

# Staff Report 58

## LESSEE:

CalPortland Company

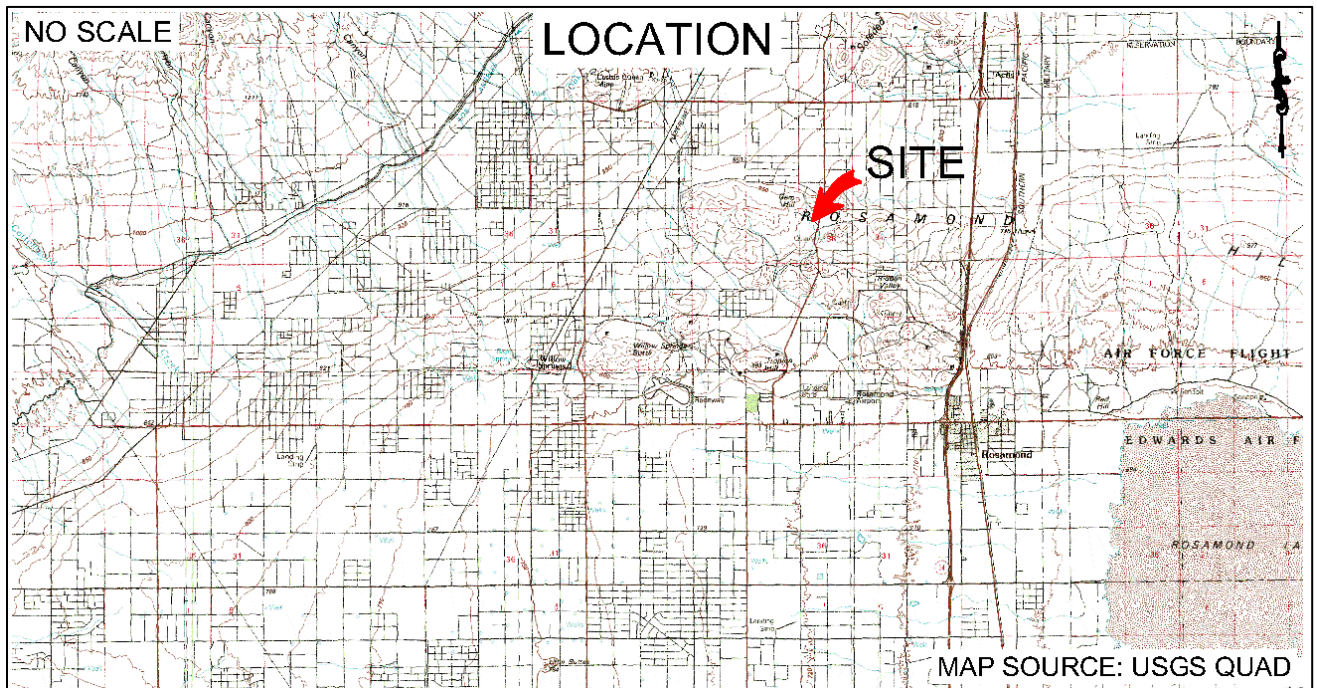
## PROPOSED ACTION:

Amendment of Lease

## AREA, LAND TYPE, AND LOCATION:

0.23 acre, more or less, of State-owned school land located in the East ½ of the Northwest ¼ of Section 36, Township 10 North, Range 13 West, SBM, northwest of Rosamond, Kern County (as shown on Figure 1).

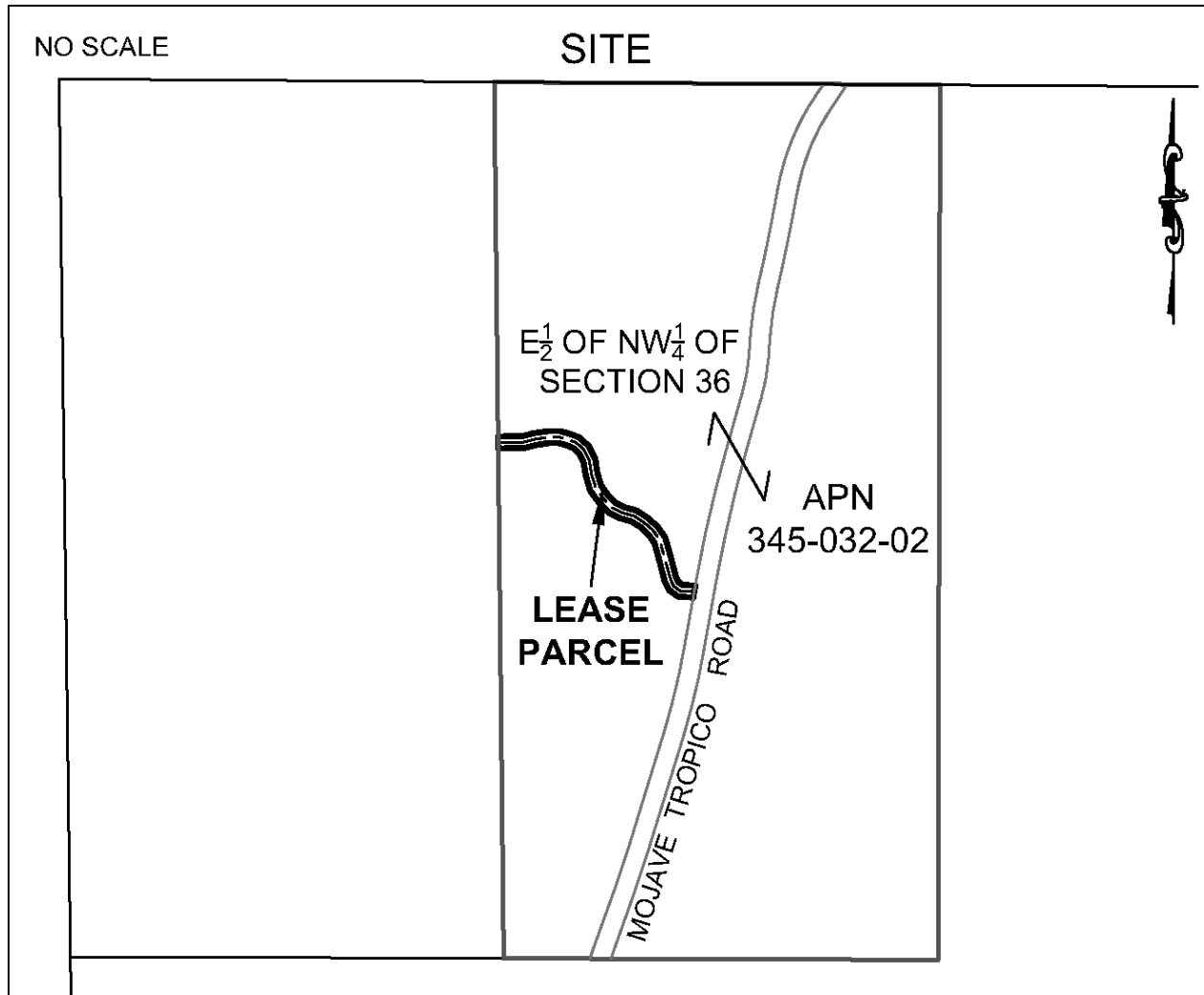
**Figure 1. Location**



## AUTHORIZED USE:

Use and maintenance of an existing unpaved access road (as shown on Figure 2).

**Figure 2. Site Map**



NOTE: This depiction of the lease premises is based on unverified information provided by the Lessee or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

**TERM:**

20 years, beginning August 23, 2018.

**CONSIDERATION:**

\$450 per year, with an annual Consumer Price Index adjustment.

**PROPOSED AMENDMENT:**

- Authorize the widening of the existing 12-foot-wide unpaved access road to a 36-foot-wide unpaved access road, containing 0.72 acre.

- Replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, in the lease with the revised Exhibit A, Land Description, and Exhibit B Site and Location Map (for reference purposes only).
- Amend Section 2, Special Provisions of the lease to include the following:
  - Lessee agrees to be bound by and fully carry out, implement, and comply with all mitigation measures and reporting obligations identified as Lessee's, or Responsible Party's responsibility as set forth in the Mitigation and Monitoring Program for the Project attached hereto as Exhibit C (Exhibit A to staff report), adopted by Lessor and by this reference made a part of this Lease, except as modified by specific provision of this Lease or as modified by Lessor as permitted by law.

All other terms and conditions of the lease to remain in effect without amendment.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **AUTHORITY:**

Public Resources Code sections 6005, 6216, 6217.5, 6501.1, and 6503, California Code of Regulations, title 2, sections 2000 and 2003.

### **STATE'S BEST INTERESTS:**

On August 23, 2018, the Commission authorized a General Lease – Right-of-Way Use to CalPortland Company (Lessee) for the use and maintenance of an existing unpaved access road ([Item 95, August 23, 2018](#)). The lease expires on August 22, 2038. The Lessee is now applying for an amendment to the lease to widen the previously authorized and constructed unpaved access road from 12-feet to 36-feet. The existing 12-foot-wide road serves as the main ingress and egress to the Lessee's adjacent privately owned property. The Lessee now proposes a surface mining operation on its private lands. The access road will provide access between the Lessee's mining operation and the nearest paved County road, Mojave Tropic Road. The road must be widened to accommodate increased use.

On January 24, 2023, the Kern County Planning and Natural Resources Department as Lead Agency under the California Environmental Quality Act (CEQA), certified a Final Environmental Impact Report (EIR) to allow a surface mining operation and development of a reclamation plan, which would utilize the access road. The project would include open pit, multibench, and drill and blast mining techniques to mine naturally occurring pozzolan (volcanic tuff), which is used in the production of cement.

