Post Office Box 13105
Coyote, Ca. 95013

March 21, 2008

Carrie M. Austin, P.E.
Environmental Engineer
California Regional Water
Quality Control Board
Suite 1400
1515 Clay Street
Oakland, Ca. 94612

MAR 25 2008

Re: Hillsdale Mine

Dear Ms. Austin:

Thank you for providing me copy of the staff report re the Guadalupe River Watershed.

While reading the report, I found what might be a typographical error. On page 3-17, the last paragraph:

> "In the 1960's engineers rerouted the lower portion of Canoas Creek to enter the Cuadalupe River further upstream, and channelized its sides with concrete."

I recalled that a title report indicated an underground concrete culvert associated with the Canoas Creek. That report referenced the deeds which conveyed the easement for rerouting the Canoas Creek.

Enclosed are copies of the original Deeds (July 22, 1889, September 7 and 8, 1915). These would seem to indicate that the rerouting of Canoas Creek occurred much earlier then stated in the report. Of course the staff report may be referring to an entirely different rerouting.

This letter is not intended as our formal response. It is merely an effort to provide information of which I had knowledge.

Sincerely,

Robert J. Bettencourt

encl.

Thomas B. Kell

TO

The County of Santa Clara

D E E D

Dated July 22, 1889

WITNESSETH: That the said party of the first part, for and in consideration of the sum of Three Thousand Dollars, gold coin of the United States of America, to him in hand paid by the City of San Jose the receipt whereof is hereby acknowledged, does by these presents grant, bargain, sell, convey and confirm unto the said party of the second part, and to its successors forever, the right of way over and upon the following described strip or parcel of land, situate in said County and State, to wit: A strip twelve (12) feet wide, the center line of which is described as follows: Beginning at a telegraph pole marked K.1 standing near the Easterly line of the Almaden Road and from which a sycamore 12 inches in diameter marked B.T.K.1 bears S. 77 1/4° W. 109 1/2 feet, and the common corner of lands of F.Gotelli and T.B.Kell, in the Easterly line of said road bears N. 23 3/4° W. 329.40 feet, and running thence over lands of said party of the first part, S. 35° E. 1270 feet to stake K2 from which a 3" x 6" fence post marked B.T.K.2, bears S. 54 3/4 W. 3970 feet thence S. 49 3/4° E. 367 1/2 feet to the center of the present channel of the Canoas Creek at a stake marked K.3 from which a white oak 36" in diameter marked B.T.K.3 bears S. 69° E. 76 feet, the terminus of the proposed ditch. Courses true. Var 16 3/4° E. The aforesaid strip of land to be used for diverting the waters of the Canoas Creek from the present channel at or near Station K3 and conveying the same into the Guadalupe river through a ditch or flume. The ditch to be open from station K3 for about 500 feet. The remainder of the distance to the Guadalupe river to be through

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a covered flume or conduit which shall be built of cement or brick or both cement and brick and shall be four feet in diameter. And the said party of the first part hereby grants to the said party of the second part the perpetual right to enter into and upon said strip of land, and to excavate the same, and construct and maintain thereon and therein a ditch and conduit for the purpose of carrying and flowing through the same the waters of Canoas Creek in such manner as said party of the second part by its properly constituted officers or agents, may desire, and to have free and unterrupted access to said strip of land, for the purpose of maintaining said ditch and conduit. And said party of the first part hereby further grants to said party of the second party the use of sufficient of the land adjoining said strip, on either or both sides thereof, for the purpose of and as may be necessary and convenient for the proper excavations and deposit of earth and the necessary building material during the time of the construction of said ditch and conduit and in the repair and examination thereof from time to time, as occasion may require; provided that after the completion of the work of constructing the said ditch and conduit or any repairs thereof, the party of the second part shall remove from the ground all remaining material and shall level off and distribute any surplus earth upon and along the Northerly side of the open ditch within a space not exceeding a width of Fifty feet on the North side thereof under the direction and to the satisfaction of the party of the first part. It is understood and agreed that the consideration paid by the City includes and is payment in full, for all damages that may arise by reason of the diversion of the waters of said creek and to the adjoining land by the deposit of earth and building material, the earth from the open ditch and from the

