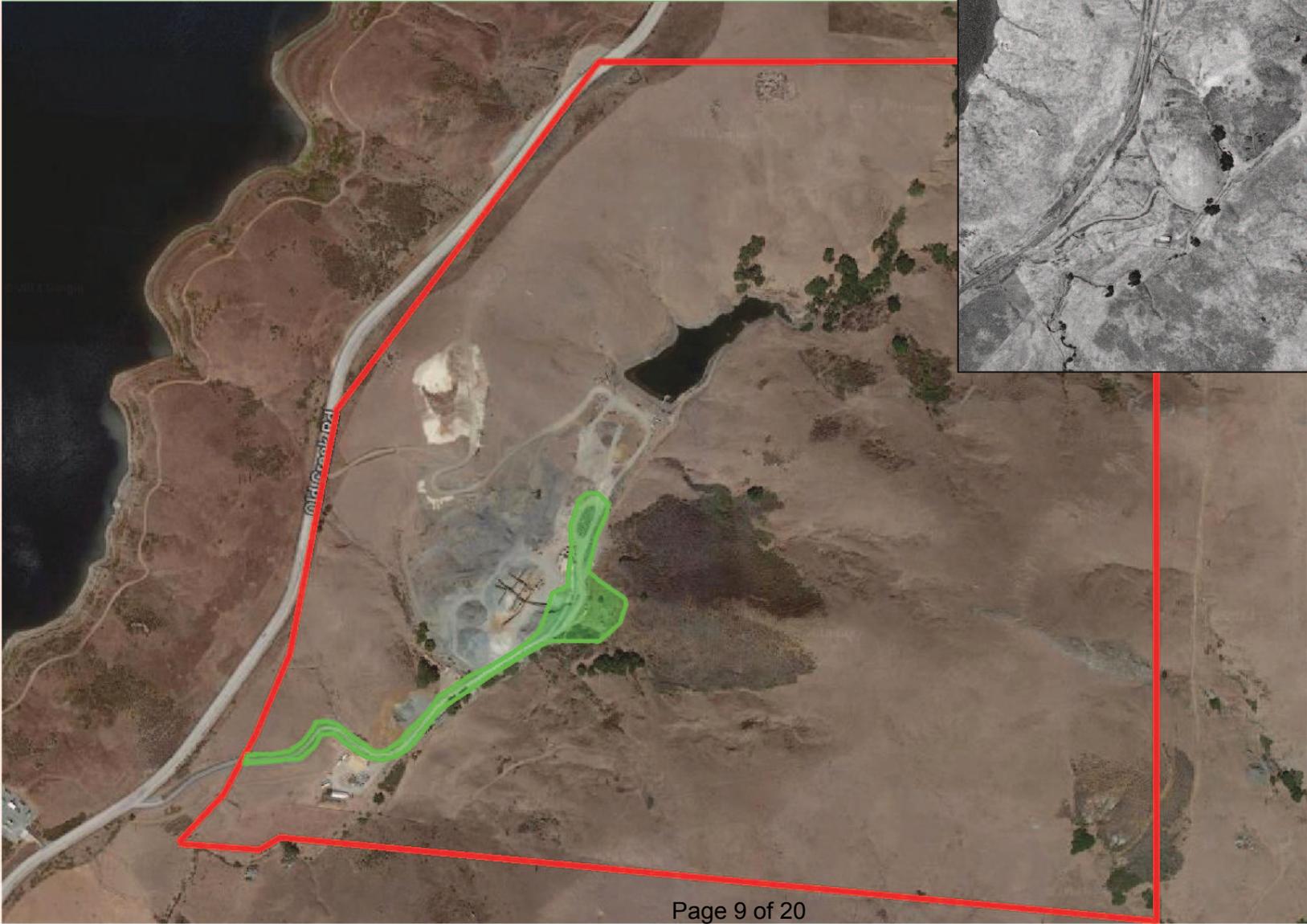


Mine Parcel Certified as Vested in 1980



Intent To Mine Entire Parcel

1963



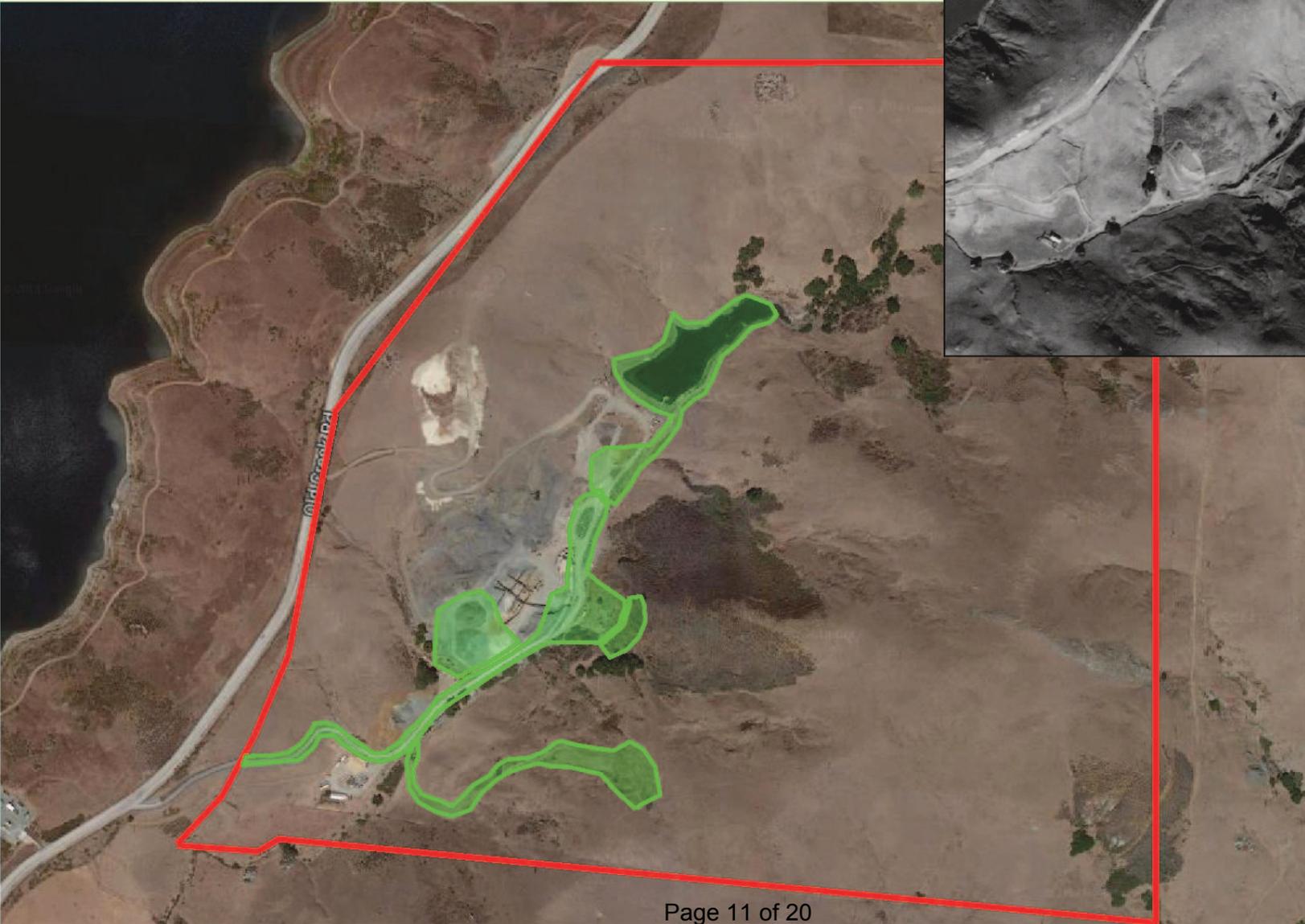
Intent To Mine Entire Parcel

1969



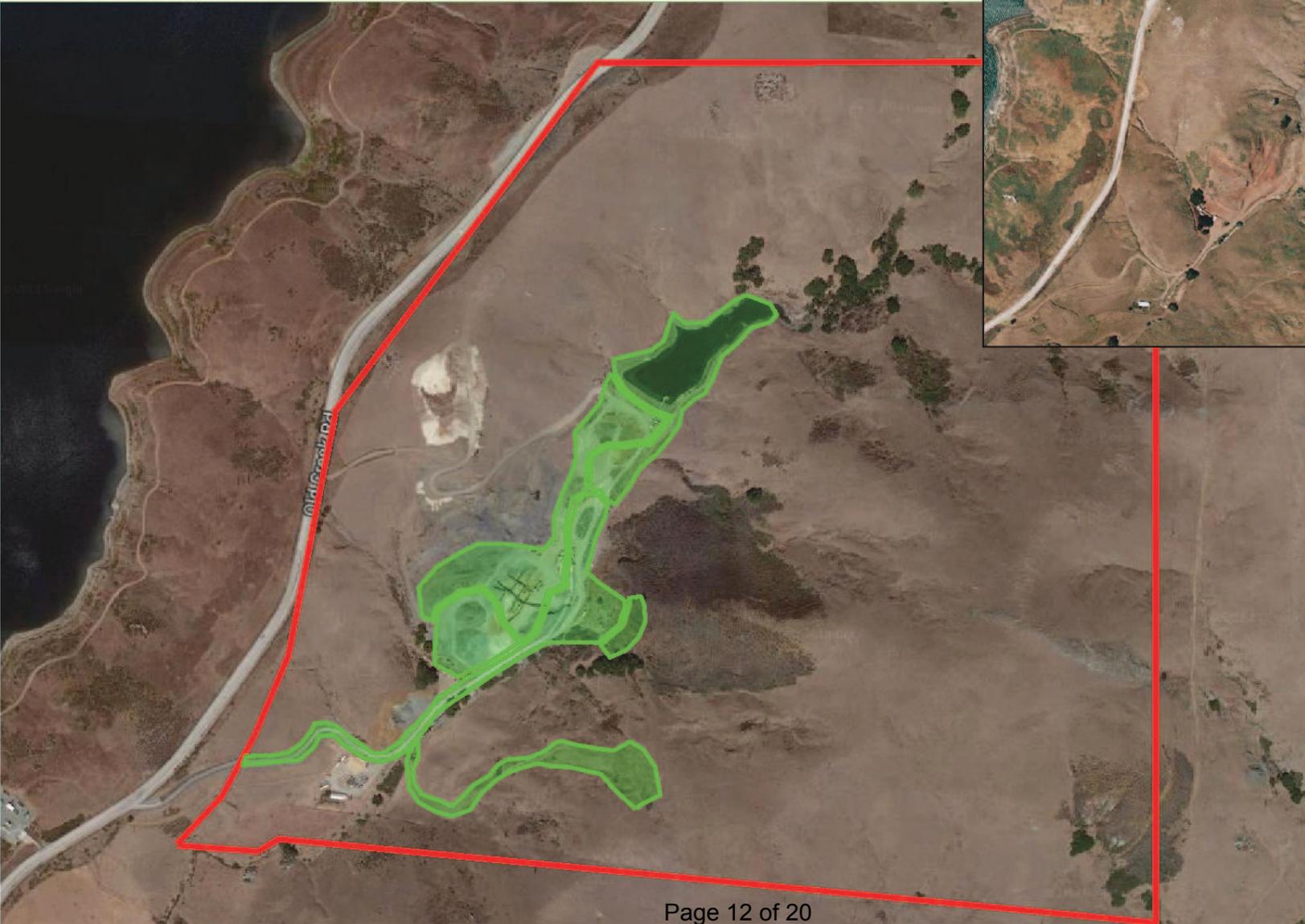
Intent To Mine Entire Parcel

1977



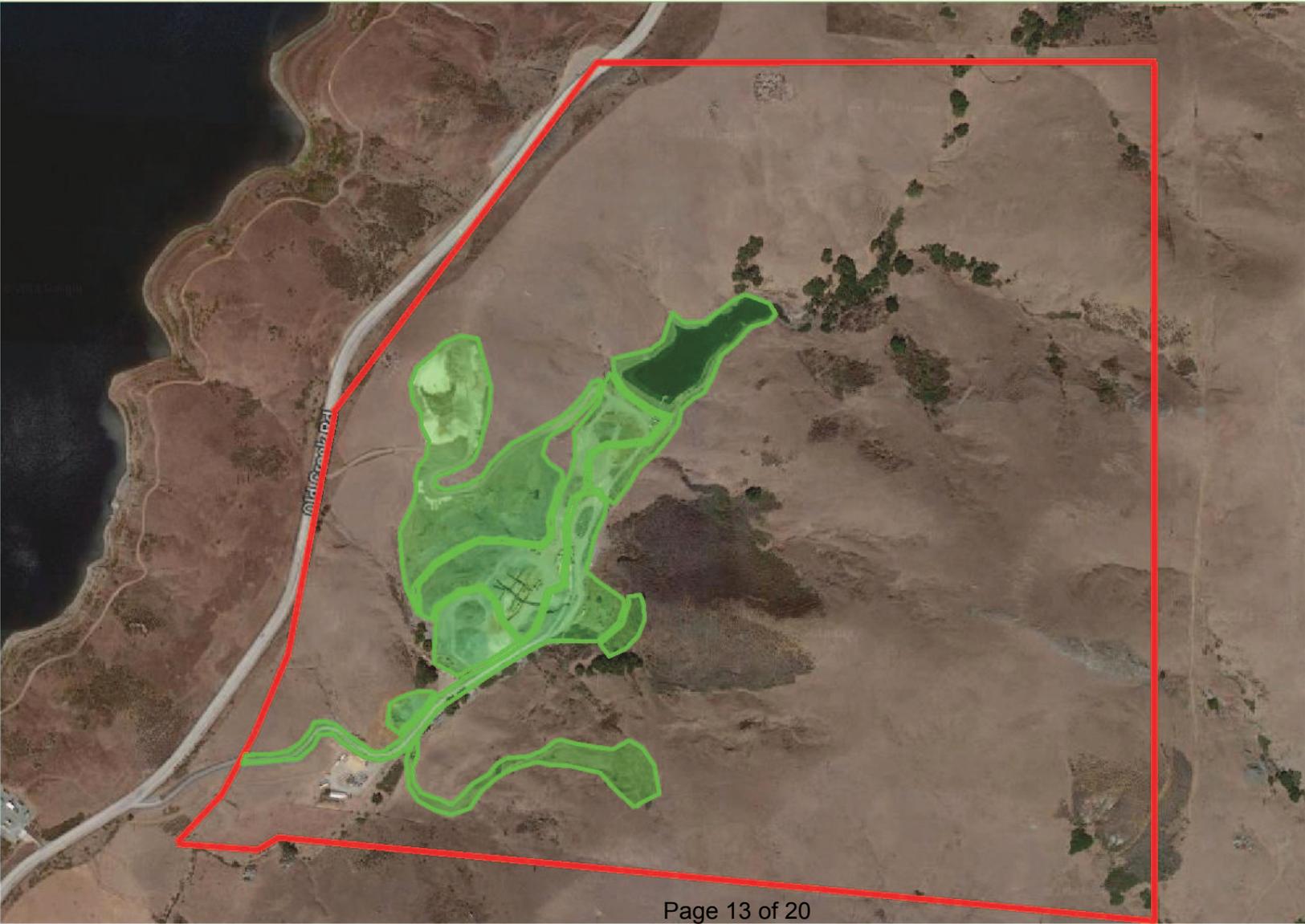
Intent To Mine Entire Parcel

1988



Intent To Mine Entire Parcel

2014



Production Level

COUNTY
PLANNING DEPARTMENT

RECLAMATION PLAN APPLICATION

Return to Courthouse Annex, Room 103, San Luis Obispo CA 93401 (805) 340-2

APPLICANT AND GENERAL INFORMATION

(1) Applicant: A. Maintal et al.	(2) Mailing Address: Box 2, Box 416 San Luis Obispo, CA 93401	Telephone: (805) 343-8008