The lease is limited to a 20-year term, expiring on August 22, 2038, does not alienate the State's fee simple interest, and does not grant the lessee exclusive rights to the lease premises. The lease requires the lessee to insure and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent, which generates revenue for the California State Teachers' Retirement System, consistent with the School Land Bank Act. For the reasons stated above, staff believes issuance of this lease amendment is in the best interests of the State.

### **CLIMATE CHANGE:**

As stated in [Safeguarding California Plan: 2018 Update](#) (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms. The lease area is open lands with moderate to low vegetation fuels, vulnerable to the above events, including dust storms and flash flooding from thunderstorms, and to a lesser extent, wildland fires. The leased lands and surrounding land may be vulnerable to these weather events; however, these projected climate change effects are not expected to affect the uses of the leased lands for transportation to and from the mining operation.

### **TRIBAL CONSULTATION**

As Lead Agency under CEQA, Kern County sent tribal consultation letters on October 1, 2021, to the San Manuel Band of Mission Indians, Torres Martinez Desert Cahuilla Indians, Tejon Indian Tribe, and Twenty-Nine Palms Band of Mission Indians. Kern County received two responses to the AB 52 consultation letters: one from the San Manuel Band of Mission Indians and one from the Tejon Indian Tribe.

Correspondence between the San Manuel Band resulted in additional language to Mitigation Measure (MM) 4.4-2. On November 30, 2021, the Tejon Indian Tribe informed Kern County that the project site is a very sensitive cultural area and requested copies of the Draft EIR and any archaeological reports. Kern County responded on December 2, 2021, with a follow-up email on May 24, 2022, and again on June 24, 2022. The Tejon Indian Tribe responded via email on July 18, 2022, stating it did not have any unresolved questions or concerns related to the project, and that it would submit public comment during the EIR process. No comments were received from Tejon Indian Tribe during the 45-day Draft EIR public review period or subsequently.

While no tribal cultural resources have been identified within the project site, including the lease area through consultation with Native American representatives, the potential exists for tribal cultural resources to be encountered.

Implementation of MM 4.4-1 through MM 4.4-4 would reduce impacts to a less than significant level.

### **ENVIRONMENTAL JUSTICE**

Staff reviewed environmental justice data for the area that indicated significant existing pollution burdens related to ozone, pesticides, drinking water, and solid waste, including a very high cardiovascular disease rate and asthma. As part of an environmental justice outreach effort, staff contacted several environmental justice organizations in Kern County providing notification of the proposed lease amendment on March 3, 2023. The letter sent to several environmental justice organizations included a brief description of the proposed lease amendment and named a staff person as a point of contact. No comments on the proposed lease were received as a result of the outreach. Based on a review of the environmental analysis and other documentation, staff believes that the proposed lease, including the Mitigation Monitoring Program, for the access road widening at this location will not exacerbate these existing conditions.

### **CONCLUSION:**

For the reasons stated above, staff believes issuance of this lease amendment is in the best interests of the State.

### **OTHER PERTINENT INFORMATION:**

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1. Approval or denial of the lease amendment is a discretionary action by the Commission. Each time the Commission approves or rejects a use of State-owned school land, it exercises legislatively delegated authority and responsibility as trustee of the State's school lands as authorized by law. If the Commission denies the amendment, the Applicant would have no right to widen the existing access road. The lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with addressing the challenges and opportunities described in the Commission's 2021-25 Strategic Plan to "Embrace and safeguard multi-benefit School Lands and resource management stewardship that equitably balances responsible local and regional economic development, supports living wages, environmental protection, and revenue generation."
3. Kern County analyzed the environmental impacts associated with the Project in a Final EIR (State Clearinghouse [SCH] No. 2021110076), Gem Hill Quarry Project and, on January 24, 2023, certified the EIR and adopted a Mitigation Measure

Monitoring Program, Findings, and a Statement of Overriding Considerations. Commission staff reviewed these documents prepared pursuant to the provisions of CEQA (Public Resources Code, § 21081.6) and adopted by the lead agency, and prepared an independent Mitigation Monitoring Program (attached, Exhibit A) incorporating Kern County's document and recommends its adoption by the Commission.

Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15091) are contained in Exhibit B, attached hereto.

A Statement of Overriding Considerations made pursuant to the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15093) is contained in Exhibit B, attached hereto.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq. The proposed Project includes parcel 228-003 of the Significant Lands Inventory and classified as use category Class B, which authorizes limited use. Environmental values identified for the parcel include biological (specifically in the range of desert tortoise) and cultural resources. As part of the EIR, protocol surveys were conducted for desert tortoise on the parcel with negative results, and no signs of the species were found on the parcel. An existing access road is located through the center of the parcel to the west. This industrial road will be retained and widened. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

## **APPROVALS OBTAINED:**

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Kern County Planning and Natural Resources Department  
State Water Resources Control Board  
Lahontan Regional Water Quality Control  
Eastern Kern Air Pollution Control District

## **APPROVALS REQUIRED:**

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California Department of Fish and Wildlife

## **EXHIBITS:**

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- A. Mitigation Monitoring Program
- B. Statement of Findings and Statement of Overriding Considerations

## **RECOMMENDED ACTION:**

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It is recommended that the Commission:

### **CEQA FINDING:**

Find that an EIR, State Clearinghouse No. 2021110076, was prepared for this project by Kern County and certified on January 24, 2023, and that the Commission has reviewed and considered the information contained therein; that in the Commission's independent judgement, the scope of activities to be carried out under the lease amendment to be issued by this authorization have been adequately analyzed; that none of the events specified in Public Resources Code section 21166 or the State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impact has occurred; and, therefore no additional CEQA analysis is required.

Adopt the Mitigation Monitoring Program, as contained in the attached Exhibit A.

Adopt the Findings and the Statement of Overriding Considerations, made in conformance with California Code of Regulations, title 14, sections 15091, 15093, and 15096, subdivision (h) as contained in Exhibit B.

### **SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

### **STATE'S BEST INTERESTS:**

Find that the proposed lease amendment is in the best interests of the State.

### **AUTHORIZATION:**

Authorize amendment of Lease No. 9504, a General Lease – Right-of-Way Use, effective April 7, 2023, for widening an existing 12-foot-wide unpaved access road to a 36-foot-wide unpaved access road, containing 0.72 acre, replace the existing Exhibit A, Land Description and Exhibit B, Site and Location Map, in the lease with the revised Exhibit A, Land Description and Exhibit B Site and Location Map (for reference purposes only), and amend Section 2, Special Provision.

**EXHIBIT A**  
**CALIFORNIA STATE LANDS COMMISSION**  
**MITIGATION MONITORING PROGRAM**  
**GEM HILL QUARRY PROJECT**  
(A2481, State Clearinghouse No. 2021110076)

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The California State Lands Commission (Commission or CSLC) is a responsible agency under the California Environmental Quality Act (CEQA) for the Gem Hill Quarry Project (Project). The CEQA lead agency for the Project is Kern County.

In conjunction with approval of this Project, the Commission adopts this Mitigation Monitoring Program (MMP) for the implementation of mitigation measures for the portion(s) of the Project located on State lands. The purpose of a MMP is to impose feasible measures to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND). State CEQA Guidelines<sup>1</sup> section 15097, subdivision (a), states in part:

*In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.*

The lead agency certified an EIR, State Clearinghouse No. 2021110076, adopted a Mitigation Measure Monitoring Program (MMMP) for the whole of the Project (see Exhibit A, Attachment A-1), and remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. The Commission's action and authority as a responsible agency apply only to the mitigation measures listed in Table A-1 below. The full text of each mitigation measure, as set forth in the MMMP prepared by the CEQA lead agency and provided in Attachment A-1, is incorporated by reference in this Exhibit A.

**Table A-1. Project Impacts and Applicable Mitigation Measures**

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<sup>1</sup> The State CEQA Guidelines are found at California Code of Regulations, title 14, section 15000 et seq.



<b>Potential Impact</b>	<b>Mitigation Measure (MM)<sup>2</sup></b>
4.1-2 and 4.1-4 (Aesthetics)	4.1-1
4.2-1 (Air Quality)	4.2-1
4.2-2 (Air Quality)	4.2-2 through 4.2-7
4.2-3 (Air Quality)	4.2-2, 4.2-8, 4.2-9, 4.2-10
4.2-4 (Air Quality)	4.2-1 through 4.2-10
4.3-1 and 4.3-6 (Biological Resources)	4.3-1, 4.3-2, and 4.3-4 through 4.3-7
4.4-1 and 4.4-2 (Cultural Resources)	4.4-1 through 4.4-3
4.4-3 (Cultural Resources)	4.4-4
4.4-4 (Cultural Resources)	4.4-1 through 4.4-4
4.8-1 and 4.8-5 (Hazards and Hazardous Materials)	4.8-1 through 4.8-3
4.8-3 (Hazards and Hazardous Materials)	4.8-1
4.9-1, 4.9-8, and 4.9-9 (Hydrology and Water Quality)	4.9-1, 4.9-2
4.14-1, 4.14-3, 4.14-4, and 4.14-5 (Transportation and Traffic)	4.14-1
4.15-1a, 4.15-1b, and 4.15-2 (Tribal Cultural Resources)	4.4-1 through 4.4-4

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<sup>2</sup> See Attachment A-1 for the full text of each MM taken from the MMMP prepared by the CEQA lead agency.