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covered flume to be deposited on the Northerly side of the open ditch forming a levee. T.B. and M.D.Kell and Mrs. Columbet to have the right to take the waters of the Canada Creek from the open ditch at Station K3 or at anyother point designated by the party hereto of the first part, and to conduct the same through the present channel of said creek from said station to lands of Mrs. Columbet, or along such other channel as may be more convenient to said party of the first part and which shall be designated by him. The party of the second part shall provide a water gate 1 x 2 feet in diameter at Station K3 to permit said waters to be taken by said persons. Whenever the strip of land hereby granted ceases to be used for the purposes aforesaid the same to revert to the party of the first part his heirs or assigns.

In Witness Whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

Thos. B. Kell

July 22, 1889

Ackldg:

By Thomas B. Kell, before Wm. B. Hardy, N.P. in and for the County of Santa Clara, State of California.

Aug. 10, 1889

Recd:

Liber 120 of Deeds, page 104.

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[illegible] Corralitos and Pedro Jordano,
Parties of the first part

TO

County of Santa Clara, Party of the Second part

D E E D

Dated September 7, 1915

WITNESSETH: that the said parties of the first part for and in consideration of the sum of Seventy five (75) Dollars, [illegible] gold coin of the United Statesto them in hand paid, do by these presents grant, convey, confirm and dedicate unto the said party of the second part, and to its successors and assigns forever for use as hereinafter stated, all that certain strip, piece and parcel of land situate, lying and being in Road District Number Four, in the said County of Santa Clara, State of California, and bounded and particularly described as follows, to wit:

Beginning at a point in the Northerly line of the lands of E Corralitos et al said point being S.80° 07' E. 845.33 feet from a stake 1 x 4 in the Easterly line of the Almaden Road said last mentioned stake being the Northwest corner oflands of E.Corralitos, et al; thence S. 35°40' E. 130 feet to a point, being a strip ofland of the uniform width of 6 feet, 3 feet on each side of the above described line, containing [illegible] acres.

The aforesaid strip of land is to be used for diverting the waters of the Canoas Creek from the present channel and convey the same into the Guadalupe River through and by means of a flume constructed of concrete and to be 6 x 6 feet inside measurements. Said flume to be entirely under the surface of the ground and to be covered by earth when completed.

To have and to hold all and singular the said premises together with the appurtenances, unto the said party of the second part and to

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its successors and assigns forever.

In witness whereof, the said parties of the first part have hereunto set their hands the day and year first above written.

Giovanni Paganino

Emanuele Corsiglia

Enrico Caramella

Vitorio Cordano

September 7, 1915

Ackldg:

By Giovanni Paganino, Emanuele Corsiglia, Enrico Caramella and Vitorio Cordano, before H. A. Gabriel, N.P. in and for the County of Santa Clara, State of California.

Aug. 3, 1916

Recd:

Volume 446 of Deeds, page 377.

