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*Submitted via upload to NYSERDA website*

July 1, 2022

Draft Scoping Plan Comments  
NYSERDA  
17 Columbia Circle  
Albany, NY 12203-6399

RE: CLCPA Draft Scoping Plan - Comments

To the Members of the Climate Action Council:

Thank you for the opportunity to present the following comments on the draft New York State Climate Action Council Draft Scoping Plan, which is intended to guide the implementation of the Climate Leadership and Community Protection Act ("CLCPA").

Our company provides aggregate materials, concrete, and hot-mix asphalt that support public and private construction, including infrastructure and public works, and the people of this State. The industry is vital not only to the roadways, bridges, and buildings we all use and rely on every day but also is an essential and integral part of the State's economy. The facilities we own and operate employ hundreds of workers in New York State.

We believe that the future operations and viability of our company, and the industry, will be adversely impacted if the draft Scoping Plan is adopted as written. The final version of the plan requires significant modification to address the substantial negative impacts that will result from the proposed electrification of the industry.

The Scoping Plan will succeed only if the State considers a balanced and integrated approach to environmental, social, and economic sustainability. The draft Scoping Plan does not provide such balance. The alternatives put forth do not provide the greatest return on investment for achieving short and longer-term emissions reduction goals. Rather, the draft Scoping Plan is pre-decisional and outcome-determinative in its near exclusive reliance on

the electrification as well as its dependence on induced changes in individual's behavior to achieve the CLCPA's goals. Specifically, the plan has the following shortcomings:

- (1) Overstates the benefit-cost analysis on individuals and businesses of transitioning facilities, equipment and fleets to all electric energy sources;
- (2) Undervalues prior contributions by certain sectors, including transportation and construction, in the development of new strategies and policies to support topline Plan reductions;
- (3) Omits the cost effectiveness/fiscal impacts of each mitigation strategy as a stand-alone action;
- (4) Disregards the probability for success for each mitigation strategy in lieu of aspirational goals, including any meaningful assessment pertaining to the availability or reliability of proposed solutions;
- (5) Excludes independent safety- and engineering-based validations for recommendations impacting construction materials, means and methods;
- (6) Ignores physical and geographic limitations for certain types of activities, such as the sourcing of aggregates;
- (7) Overestimates the commercial viability of hard-to-electrify industries/equipment: and
- (8) Underestimates, or completely ignores, fiscal impacts of 'make ready' costs on such individuals and businesses.

In addition to the shortcomings above, we, as a company and on behalf of the industry, remain concerned with Section 7 of the CLCPA. Section 7 grants each New York agency and authority the unprecedented license to deny any and all sensible projects requiring State approval or decision without due process, by arbitrarily determining that a proposed industry action is inconsistent with or will interfere with achievement of the Climate Act's emission mandates/goals. This new and unprecedented 'administrative' influence may afford any entity with an inherent bias or an alleged aggrieved individual, including persons who may be in direct competition, the ability to delay or indefinitely defer action on a proposed project or the renewal of an existing permit. This section of the CLCPA, at best, appears to be a direct effort to circumvent existing statutory requirements, policies and processes and, at worst, an explicit infringement of the State and Federal Constitution on a variety of grounds.

One of the most concerning aspects of the proposed plan is the intention to apply it to existing, permitted mines seeking to renew their permits. This will have a severe impact on affected mines for the following reasons:

- (1) The mines have previously undergone an extensive review under SEQRA and, by law, renewals are *de minimis* actions and not re-openers of an existing, fully protective permit.
- (2) Mines require large capital investments in land, exploration, permitting and equipment before they can even start operations. It often takes decades to repay this initial investment. The proposed Scoping Plan may severely impact a mine's financial forecast.

For the reasons stated above, we believe that the draft Scoping Plan does not accomplish its stated goal of implementing impactful actions to mitigate harmful emissions and enhance environmental sustainability. The lack

of practical and feasible low-emission and renewable alternatives included in the draft Scoping Plan not only will substantially impact the business viability of mines and increase the costs of living and doing business in New York, it will further place the State at a competitive disadvantage with other states. It is unreasonable to assume that other states competing for development opportunities with New York will implement and/or enforce equivalent climate policies, and in that vacuum, the Scoping Plan and CLCPA will serve only to further drive businesses and industries out of New York State.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Toby Lee", with a stylized flourish at the end.

**B. Toby Lee**  
**Vice President/General Manager NY**  
**Hanson Aggregates New York LLC**