## **ATTACHMENT A-1**

### **MITIGATION MEASURE MONITORING PROGRAM ADOPTED BY KERN COUNTY**

**FINAL**  
**Mitigation Measure Monitoring Program (MMMP)**

**GEM HILL QUARRY PROJECT**  
**by CalPortland Company (PP21404)**

Conditional Use Permit No. 45, Map No. 214



**Final Environmental Impact Report**

**SCH# 2021110076**

**Lead Agency: Kern County Planning and Natural Resources Department**

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
<b>4.1</b>	<b>Aesthetics</b>				
<b>#1</b>	<p><b>MM 4.1-1:</b> Prior to any clearing or ground-disturbing activities, the project proponent/operator shall submit a Maintenance and Trash Abatement/Pest Management Program to the Kern County Planning and Natural Resources Department. The program shall include, but not be limited to, the following:</p> <ul style="list-style-type: none"> <li>A. The project proponent/operator shall clear debris from the project area at least twice per year once the project is operational.</li> <li>B. Trash and food items shall be contained in closed containers to be locked at the end of the day and removed at least once per week to reduce the attractiveness to opportunistic predators, such as common ravens, coyotes, and feral dogs.</li> <li>C. The project proponent/operator shall erect signs with contact information for the project proponent/operator's maintenance staff at regular intervals along the site boundary, as required by the Kern County Planning and Natural Resources Department. Maintenance staff shall respond within 2 weeks to resident requests for additional cleanup of debris.</li> </ul>	<p>Prior to any clearing or ground-disturbing activities, and during site preparation/construction, mining and reclamation</p> <p><b>Steps to Compliance:</b></p> <ul style="list-style-type: none"> <li>A. This mitigation measure shall be incorporated as a condition of approval.</li> <li>B. Recycle construction waste to the extent feasible.</li> <li>C. Provide Kern County Planning and Natural Resources Department and Kern County Public Works Department/Operations and Maintenance Division with copies of hauling receipts.</li> </ul>	Kern County Planning and Natural Resources Department; Recycling Coordinator		
<b>#2</b>	<p><b>MM 4.1-2:</b> Project facility lighting shall continuously comply with the applicable provisions of the Dark Skies Ordinance (Kern County Zoning Ordinance Chapter 19.81) and shall be designed to provide the minimum illumination needed to achieve safety and security objectives. All lighting shall be directed downward and shielded to focus</p>	<p>During site preparation/construction, mining and reclamation</p> <p><b>Steps to Compliance:</b></p>	Kern County Planning and Natural Resources Department; Kern County Public Works Department		

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	illumination on the desired areas only and avoid light trespass into adjacent areas. Lenses and bulbs shall not extend below the shields.	A. This mitigation measure shall be incorporated as a condition of approval. B. Project proponent shall ensure all outdoor lighting meet minimum requirements for safety and security standards as well as provide minimum illumination needed to achieve safety and security objectives as outlined in mitigation. C. The Kern County Public Works Department shall verify compliance with this measure in field during final inspections prior to finaling of any required building permits. D. The Kern County Planning and Natural Resources Department shall be provided with evidence of compliance with this measure during plan review prior to issuance of permits. E. Implement MM 4.1-3 (see below).			
#3	<p><b>MM 4.1-3:</b> Prior to the issuance of any required building permits, the project proponent/operator shall submit an Outdoor Lighting Plan to the Kern County Public Works Department in accordance with Kern County Zoning Ordinance Chapter 19.81 (Outdoor Lighting “Dark Skies Ordinance”). Additionally, a copy of the approved Outdoor Lighting Plan shall be submitted to the Kern County Planning and Natural Resources Department. Due to the fact that mining operations occur in different locations throughout the site over the life of the project, the approved Outdoor Lighting Plan is subject to change during project operations to ensure overall impacts to adjacent parcels are reduced to the extent feasible.</p> <p>The project proponent/operator shall establish a Lighting Complaint Coordinator for the proposed project. The</p>	Prior to County issuance of building permits	Kern County Planning and Natural Resources Department; Kern County Public Works Department		
		<p><b>Steps to Compliance:</b></p> A. The project proponent shall prepare an Outdoor Lighting Plan and shall submit the plan for review and approval by the Kern County Public Works Department. B. A copy of the approved Outdoor Lighting Plan shall be submitted by the project proponent to the Kern County Planning and Natural Resources Department, upon issuance. C. Kern County Planning and Natural Resources Department shall receive, approve, and file the Outdoor Lighting Plan prior to issuing building permits.			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	<p>Lighting Complaint Coordinator shall be responsible for responding to any complaints about light or glare from the project. The Lighting Complaint Coordinator shall determine the cause of the complaint and shall be required to implement reasonable measures to resolve the complaint. Contact information for the Lighting Complaint Coordinator shall be submitted to the Kern County Planning and Natural Resources Department prior to commencement of any ground-disturbing activities.</p> <p>Two signs, legible at a distance of 50 feet, shall be posted in the following locations: (a) the intersection of the project's Primary Access Road with Mojave Tropico Road, and (b) the intersection of the project's Secondary Access Road with Mojave Tropico Road. The signs shall state a Surface Mining and Reclamation Plan has been approved for the site and include a telephone number where complaints can be registered with the Complaint Coordinator. Documentation that the signs have been posted shall be provided to the Kern County Planning and Natural Resources Department.</p>	<p>D. In conjunction with the course of performing a mining inspection, Lead Agency staff shall verify that the mitigation measure is being adhered to.</p> <p>E. The project proponent or contractor shall install signs as approved by the Kern County Planning and Natural Resources Department.</p> <p>F. The project proponent or contractor shall submit photographs of the approved signs after installation to the Kern County Planning and Natural Resources Department.</p> <p>G. An annual report shall be submitted to the Kern County Planning and Natural Resources Department that summarizes light and glare complaints received and the measures taken to address the registered complaints.</p>			
<b>4.2</b>	<b>Air Quality</b>				
<b>#4</b>	<b>MM 4.2-1:</b> The project shall comply with any applicable requirement of the Eastern Kern Air Pollution Control District (EKAPCD).	During site preparation/construction, mining and reclamation	Eastern Kern Air Pollution Control District; Kern County Planning and Natural Resources Department; Kern County Public Works Department		

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
		<b>Steps to Compliance:</b> A. The project proponent shall obtain all required approvals, waivers, and/or permits from the EKAPCD prior to any activities or operations subject to such requirements. B. The project proponent shall submit documentation of such approvals, waivers, and/or permits from the EKAPCD to the Kern County Planning and Natural Resources Department, which shall be incorporated into the approved surface mining and reclamation plan in accordance with the provisions of the Surface Mining and Reclamation Act of 1975. C. During construction and in conjunction with the course of performing a mining inspection, Lead Agency staff shall verify that the mitigation measure is being adhered to.			
#5	<b>MM 4.2-2:</b> As proposed, the project will meet the definition of a “large operation” under the Eastern Kern Air Pollution Control District’s (EKAPCD) Rule 402. The project proponent/operator shall develop and implement a Fugitive Dust Control Plan in compliance with Eastern Kern Air Pollution Control District (EKAPCD’s) Rule 402 for fugitive dust suppression regulations to further reduce emissions, during operations, of particulate matter that is 10 microns or less in diameter (PM10) and 2.5 microns or less in diameter (PM2.5). The Fugitive Dust Control Plan shall include: A. Name(s), address(es), and phone number(s) of person(s) responsible for the preparation, submission, and implementation of the plan.	During site preparation/construction, mining and reclamation	Eastern Kern Air Pollution Control District, Kern County Planning and Natural Resources Department; Kern County Public Works Department		
		<b>Steps to Compliance:</b> A. This mitigation measure shall be incorporated as a condition of approval. B. The proponent shall prepare a Fugitive Dust Control Plan and submit to the Eastern Kern Air Pollution Control District. C. Eastern Kern Air Pollution Control District will review and approve the Fugitive Dust Control Plan.			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	<p>B. Description and location of operation(s).</p> <p>C. Listing of all fugitive dust emissions sources included in the operation.</p> <p>D. Listing of dust control measures to be included, such as the following:</p> <ol style="list-style-type: none"> <li>1. All on-site unpaved roads shall be effectively stabilized using water or chemical soil stabilizers that can be determined to be as efficient as or more efficient for fugitive dust control than California Air Resources Board-approved soil stabilizers, and that shall not increase any other environmental impacts including loss of vegetation.</li> <li>2. All material excavated or graded will be sufficiently watered to prevent excessive dust. Watering will occur as needed with complete coverage of disturbed areas. The excavated soil piles will be watered as needed to limit dust emissions to less than 20% opacity or covered with temporary coverings.</li> <li>3. Activities that occur on unpaved surfaces will be discontinued during windy conditions when winds exceed 25 miles per hour and those activities cause visible dust plumes. Such activities may continue if dust suppression measures are used to minimize visible dust plumes.</li> <li>4. Track-out debris onto public paved roads shall not extend 50 feet or more from an active operation</li> </ol>		<p>D. The proponent shall submit the approved Fugitive Dust Control Plan to the Kern County Planning and Natural Resources Department prior to site preparation/construction.</p> <p>E. During site preparation/construction and in conjunction with the course of performing a mining inspection, Lead Agency staff shall verify that the mitigation measure is being adhered to.</p>		



Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	<p>and track-out shall be removed or isolated such as behind a locked gate at the conclusion of each workday.</p> <ol style="list-style-type: none"> <li>5. All hauling materials shall be moist while being loaded into haul trucks.</li> <li>6. All material on haul trucks shall be effectively contained in accordance with EKAPCD regulations.</li> <li>7. Material loads on trucks shall maintain at least 6 inches of freeboard space below the top of the container.</li> <li>8. Drop heights shall be minimized when loaders dump material into trucks.</li> <li>9. Gate seals shall be tight on haul trucks.</li> <li>10. Limit vehicular speed while traveling on the work site sufficient to limit Visible Dust Emissions (VDE) to 20% opacity, or load all haul trucks such that the freeboard is not less than six (6) inches when material is transported across any paved public access road sufficient to limit VDE to 20% opacity, or apply water to the top of the load sufficient to limit VDE to 20% opacity, or cover haul trucks with a tarp or other suitable cover.</li> <li>11. All grading activities shall be suspended when visible dust emissions exceed 20%.</li> <li>12. Other fugitive dust control measures as necessary to comply with EKAPCD Rules and Regulations.</li> <li>13. Disturbed areas shall be minimized.</li> </ol>				

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	14. Disturbed areas shall be revegetated as soon as possible after disturbance if area is no longer needed for mining activities.				
#6	<b>MM 4.2-3:</b> Surface disturbance shall be kept to a minimum in advance of mining. At such time as surface mining or associated activities have been completed on an area of disturbed land, reclamation efforts shall be initiated on those portions of the disturbed lands that will not be subject to further disturbance by the surface mining operation or its associated activities.	During site preparation/construction, mining and reclamation	Kern County Planning and Natural Resources Department		
		<b>Steps to Compliance:</b> A. This mitigation measure shall be incorporated as a condition of approval. B. During the course of the annual surface mining inspection, the mine operator shall discuss and identify with the mine inspector those areas where surface mining or associated activities will have resulted in unvegetated disturbed areas suitable to be reseeded with an interim seed mix, where applicable, to minimize fugitive dust emissions. C. During the course of the annual surface mining inspection, the mine operator shall discuss and identify with the mine inspector those areas where surface mining or associated activities have been completed in order to initiate final reclamation efforts.			
#7	<b>MM 4.2-4:</b> As part of Mitigation Measure MM 4.2-2, fugitive dust (PM10) emissions shall be minimized during the course of mining and reclamation utilizing the application of water or by presoaking. Haul roads shall be watered or have a palliative applied, depending on weather and road conditions, as necessary to adhere to the	During site preparation/construction, mining, and reclamation	Eastern Kern Air Pollution Control District, Kern County Planning and Natural Resources Department; Kern County Public Works Department		

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	<p>requirements of the Eastern Kern Air Pollution Control District.</p> <p>Prior to the commencement of mining or grading activities, the project proponent/operator shall submit to the Kern County Planning and Natural Resources Department a summary of the approved Fugitive Dust Plan that details the number of water trucks to be on site and the frequency for watering areas of excavation or grading and haul roads. The summary shall also detail what type of dust palliative is being applied, if any, and the overall maintenance and timeframe of application to prevent excessive dust.</p>	<p><b>Steps to Compliance:</b></p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. Prior to commencement of mining operations, the project proponent shall consult with the Eastern Kern Air Pollution Control District regarding the methodology and frequency haul roads should be covered by water, or other palliative, depending on weather and road conditions necessary to adhere to the requirements of the Eastern Kern Air Pollution Control District.</p> <p>C. The project proponent shall submit copies of any determinations, approvals, or permits issued by the Eastern Kern Air Pollution Control District to the Kern County Planning and Natural Resources Department. Any conditions included in said determinations, approvals, or permits shall be incorporated into the approved surface mining and reclamation plan in accordance with the provisions of the Surface Mining and Reclamation Act of 1975.</p> <p>D. In conjunction with the course of performing a mining inspection, Lead Agency staff shall verify that the mitigation measure is being adhered to.</p>			
#8	<p><b>MM 4.2-5:</b> As part of Mitigation Measure MM 4.2-2, mined materials transported off-site shall be covered, effectively wetted to limit visible dust emissions, or employ at least 6 inches of freeboard space to separate material from the top of the container to prevent excessive dust.</p> <p>The project proponent/operator shall establish a Fugitive Dust Complaint Coordinator for the proposed project. The Fugitive Dust Complaint Coordinator shall be responsible</p>	<p>During mining operations and the offsite transport of mined material</p>	Kern County Planning and Natural Resources Department; Kern County Public Works Department		
		<p><b>Steps to Compliance:</b></p> <p>A. The project proponent shall comply with the specified mitigation requirements during operations and the offsite transport of mined material.</p>			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	<p>for responding to any complaints about dust from the project or haul trucks. The Fugitive Dust Complaint Coordinator shall determine the cause of the complaint and shall be required to implement reasonable measures to resolve the complaint. Contact information for the Fugitive Dust Complaint Coordinator shall be submitted to the Kern County Planning and Natural Resources Department prior to commencement of any ground-disturbing activities.</p> <p>Two signs, legible at a distance of 50 feet, shall be posted in the following locations: (a) the intersection of the project's Primary Access Road with Mojave Tropico Road, and (b) the intersection of the project's Secondary Access Road with Mojave Tropico Road. The signs shall state a Surface Mining and Reclamation Plan has been approved for the site and include a telephone number where complaints can be registered with the Complaint Coordinator. Documentation that the signs have been posted shall be provided to the Kern County Planning and Natural Resources Department.</p>	<p>B. In conjunction with the course of performing a mining inspection, Lead Agency staff shall verify that mined materials transported off site are being covered, effectively wetted to limit visible dust emissions, or employing at least six inches of freeboard space to separate material from the top of the container.</p> <p>C. The project proponent or contractor shall install signs as approved by the Kern County Planning and Natural Resources Department.</p> <p>D. The project proponent or contractor shall submit photographs of the approved signs after installation to the Kern County Planning and Natural Resources Department.</p> <p>E. An annual report shall be submitted to the Kern County Planning and Natural Resources Department that summarizes fugitive dust complaints received and the measures taken to address the registered complaints.</p>			
#9	<b>MM 4.2-6:</b> The fleet of diesel engines in off-road vehicles operating at the project site shall comply with the In-Use Off-Road Engine Air Toxic Control Measure (13 California Code of Regulations [CCR] Sections 2449 and 2449.1).	During site preparation/ construction, mining, and reclamation	Kern County Planning and Natural Resources Department; Kern County Public Works Department; Eastern Kern Air Pollution Control District		