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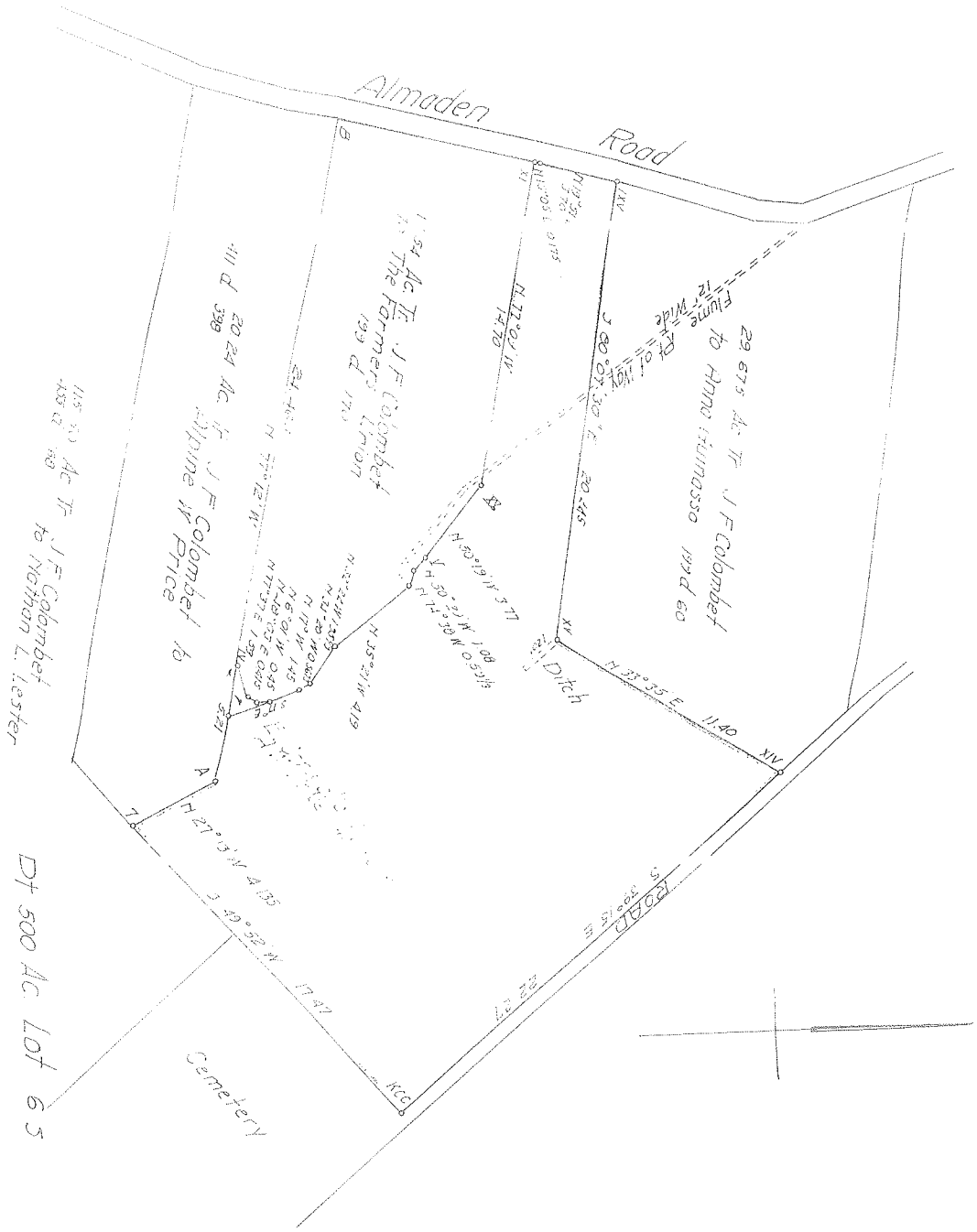

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Anna Guinasso

TO

County of Santa Clara, a body politic and corporate and a political subdivision of the State of California

D E E D

Dated September 8, 1915

Cons: $1000.00

Does by these presents grant, convey, confirm and dedicate unto the said party of the second part, and to its successors and assigns forever for use as hereinafter stated, all that certain strip, piece and parcel of land situate, lying and being in Road District Number Four, in the said County of Santa Clara, State of California, and bounded and particularly described as follows, to wit:

Beginning at a point in the easterly line of the Almaden Road which is 9° 07' W. 4.69 feet from a point which is S. 23° E. 355.08 feet from a stake "K.I" mentioned in that certain Deed of Thomas B.Kell to the County of Santa Clara dated Jan.22, 1889, and recorded in Book 120 of Deeds, page 104, records of Santa Clara County; thence S. 67° 38' E. 7 feet; thence distant 9 feet southerly and parallel to the present 4' brick sewer, S. 35° 30' E. 793.33 feet to a point, being a strip of land of the uniform width of 6 feet, 3 feet on each side of the above described line, containing .111 acres.

The aforesaid strip of land is to be used for diverting the waters of the Canoas Creek from the present channel and convey the same into the Guadalupe River through and by means of a flume constructed of concrete and to be 6 x 6 feet inside measurements. Said flume to be entirely under the surface of the ground and to be covered by earth when completed. Said party of the first part is to remove and dispose of all surplus earth from the excavation without cost and charge to said party of the second part.