(3) Type of Ownership: Individual <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other <input type="checkbox"/>	(4) Status of Application: Original Application <input checked="" type="checkbox"/> Amendment <input type="checkbox"/>	(5) Mine Name: Whole Rock Pit
(7) Estimated Life of Operation: 10 years	(8) Conditional Use Permit Number: None required	(6) Date Mine (is to be) Opened: Operating
(9) Assessor's Parcel Number(s): 46-201-13	(10) USGS Quadrangle: Morro Bay North	

MINE INFORMATION

(11) Raw Materials Mined: Red rock	(12) Yield (in Tons or Cu. Yds./Year): 8,000 cu. yds.
(13) Type of Mine: borrow Pit <input checked="" type="checkbox"/> Gravel Bar Skimming <input type="checkbox"/> Stream Bed Skimming <input type="checkbox"/> Underground <input type="checkbox"/>	Sand/Gravel Pit <input type="checkbox"/> Quarry <input type="checkbox"/> Clay Pit <input type="checkbox"/> Other (Specify) <input type="checkbox"/>

Production Level

Reclamation Plan Guidelines

San Luis Obispo County Department of Planning and Building

Information E

INTRODUCTION

This bulletin contains instructions and guidelines to assist surface mine quarry and borrow pit owners and operators in meeting the reclamation requirements of the County Surface Mining and Reclamation Ordinance, required by State law, Land Use Ordinance Section 22.08.180 or Coastal Zone Land Use Ordinance Section 23.08.180 applies the standards of the California Surface Mining and Reclamation Act of 1975 to all surface mining operations in San Luis Obispo County. These standards require reclamation (restoration) of the mining site to a condition suitable for a use other than mining, and all mine sites operated in the county since January 1, 1976. The State and county ordinance also set forth requirements for establishing a new mine or reactivating abandoned mine sites, which are not discussed in full in this document (see the county Department of Planning and Building publication "Surface Mining Regulations").