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	<p>A. All equipment shall be turned off when not in use. Engine idling of all equipment shall be limited to 5 minutes, except under exemptions specified in 13 CCR Section 2449(d)(2). In addition, the facility shall have a written idling policy and distribute it to vehicle operators as required by this regulation.</p> <p>B. All equipment engines shall be maintained in good operating condition and in proper tune per manufacturers' specifications.</p>	<p><b>Steps to Compliance:</b></p> <p>A. The project proponent shall comply with the specified mitigation requirements during site preparation/construction, mining and reclamation.</p> <p>B. The project proponent shall submit copies of any determinations, approvals, or permits issued by the Eastern Kern Air Pollution Control District to the Kern County Planning and Natural Resources Department. Any conditions included in said determinations, approvals, or permits shall be incorporated into the approved surface mining and reclamation plan in accordance with the provisions of the Surface Mining and Reclamation Act of 1975.</p> <p>C. During site preparation/construction and in conjunction with the course of performing a mining inspection, Lead Agency staff shall verify that the mitigation measure is being adhered to.</p>			
#10	<p><b>MM 4.2-7:</b> To further reduce emissions of nitrogen oxides from on-road heavy-duty diesel haul vehicles:</p> <p>A. 2007 engines or pre-2007 engines shall comply with California Air Resources Board retrofit requirements set forth in 13 California Code of Regulations (CCR) Section 2025.</p> <p>B. All on-road haul trucks, except those meeting the 2007/California Air Resources Board-certified Level 3 diesel emissions controls, shall meet all applicable California on-road emission standards and shall be licensed in the State of California. This does not apply to worker personal vehicles.</p> <p>C. All on-road haul trucks shall be properly tuned and maintained in accordance with the manufacturers' specifications.</p>	During site preparation/construction, mining, and reclamation	Kern County Planning and Natural Resources Department; Kern County Public Works Department; Eastern Kern Air Pollution Control District		
		<p><b>Steps to Compliance:</b></p> <p>A. The project proponent shall comply with the specified mitigation requirements during site preparation/construction, mining and reclamation.</p> <p>B. The project proponent shall document activities taken for compliance and such documentation shall be made available for review by the County upon request.</p> <p>C. The project proponent shall submit copies of any determinations, approvals, or permits issued by the Eastern Kern Air Pollution</p>			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
		Control District to the Kern County Planning and Natural Resources Department. Any conditions included in said determinations, approvals, or permits shall be incorporated into the approved surface mining and reclamation plan in accordance with the provisions of the Surface Mining and Reclamation Act of 1975. D. Kern County Public Works Department will verify in the field during site inspections.			
#11	<p><b>MM 4.2-8:</b> Prior to ground disturbance activities, the project proponent shall provide a “Valley Fever Training Information Packet” and conduct training sessions for all personnel. A copy of the handout and a schedule of education sessions shall be provided to the Kern County Planning and Natural Resources Department. All evidence of the training session(s) and handout(s) shall be submitted to the Kern County Planning and Natural Resources Department upon request. Multiple training sessions may be conducted if different work crews come to the site for different stages of work; however, all personnel shall be provided training prior to beginning work. The evidence submitted to the Kern County Planning and Natural Resources Department regarding the “Valley Fever Training Handout” and Session(s) shall include the following:</p> <p>A. A sign-in sheet (to include the printed employee names, signature, and date) for all employees who attended the training session.</p> <p>B. Distribution of an information packet that includes educational information regarding the health effects of exposure to criteria pollutant emissions and Valley</p>	<p>Prior to site preparation/construction; during site preparation/construction, mining and reclamation</p>	Kern County Public Health Services Department, Kern County Planning and Natural Resources Department		
		<p><b>Steps to Compliance:</b></p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The proponent shall provide training session materials, handout(s) and schedule of training to Kern County Planning and Natural Resources Department within 24 hours of the first training session.</p> <p>C. The Kern County Planning and Natural Resources Department shall verify evidence submitted.</p> <p>D. Kern County Public Works Department shall verify compliance in the field during the course of performing a mining inspection.</p>			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	<p>Fever, symptoms of exposure, and instruction for reporting cases of flu-like or respiratory illness symptoms to the Site Safety Officer. Those with persistent symptoms lasting more than 3 days shall be recommended to seek immediate medical advice.</p> <p>C. Training on methods that may help prevent Valley Fever infection.</p> <p>D. A demonstration to employees on how to use personal protective equipment (PPE), such as respiratory equipment (masks), to reduce exposure to pollutants and facilitate recognition of symptoms and earlier treatment of Valley Fever. Though use of the equipment is not mandatory during work, the equipment shall be readily available and shall be provided to employees for use during work, if requested by an employee. Proof that the demonstration is included in the training shall be submitted to Kern County. This proof can be via printed training materials/agenda, DVD, digital media files, or photographs.</p>				
#12	<b>MM 4.2-9:</b> The project proponent shall submit a COVID-19 Health and Safety Plan prepared in accordance with the Kern County Public Health Services Department and Kern County Health Officer mandates. A copy of the COVID-19 Health and Safety Plan shall be submitted to the Kern County Planning and Natural Resources Department for review and approval.	Prior to site preparation/construction or mining	Kern County Public Health Services Department, Kern County Planning Department		
		<b>Steps to Compliance:</b> A. This mitigation measure shall be incorporated as a condition of approval.			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
		B. A COVID-19 Health and Safety Plan shall be prepared and approved by Kern County Public Health Services Department and Kern County Health Officer. C. A copy of the approved COVID-19 Health and Safety Plan shall be submitted by the project proponent to the Kern County Planning and Natural Resources Department, upon approval.			
#13	MM 4.2-10: Prior to commencement of operations as authorized by this approval, a one-time fee shall be paid to the Kern County Public Health Services Department in the amount of \$3,200 for public awareness programs.	Prior to site preparation/construction or mining	Kern County Planning and Natural Resources Department, Kern County Public Health Services Department		
		Steps to Compliance: A. This mitigation measure shall be incorporated as a condition of approval. B. The project proponent shall pay the onetime fee to the Kern County Public Health Services Department. C. The proponent shall provide proof of payment to the Kern County Planning and Natural Resources Department.			
Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.					
4.3	Biological Resources				
#14	MM 4.3-1: Prior to commencement of operations, the project proponent/operator shall develop and submit to the Kern County Planning and Natural Resources Department for review and approval an employee awareness program on the Migratory Bird Treaty Act and the Federal and State endangered species laws and regulations. The program shall provide employees with	Prior to commencement of site preparation/construction or mining in any new disturbance area. Implement throughout site	Kern County Planning and Natural Resources Department		



Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	sufficient information to identify sensitive or protected species that could exist on-site, methods to avoid these species, and protection measures to reduce the potential for incidental take of these species. The employee awareness program shall be implemented by a qualified biologist until such time as reclamation has been completed and the site deemed fully reclaimed by the Kern County Planning and Natural Resources Department.	preparation/construction, mining and reclamation			
		<b>Steps to Compliance:</b> A. The project proponent shall develop an employee awareness program on the Migratory Bird Treaty Act and the Federal and State endangered species laws and regulations. B. The Kern County Planning and Natural Resources Department will review and approve the program prior to commencement of site preparation/construction or mining in any new disturbance area. C. The employee awareness program shall be implemented throughout the period of site preparation/construction, mining and reclamation activities associated with the project. D. Evidence of employee awareness program implementation and sign-in sheet for all employees, including new hires, shall be submitted to the Kern County Planning and Natural Resources Department, prior to site preparation/construction or mining activities in any new disturbance area or new hires working at the site.			
#15	<b>MM 4.3-2:</b> The project proponent/operator shall implement the following measures to avoid and/or minimize potential impacts to special-status animal species. A. Within no more than 30 days before ground-disturbing activities within the project site, a pre-construction clearance survey shall be performed by a qualified biologist within the project site to record existing conditions of the site, determine if conditions have changed since the most recent reconnaissance or botanical surveys were conducted, and to determine	Prior to commencement of operations and during site preparation/construction, mining, and reclamation	Kern County Planning and Natural Resources Department		
		<b>Steps to Compliance:</b> A. The project proponent shall retain qualified biologist(s) who shall review the current literature, including databases maintained by CDFW and USFWS, for special-status species with the potential to occur in an area of impending new disturbance.			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	<p>where sensitive species avoidance buffers will be established for special-status species considered to have the potential to occur within the project site, including but not limited to the following:</p> <ul style="list-style-type: none"> <li>• nesting birds protected by the MBTA;</li> <li>• desert tortoise (<i>Gopherus agassizii</i>);</li> <li>• golden eagle (<i>Aquila chrysaetos</i>);</li> <li>• burrowing owl (<i>Athene cunicularia</i>);</li> <li>• loggerhead shrike (<i>Lanius ludovicianus</i>); and</li> <li>• American badger (<i>Toxostoma lecontei</i>).</li> </ul> <p>If ground-disturbing activities do not commence within 30 days of the initial survey date, surveys shall be repeated to refresh results.</p> <p>B. If any sensitive species are observed, buffers shall be established by the qualified biologist as necessary to prevent incidental take of any observed sensitive species.</p> <p>C. The project proponent/operator shall ensure that all employees working on the project site continuously implement the following measures:</p> <ol style="list-style-type: none"> <li>1. A qualified biological monitor shall be present on the project site during any initial vegetation removal/grubbing activities. A biological monitor is not a substitute for an incidental take permit. If any threatened, endangered, or otherwise sensitive species are uncovered during project activities, work will be halted to determine the best course of action.</li> </ol>	<p>B. Copies of the preconstruction survey and results, as well as all permits and evidence of compliance with applicable regulations shall be submitted to the Kern County Planning and Natural Resources Department.</p> <p>C. The proponent shall implement measures as specified, which includes establishment of avoidance buffers.</p> <p>D. The proponent shall consult with applicable regulatory agencies if special-status species are present and their disturbance cannot be avoided.</p> <p>E. The proponent shall submit evidence of any required consultation to the Kern County Planning and Natural Resources Department.</p> <p>F. This mitigation measure shall be incorporated as a condition of approval.</p> <p>G. The proponent shall submit evidence of retainer of a Lead Biologist to the Kern County Planning and Natural Resources Department.</p> <p>H. The proponent shall notify the Kern County Planning and Natural Resources Department, the on-call biologist, and the appropriate resources agency before proceeding with site preparation/construction or mining.</p> <p>I. The proponent shall stop work if an injured or dead special status species are encountered.</p> <p>J. In any consultation with the United States Fish and Wildlife Service and the California Department of Fish and Wildlife, the proponent shall implement site preparation/construction and operational monitoring in accordance with the specifications of the mitigation measure.</p> <p>K. The Kern County Planning and Natural Resources Department shall verify prior to issuance of building permits. Kern County Public</p>			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	<ol style="list-style-type: none"> <li>2. Keep all trash and food items picked up and removed from the site daily including microtrash (e.g., wrappers, bottle tops, food scraps).</li> <li>3. No pets (dogs) shall be allowed on-site.</li> <li>4. Vehicle traffic shall use established roadways. Cross-country travel is prohibited.</li> <li>5. Conduct a 360-degree vehicle check before moving vehicle from site.</li> <li>6. To the extent practicable, previously disturbed areas are to be used to stockpile excavated materials, storage of equipment, locations of trailers, parking of vehicles, and other surface-disturbing actions.</li> <li>7. Open excavations or trenches shall be covered at the end of each workday to prevent wildlife entrapment. If an excavation or trench is too large to cover, then a 45-degree escape ramp shall be installed. All excavations and trenches shall be inspected for wildlife prior to the commencement of work.</li> <li>8. If perimeter fencing is used, then the fencing shall include a 4- to 8-inch (0.1- to 0.2-meter) opening between the fence mesh and the ground or the fence shall be raised 4 inches above the ground or as otherwise established by a qualified wildlife biologist to enable wildlife to pass through the project site.</li> <li>9. All vertical tubes and chain-link fencing piles shall be temporarily or permanently capped to avoid</li> </ol>	Works Department shall verify in the field during site preparation/construction.			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	<p>the entrapment and death of special-status wildlife and birds. All pipes 1.5 inches (0.038 meter) or greater in diameter stored overnight on a project location must have end caps or other physical barriers that prevent wildlife from entering the pipe.</p> <p>10. Any dead or injured special-status wildlife found on the project site shall be left in place and reported to the U.S. Fish and Wildlife Service/California Department of Fish and Wildlife within 48 hours of the discovery for rescue or salvage. Discovery of Federally or State-listed species that are injured or dead shall also be managed consistent with regulatory requirements, including being reported immediately via telephone and within 24 hours in writing, and a copy shall be furnished to the Kern County Planning and Natural Resources Department.</p> <p>11. All washing of trucks, equipment, or similar activities shall occur in areas where runoff is fully contained for collection and off-site disposal. Wash water may not be discharged from the site and shall be located at least 100 feet (30.48 meters) from any water body or sensitive biological resources. If ground disturbance is intended to be temporary and does not occur on cultivated land, topsoil segregation shall be performed to preserve the seed bank for restoration efforts. Segregated topsoil shall be</p>				