Anna Guinasso

Acknd. September 8, 1915

By Anna Guinasso

Before I.Rancadore, N.P.

Recorded September 11, 1916

Book 446 of Deeds, page 579.

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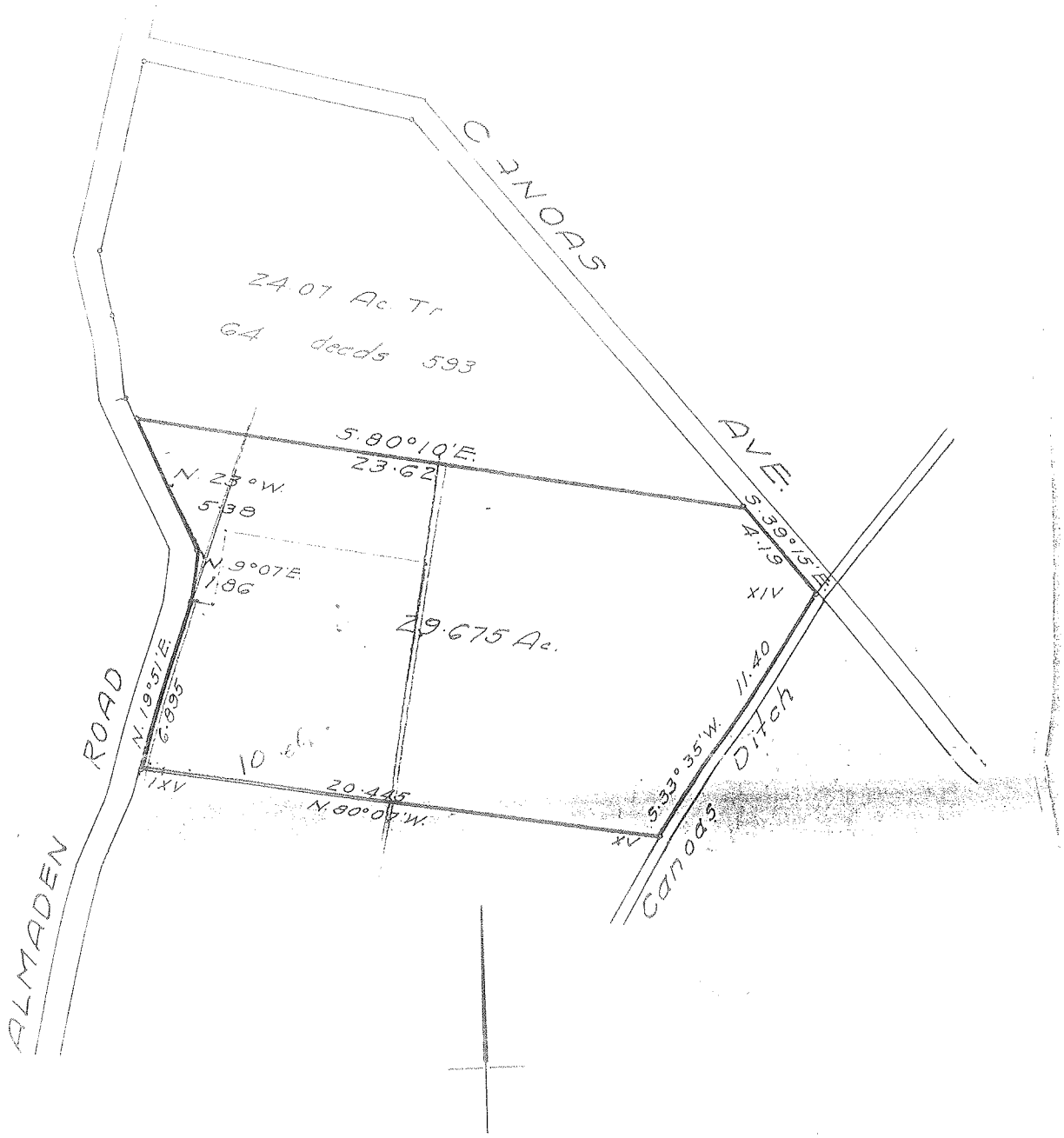
Its Secretary.



PART 500 ACRE LOT 65

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Its Secretary.