These guidelines explain how to prepare and file an application for reclamation plan approval, and describe acceptable methods of reclamation for three basic types of surface mines. The application form itself is obviously a lengthy document. Note, however, that the application is intended to cover all types of surface mines, and that most operators will not need to complete every page of the form. The detailed application instructions in this booklet and the application forms themselves indicate when the various parts of the application must be completed. Assistance in completing the application forms will be provided by the Department of Planning and Building staff.

CONTENTS

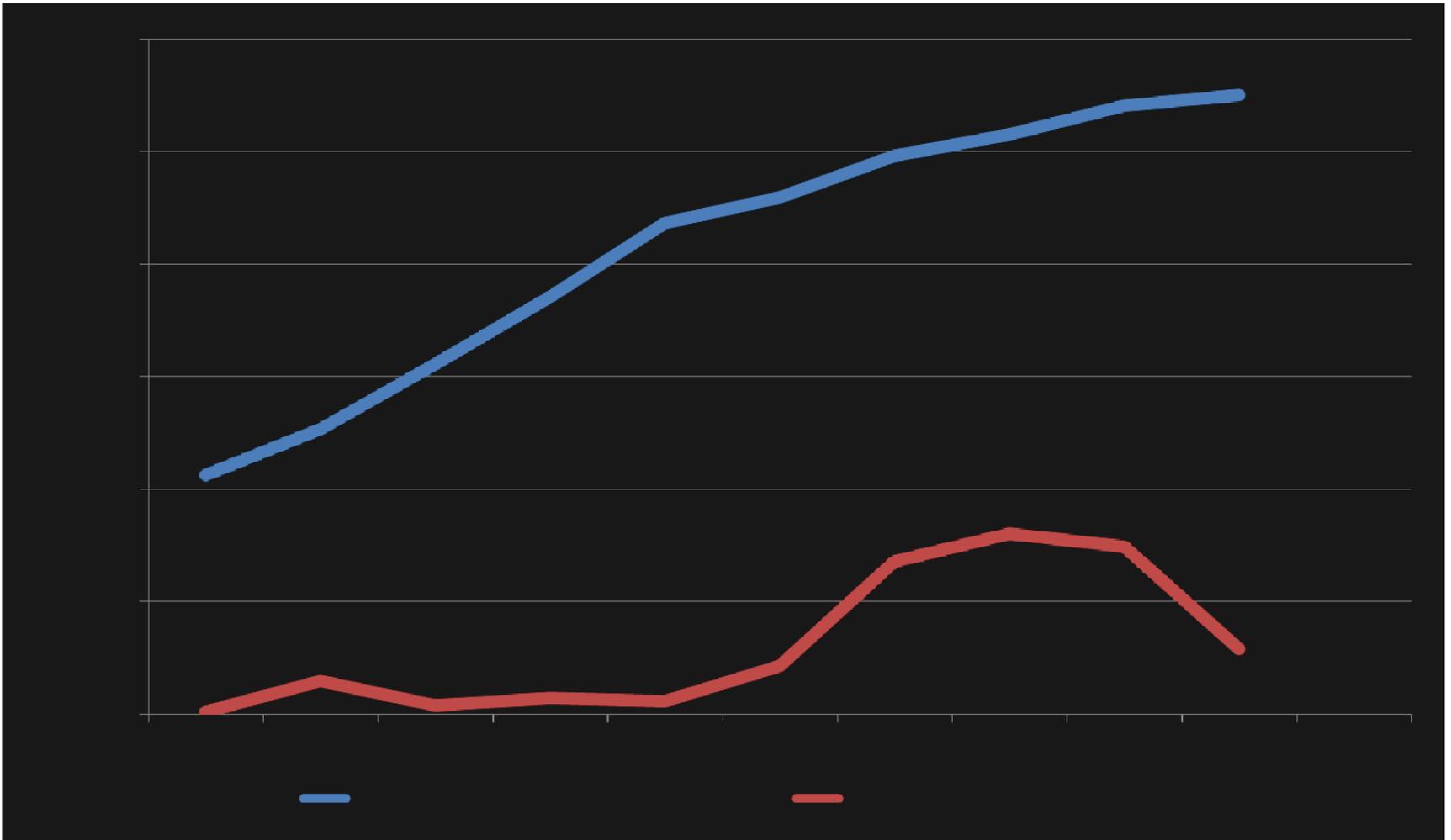
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Preparation of Maps and Cross Sections	12
Selected Modular Reclamation Guidelines	13
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INSTRUCTIONS FOR COMPLETING THE RECLAMATION PLAN APPLICATION FORM