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	<p>stored separate from the subsoil and segregated topsoil shall be restored to its original location. This will decrease unwanted invasive plant species (e.g., tumble weed, invasive grasses) from invading the area.</p> <p>12. Contact a qualified biologist if any dens suitable for desert tortoise, burrowing owl, and/or American badger (4 inches or greater in diameter) are observed during project activities.</p> <p>13. If any threatened, endangered, or otherwise sensitive species are encountered during project activities, all work that may harm that species shall stop immediately and a qualified biologist shall be contacted to determine the best course of action. Any threatened, endangered, or otherwise sensitive wildlife species shall be allowed to leave the site of their own accord.</p>				
#16	<p><b>MM 4.3-3:</b> Active pits with slopes steeper than 2:1 (horizontal:vertical) shall have a minimum of one escape ramp or shall otherwise be fenced or obstructed to prevent wildlife entrapment.</p>	During mining	Kern County Planning and Natural Resources Department; Kern County Public Works Department		
		<p><b>Steps to Compliance:</b></p> <p>A. The project proponent shall install and maintain escape ramps or exclusionary fencing or other obstructions, in areas and under the mine pit and slope conditions specified in the measure.</p> <p>B. Prior to installing any escape ramps, fencing or other obstructions, the project proponent shall submit a written proposal and site plan to the Kern County Planning and Natural Resources Department for review and approval.</p>			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
		C. In conjunction with the course of performing a mining inspection, Lead Agency staff shall verify that that escape ramps, or fencing or other obstructions, have been installed.			
#17	<b>MM 4.3-4:</b> No more than 10 days prior to ground-disturbing activities, a pre-disturbance survey for active bird nests shall be conducted, if work occurs between February and September when nesting activity is most prevalent. If any active nests are observed, appropriate buffer areas (at least 50 feet) shall be established around each nest for avoidance as appropriate.	No more than 10 days prior to initial ground-disturbing activities, if work occurs between February and September	Kern County Planning and Natural Resources Department; California Department of Fish and Wildlife		
		<b>Steps to Compliance:</b> A. This mitigation measure shall be incorporated as a condition of approval. B. Between February and September, a qualified biologist shall conduct a preconstruction avian nesting survey no more than 10 days prior to initial ground-disturbing activities. C. The surveying biologist must be qualified to determine the status and stage of nesting by migratory birds and all locally breeding raptor species without causing intrusive disturbance. D. If active nests are found, a suitable buffer shall be established in consultation with the California Department of Fish and Wildlife around active nests and no site preparation/construction within the buffer allowed until a qualified biologist has determined that the nest is no longer active. E. Copies of the completed surveys shall be submitted to Kern County Planning and Natural Resources Department.			
#18	<b>MM 4.3-5:</b> If initial mining activities are planned to occur during the nesting seasons for raptors and migratory birds (typically February 1 through August 31), the project proponent shall retain a qualified biologist to conduct a focused survey for active nests of raptors and migratory	No more than 30 days before mining activities and at the onset of each phase	Kern County Planning and Natural Resources Department; California Department of Fish and Wildlife		

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	birds within and in the vicinity of (no less than 500 feet outside project boundaries, where possible) no more than 30 days before mining activities and at the onset of each phase. These surveys shall be conducted during breeding seasons for any special-status birds potentially present prior to initial disturbance.	<b>Steps to Compliance:</b> A. This mitigation measure shall be incorporated as a condition of approval. B. The project proponent shall conduct focused surveys for active nests of raptors and migratory birds within and in the vicinity of (no less than 500 feet outside project boundaries, where possible) the disturbance area no more than 30 days before mining activities and at the onset of each phase, as specified in the measure (see MM 4.3-6 for additional actions depending on survey results). C. Copies of the completed focused survey results shall be submitted to Kern County Planning and Natural Resources Department.			
#19	<b>MM 4.3-6:</b> If active nests are located during pre-disturbance surveys, U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife shall be notified regarding the status of the nests. If an active golden eagle nest is located within 500 feet of ground-disturbing activities, or if any other active raptor nest is located within 100 feet of ground-disturbing activities, or if an active migratory bird nest is located within 50 feet of ground-disturbing activities protection measures will be applied and enforced. Protection measures would include delaying project activities until the end of the breeding season, or if, project activities must take place during the breeding season, establishing an appropriate avoidance area (buffer zone) around the nest as determined by a qualified biologist in consultation with the appropriate resource agency. A qualified wildlife biologist shall monitor the nest to determine when the young have fledged and submit bi-weekly reports to the Kern County Planning and Natural	Following surveys as specified in MM 4.3-4 and MM 4.3-5	Kern County Planning and Natural Resources Department; California Department of Fish and Wildlife; U.S. Fish and Wildlife Service		
		<b>Steps to Compliance:</b> A. The project proponent shall notify California Department of Fish and Wildlife and U.S. Fish and Wildlife Service as specified in the measure, if applicable. B. The project proponent, through retention of a qualified biologist, shall consult with the appropriate resource agencies in the event of an active migratory bird nest within the distances specified in the measure. C. The project proponent shall retain a qualified wildlife biologist to monitor nests and prepare bi-weekly reports as specified in the measure.			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	Resources Department throughout the nesting season. The biological monitor shall have the authority to cease mining activities or other activities if sign of distress to the raptor or migratory bird occurs.	D. The project proponent shall submit bi-weekly biologist reports to the County as specified in the measure. E. The project proponent shall temporarily cease ground-disturbing activities if signs of distress are identified by the biological monitor until such time as the biological monitor determines that mining can proceed without further cause of distress to the subject raptor or migratory bird.			
#20	MM 4.3-7: Ground-disturbing activities shall be restricted as necessary to avoid disturbance of a nest until it is abandoned or a qualified biologist deems disturbance potential to be minimal (in consultation with U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife). Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment) or alteration of the schedule for initiation of mining or other activities. No action is necessary if ground disturbance occurs during the raptor and migratory bird nonbreeding season (September 1 through January 31).	During site preparation/construction and initial mining, if such activities are to occur between February 1 and August 31	Kern County Planning and Natural Resources Department; California Department of Fish and Wildlife; U.S. Fish and Wildlife Service		
		<b>Steps to Compliance:</b> A. The project proponent shall restrict activities as necessary to avoid disturbance of a migratory bird nest, as determined by a qualified biologist through consultation with the California Department of Fish and Wildlife and U.S. Fish and Wildlife Service.			
<b>Justification:</b> Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.					
4.4	Cultural Resources				
#21	MM 4.4-1: The project proponent/operator shall retain a Lead Archaeologist, defined as an archaeologist meeting the Secretary of the Interior’s Standards for professional archaeology (U.S. Department of the Interior 2011), to carry	Prior to the start of any ground-disturbing activities	Kern County Planning and Natural Resources Department		
		<b>Steps to Compliance:</b> A. The project proponent shall retain a County-approved archaeologist that meets the Secretary of the Interior’s Standards			



Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	<p>out all mitigation measures related to archaeological and historical resources.</p> <p>A. Prior to initial excavation activities, the project proponent shall demonstrate that it has a Worker Environmental Awareness Program (WEAP) in place for all workers at the project site that includes cultural and paleontological resources training. The training shall be prepared and conducted, for all personnel working on the proposed project, by the qualified Lead Archeologist (as defined above) in consultation with the Native American monitor(s). A copy of the WEAP guide shall be submitted to the Kern County Planning and Natural Resources Department. The training guide may be presented in video form.</p> <p>B. The training shall include an overview of potential cultural resources that could be encountered during ground-disturbing activities to facilitate worker recognition, avoidance, and subsequent immediate notification to the Lead Archaeologist and Native American Monitor for further evaluation and action, as appropriate; and penalties for unauthorized artifact collecting or intentional disturbance of archaeological resources.</p> <p>C. The project proponent/operator shall ensure all new employees or on-site workers who have not participated in earlier WEAP shall meet provisions specified above.</p> <p>D. The WEAP shall be kept available for all personnel to review and be familiar with, as necessary.</p>	<p>for professional archaeology, as well as a Native American monitor, as appropriate.</p> <p>B. The qualified archaeologist and Native American monitor shall prepare and submit a WEAP that includes cultural and paleontological resources training to the Kern County Planning and Natural Resources Department for review and approval.</p> <p>C. The qualified archaeologist and Native American monitor shall conduct a WEAP that includes cultural and paleontological resources training for all personal working on the project.</p> <p>D. Evidence of WEAP Training implementation that includes cultural and paleontological resources training shall be submitted to the Kern County Planning and Natural Resources Department.</p> <p>E. A copy of the WEAP guide shall be submitted to the Kern County Planning and Natural Resources Department.</p>			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
#22	<p><b>MM 4.4-2:</b> During initial excavation, the services of Native American Tribal Monitors (at the discretion of tribal consulting parties), working under the supervision of the Lead Archaeologist as identified through consultation with appropriate Native American tribes, shall be retained by the project proponent/operator to monitor, on a full-time basis, ground-disturbing activities associated with project-related construction activities, as follows:</p> <p>A. All initial excavation activities within the project site, shall be monitored by archaeological and Native American monitors.</p> <p>B. The Lead Archaeologist, archaeological monitors, and Native American monitors shall be provided all project documentation related to cultural resources within the project site prior to commencement of excavation activities. Project documentation shall include but not be limited to previous cultural studies, surveys, maps, drawings, etc. Any modifications or updates to project documentation, including construction plans and schedules, shall immediately be provided to the Lead Archaeologist, archaeological monitor, and Native American monitor.</p> <p>C. The archaeological monitor(s) shall keep daily logs and the Lead Archaeologist shall submit monthly written updates to the Kern County Planning and Natural Resources Department. After monitoring has been completed, the Lead Archaeologist shall prepare a monitoring report detailing the results of monitoring, which shall be submitted to the Kern County Planning</p>	During initial excavation	Kern County Planning and Natural Resources Department		
<p><b>Steps to Compliance:</b></p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall retain a qualified archaeologist to monitor grading and other earth-disturbing activities and, if activities uncover historical resources, to assess finds and recommended procedures.</p> <p>C. The Native American monitor shall keep daily logs and the qualified archaeologist shall submit monthly written updates to the Kern County Planning and Natural Resources Department.</p> <p>D. The Kern County Planning and Natural Resources Department shall review and approve all reports, correspondence, and determinations regarding historical resources prepared by the qualified archaeologist.</p>					