APPLICATION - PAGE 1

1. Applicant: The legal name under which the application is to be filed.
2. Mailing Address: The legal address of the applicant.
3. Type of Ownership: Check appropriate box, if "other", specify type.
4. Status: Check appropriate box; "Original Application" means the first application submitted for this site.
5. Mine Name: List a name to identify this particular operation.
6. Date Mine (is to be) Opened: If previously opened, the first date on which a mineral commodity was excavated and sold from the site. If the mine is to be opened, the proposed start-up date.
7. Estimated Life of Operation: The number of years it is estimated that the mine will yield mineral commodities in commercial quantities; or the number of years (or months) you intend to operate the mine before it is deactivated.
8. Land Use Permit File Number: If a land use permit has been obtained for this operation, enter the file number. If none issued, state "None".
9. Assessor's Parcel Numbers: List the Assessor's parcel numbers of all parcels over which the mining and processing site extends, all or in part.
10. USGS Quadrangle: The name of the USGS Topographic Map Quadrangle or Quadrangles on which the site is located.
11. Raw Materials Mined: The name or names of the mineral(s) mined, such as redrock, sand and gravel, cinnabar (mercury), crushed limestone, etc.
12. Yield - Tons or Cubic Yards/Year: The average annual production (for each mineral mined) expected over the next 5 years. Indicate "Tons" or "Cu. Yds."
13. Type of Mine: Check all that apply.
14. Geologic Group, Formation and Member: The official geologic name(s) of the Group(s), Formation(s) and Member(s) in which the mine is located, as found on the Geologic Map of California. (This information can be obtained from the county Department of Planning and Building).
15. Exploratory Drilling: If yes to this question, Supplemental "E" must be completed.

Population vs. Production



Source: U.S. Census Bureau, last updated September 25, 2013

Production Level



Scope of Use

Evidence of Mining Activities

1. Blasting
2. Grading
3. Processing
 - a. Rip rap (large rocks)
 - b. Crushed rock
 - c. Drain rock
 - d. Overburden/fill
4. Reclamation

Equipment Used

1. Blasting
2. Dozers/ graders
3. Loaders
4. Crushing/screening plant
5. Conveyors
6. Wash equipment

Summary

California Law	Staff Recommendation
<p>Vested operation entitled to expand across a parcel actually mined at vesting date, and additional area if objective evidence of intent to mine. (<i>Hansen</i>, p. 553-556.)</p>	<p>Vested right limited to approximately 7 acres as identified in the Reclamation Plan. (Staff Report, pp. 1, 9, 12.)</p> <p>Evidence cited: None Legal support contrary to <i>Hansen</i>: None</p>
<p>Vested operation entitled to increase production in response to market demand. (<i>Hansen</i>, p. 573.)</p>	<p>Production limited to 8,000 cubic yards annually. (Staff Report, pp. 1, 14-15.)</p> <p>Evidence cited: None Legal support contrary to <i>Hansen</i>: None</p>
<p>Vested right includes all components of overall mining operation. (<i>Hansen</i>, pp. 565-566.)</p>	<p>Mining/equipment limited to use of bulldozer only. (Staff Report, pp. 1, 15-18).</p> <p>Evidence cited: None Legal support contrary to <i>Hansen</i>: None</p>

Summary

Geographic Scope: Actual mining and undisputed objective evidence of intent to mine support vesting across the entire Mine Parcel (APN 046-201-028), consistent with *Hansen*.

Production: Quarry vested rights include the right to produce material in response to market demand, consistent with *Hansen*.

Operational Scope: Undisputed objective evidence shows that the Quarry vested rights include blasting and the use of such processing equipment, such as a bulldozer, loader, crusher, screen, trammel, and similar, consistent with *Hansen*.