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	and Natural Resources Department and to the southern San Joaquin Valley Information Center at California State University, Bakersfield.				
#23	<p><b>MM 4.4-3:</b> In the event archaeological or historical resources are encountered during ground-disturbing activities, the proposed project contractor shall cease any ground-disturbing activities within 50 feet of the find and notify the Kern County Planning and Natural Resources Department. If such resources are located on lands administered by the California State Lands Commission (CSLC) (i.e., APN 345-032-02), the CSLC Staff Attorney shall also be notified, and coordination and consultation activities described herein shall include coordination and consultation with CSLC. The Lead Archaeologist shall evaluate the significance of the resource(s) and recommend appropriate treatment measures. Per State CEQA Guidelines Section 15126.4(b)(3), proposed project redesign and preservation in place shall be the preferred means to avoid impacts to significant archaeological or historical resources. Consistent with State CEQA Guidelines Section 15126.4(b)(3)(C), if it is demonstrated that resources cannot be avoided, the Lead Archaeologist shall develop additional treatment measures in consultation with Kern County, which may include data recovery or other appropriate measures. Kern County shall consult with the project proponent and appropriate Native American representatives in determining appropriate treatment for unearthed cultural resources if the resources are prehistoric or Native American in nature; this consultation may also be</p>	During mining or other ground-disturbing activities	Kern County Planning and Natural Resources Department; California State Lands Commission; Southern San Joaquin Valley Information Center		
<p><b>Steps to Compliance:</b></p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall cease work within 50 feet of an archaeological or historical resource discovery and shall notify the Kern County Planning and Natural Resources Department, and the California State Lands Commission (CSLC) if the resource is located on lands administered by CSLC, of such discovery.</p> <p>C. The project proponent shall notify and retain Lead Archaeologist to evaluate the find and prepare a work plan as specified in the measure, and shall comply with the work plan.</p> <p>D. The project proponent shall transmit a copy of the work plan to the Kern County Planning and Natural Resources Department and the Southern San Joaquin Valley Information Center, as specified in the measure.</p>					

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	conducted in advance of earth-disturbing work through a memorandum of agreement and/or an Unanticipated Discoveries Treatment Plan. Archaeological materials recovered during any investigation shall be presented for curation at an accredited curation facility. The Lead Archaeologist shall prepare a report documenting evaluation and/or additional treatment of the resource. A copy of the report shall be provided to the Kern County Planning and Natural Resources Department and to the Southern San Joaquin Valley Information Center. The final disposition of archaeological or historical resources recovered on State lands under the jurisdiction of the CSLC must be approved by the CSLC.				
#24	<p><b>MM 4.4-4:</b> If human remains are uncovered during the life of the proposed project, the project proponent/operator shall immediately halt work, contact the Kern County Coroner to evaluate the remains, and follow the procedures and protocols set forth in Section 15064.5(e)(1) of the State CEQA Guidelines. At that time, the project proponent/operator shall contact the Kern County Planning and Natural Resources Department regarding the find. If the Kern County Coroner determines that the remains are Native American, the coroner shall contact the Native American Heritage Commission, in accordance with California Health and Safety Code Section 7050.5(c), and Public Resources Code 5097.98 (as amended by Assembly Bill 2641). The Native American Heritage Commission shall designate a Most Likely Descendent (MLD) for the remains per Public Resources Code 5097.98. Per Public Resources</p>	During mining and other ground-disturbing activities	Kern County Planning and Natural Resources Department; Kern County Coroner; Native American Heritage Commission		
		<p><b>Steps to Compliance:</b></p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. If human remains are discovered, the project proponent shall immediately halt all work and contact the Kern County Coroner to evaluate the remains, and follow the procedures and protocols set forth in Section 15064.5 (e)(1) of the CEQA Guidelines.</p> <p>C. If the remains are determined to be Native American, the County Coroner shall contact the Native American Heritage Commission to assess the find.</p> <p>D. The project proponent shall be required to ensure that all reports,</p>			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	Code 5097.98, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred with the most likely descendent regarding their recommendations, if applicable, taking into account the possibility of multiple human remains. If the remains are determined to be neither of forensic value to the Coroner, nor of Native American origin, provisions of the California Health and Safety Code (Section 7100 et seq.) directing identification of the next-of-kin will apply. If any human remains are encountered, the Kern County Planning and Natural Resources Department shall be notified.	correspondence, and determinations regarding the discover of human remains on the project site are submitted to the Kern County Planning and Natural Resources Department.			
Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.					
4.6	Geology and Soils				
#25	MM 4.6-1: Maximum slopes and depths for the project shall be as follows: a) Maximum overall operational and final reclaimed slopes for the quarry shall be 1:1 (h:v). b) Maximum operational slopes for the overburden stockpiles shall be 1.5:1 (h:v). c) Maximum and overall final reclaimed slopes for the overburden stockpiles shall be 2:1 (h:v). d) Maximum depth of excavation of the quarry shall be 300 feet below original grade. Maximum height of the north overburden stockpile shall be 100 feet above	During site preparation/construction, mining, and reclamation	Kern County Planning and Natural Resources Department; Kern County Public Works Department		
		Steps to Compliance: A. The project proponent or operator shall ensure site preparation/construction and mining activities do not exceed the maximum 1:1 (horizontal:vertical (h:v)) overall operational and final reclaimed slopes for the quarry; maximum 1.5:1 (h:v) operational slopes for the overburden stockpiles; maximum and overall 2:1 (h:v)			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	original grade. Maximum height of the south overburden stockpile shall be 75 feet. Increased slopes and/or depths may be approved in accordance with the provisions of the Surface Mining and Reclamation Act (SMARA) of 1975 and Section 19.100 of the Kern County Zoning Ordinance.	final reclaimed slopes for the overburden stockpiles; maximum 300 feet below original grade depth of excavation of the quarry; maximum 100 feet above original grade height of the north overburden stockpile; and maximum 75 feet above original grade height of the south overburden stockpile.  B. During site preparation/construction and in conjunction with the course of performing a mining inspection, Lead Agency staff shall verify that the mitigation measure is being adhered to.			
#26	<b>MM 4.6-2:</b> If a paleontological resource is found, the project proponent/operator shall cease ground-disturbing activities within 50 feet of the find. The qualified paleontologist shall evaluate the significance of the resource(s) and recommend appropriate treatment measures. At each fossil locality, field data forms shall be used to record pertinent geologic data, stratigraphic sections shall be measured, and appropriate sediment samples shall be collected and submitted for analysis. Any fossils encountered and recovered shall be catalogued and presented for donation to a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County. Accompanying notes, maps, and photographs shall also be filed at the repository.	During site preparation/construction, mining, and reclamation	Kern County Planning and Natural Resources Department; Qualified Paleontologist		
		<b>Steps to Compliance:</b> A. This mitigation measure shall be incorporated as a condition of approval. B. In the event that unanticipated paleontological resource is encountered during site preparation/construction or mining activities, ground disturbing activities shall cease within 50 feet of the find until the qualified paleontologist can evaluate the significance and make recommendations. C. The qualified professional paleontologist shall recommend appropriate treatment measures, as described in the mitigation measure. D. The resource evaluation, determination, and/or treatment shall be formally documented in writing and submitted to the Kern County Planning and Natural Resources Department			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
<b>Justification:</b> Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.					
<b>4.8</b>	<b>Hazards and Hazardous Materials</b>				
<b>#27</b>	<b>MM 4.8-1:</b> Prior to commencement of operations as authorized by this approval, the project proponent/operator shall prepare and submit an Emergency Response Plan to the appropriate regulatory authority.	Prior to commencement of site preparation/construction or mining	Kern County Planning and Natural Resources Department; Kern County Fire Department		
		<b>Steps to Compliance:</b> <ul style="list-style-type: none"> <li>A. The project proponent shall prepare an Emergency Response Plan for review and approval by the Kern County Fire Department.</li> <li>B. A copy of the approved Emergency Response Plan shall be submitted to the Kern County Planning and Natural Resources Department.</li> </ul>			
<b>#28</b>	<b>MM 4.8-2:</b> During the life of the project, the project proponent/operator shall prepare and maintain a Hazardous Materials Business Plan (HMBP), as applicable, pursuant to Article 1 and Article 2 of California Health and Safety Code 6.95 and in accordance with Kern County Ordinance Code 8.04.030, by submitting all the required information to the California Environmental Reporting System (CERS) at <a href="http://cers.calepa.ca.gov/">http://cers.calepa.ca.gov/</a> . The HMBP shall:	Continuously comply	Kern County Planning and Natural Resources Department, Kern County Public Health and Services Department		
		<b>Steps to Compliance:</b> <ul style="list-style-type: none"> <li>A. This mitigation measure shall be incorporated as a condition of approval.</li> </ul>			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	<p>A. Delineate hazardous material and hazardous waste storage areas,</p> <p>B. Describe proper handling, storage, transport, and disposal techniques,</p> <p>C. Describe methods to be used to avoid spills and minimize impacts in the event of a spill,</p> <p>D. Describe procedures for handling and disposing of unanticipated hazardous materials encountered,</p> <p>E. Establish public and agency notification procedures for spills and other emergencies including fires,</p> <p>F. Include procedures to avoid or minimize dust from existing residual pesticides and herbicides that may be present on the site.</p> <p>The project proponent/operator shall ensure that all personnel working on the project are familiar with the facility's HMBP as well as ensure that one copy is available at the project site at all times.</p>	<p>B. The project proponent shall prepare a Hazardous Materials Business Plan in accordance with the California Health and Safety Code.</p> <p>C. The project proponent shall submit the plan to the Kern County Public Health Services Department.</p> <p>D. The Kern County Public Health Services Department shall review and approve the plan.</p> <p>E. The Kern County Planning and Natural Resources Department shall verify documentation prior to initiation of site preparation/construction or mining.</p>			
#29	<p><b>MM 4.8-3:</b> All transport, handling, storage, and use of explosive materials, blasting agents, and blasting equipment shall be directed and supervised by a qualified blasting personnel. Use of blasting agents shall be performed by a blaster licensed through the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATF&amp;E) for handling explosive materials. The blasting personnel and the explosives delivery company shall be properly trained and licensed in accordance with all Federal, State, and local agencies and regulations. All vehicles and explosive transport magazines shall conform to all federal, state, and</p>	Continuously comply	Kern County Planning and Natural Resources Department; Kern County Sheriff's Office; Bureau of Alcohol, Tobacco, Firearms, and Explosives		
		<p><b>Steps to Compliance:</b></p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. A copy of the applicable license(s) of the proposed blaster(s), issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATF&amp;E), shall be submitted to the Kern County Planning and</p>			



Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	local regulations associated with the transportation and handling of explosives.	<p>Natural Resources Department prior to any blasting agents or explosives arriving on the project site.</p> <p>C. A copy of the Permit for Explosives of the proposed blaster(s), issued by the Kern County Sheriff's Office, shall be submitted to the Kern County Planning and Natural Resources Department prior to any blasting agents or explosives arriving on the project site.</p>			
#30	<p><b>MM 4.8-4:</b> The project proponent/operator shall continuously comply with the following:</p> <p>A. In the event any abandoned or unrecorded wells are uncovered or damaged during excavation or grading activities, all work shall cease in the vicinity of the well, and the California Department of Conservation Division of Geologic Energy Management Division (CalGEM) shall be contacted for requirements and approval. The CalGEM may determine that remedial plugging operations may be required and shall be contacted and brought to the project site to make a proper assessment of the suspect materials.</p>	Uncover or damage of abandoned or unrecorded well	Kern County Planning and Natural Resources Department, California Department of Conservation Division of Geologic Energy Management Division (CalGEM)		
		<p><b>Steps to Compliance:</b></p> <p>A. In the event that any abandoned or unrecorded wells are uncovered or damaged during excavation or grading activities, all work shall cease in the vicinity of the well. The project proponent shall contact the California Department of Conservation Division of Geologic Energy Management Division for requirements and approval.</p> <p>B. The project proponent shall comply with all applicable California Department of Conservation Division of Geologic Energy Management Division rules and regulations.</p> <p>C. The project proponent shall submit a copy of all permits and approvals issued by the California Department of Conservation Division of Geologic Energy Management Division to the Kern County Planning and Natural Resources Department.</p>			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
#31	<b>MM 4.8-5:</b> If during development activities, any wells are encountered that were not part of this review, the property owner shall immediately notify the Department of Conservation/Geologic Energy Management Division (CalGEM) construction site well review engineer in the Inland district office, and file for CalGEM review an amended site plan with well casing diagrams. The District office will send a follow-up well evaluation letter to the property owner and local permitting agency.	During site preparation/construction, mining, and reclamation	Kern County Planning and Natural Resources Department, California Department of Conservation/Geologic Energy Management Division (CalGEM)		
		<b>Steps to Compliance:</b> A. If during development activities, any wells are encountered that were not part of this review, the property owner shall immediately notify the Department of Conservation/Geologic Energy Management Division (CalGEM) construction site well review engineer in the Inland district office, and file for CalGEM review an amended site plan with well casing diagrams. B. The project proponent shall submit a copy of all amended site plans with well casing diagrams, approved by CalGEM, to the Kern County Planning and Natural Resources Department.			
#32	<b>MM 4.8-6:</b> Prior to commencement of ground-disturbing activities, the project proponent/operator shall install signs, per Kern County signage requirements, warning of mining and reclamation operations. One sign shall be installed at the project's Secondary Access Road and Mojave Tropico Road. The other sign shall be installed at either: (a) the intersection of the project's Primary Access Road and Mojave Tropico Road, or (b) the intersection of the project's Primary Access Road and property owned by the project proponent.	Prior to commencement of ground-disturbing activities	Kern County Planning and Natural Resources Department		
		<b>Steps to Compliance:</b> A. The project proponent or contractor shall obtain written approval from the Kern County Planning and Natural Resources Department, for the size, materials, message, and a site plan showing the location of two signs warning of mining and reclamation operations, as referenced in this Mitigation Measure. B. The project proponent or contractor shall install signs as approved by the Kern County Planning and Natural Resources Department.			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
		C. The project proponent or contractor shall submit a photograph of each approved sign after installation to the Kern County Planning and Natural Resources Department.			
#33	MM 4.8-7: All food, garbage, and plastic shall be disposed of in closed containers and regularly removed from the site to minimize attracting animals to the site where they may be harmed.	Duration of operation	Kern County Planning and Natural Resources Department; Kern County Public Works Department		
		<b>Steps to Compliance:</b> A. The project proponent or operator shall ensure all food, garbage, and plastic shall be disposed of in closed containers and regularly removed from the site to minimize attracting animals to the site where they may be harmed. B. Operator shall ensure all trash is removed and disposed of regularly in accordance with state and local laws and regulations. C. Evidence of compliance shall be submitted to the Kern County Planning and Natural Resources Department. D. During site preparation/construction and in conjunction with the course of performing a mining inspection, Lead Agency staff shall verify that the mitigation measure is being adhered to.			
<b>Justification:</b> Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.					
4.9	Hydrology and Water Quality				
#34	MM 4.9-1: Prior to any ground-disturbing activities, the project proponent/operator shall submit a Stormwater Pollution Prevention Plan (SWPPP) to the Regional Water Quality Control Board—Lahontan Region. The SWPPP shall be designed to minimize runoff and shall specify best	Prior to commencement of ground-disturbing activities	Kern County Planning and Natural Resources Department, Kern County Public Works Department, California Regional Water		

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	<p>management practices to prevent all pollutants from contacting stormwater, with the intent of keeping sedimentation or any other pollutants from moving off-site and into receiving waters. The requirements of the SWPPP shall be incorporated into design specifications and contracts. Recommended best management practices may include:</p> <ul style="list-style-type: none"> <li>A. stockpiling and disposing of material properly;</li> <li>B. protecting existing storm drain inlets and stabilizing disturbed areas;</li> <li>C. implementing erosion controls;</li> <li>D. properly managing construction materials; and</li> <li>E. managing waste, aggressively controlling litter, and implementing sediment controls.</li> </ul> <p>Should a SWPPP not be required by the Regional Water Quality Control Board—Lahontan Region, documentation stating such shall be presented to the Kern County Planning and Natural Resources Department.</p>		Quality Control Board/Lahontan Region		
		<p><b>Steps to Compliance:</b></p> <ul style="list-style-type: none"> <li>A. The project proponent shall obtain approval of a Stormwater Pollution Prevention Plan (SWPPP) designed to minimize runoff and shall specify best management practices as specified in the measure.</li> <li>B. A copy of the approved Storm Water Pollution Prevention Plan shall be submitted to the Kern County Planning and Natural Resources Department.</li> <li>C. During site preparation/construction and in conjunction with the course of performing a mining inspection, Lead Agency staff shall verify that the SWPPP is being adhered to.</li> </ul>			
#35	<p><b>MM 4.9-2:</b> The project proponent/operator shall prepare and have available on site, if necessary, a Spill Prevention Control and Countermeasures Response Plan from the Kern County Public Health Services Department/Environmental Health Services Division and the California Department of Water Resources.</p>	Duration of operation	Kern County Planning and Natural Resources Department; Kern County Public Health Services Department/Environmental Health Services Division; California Department of Water Resources		
		<p><b>Steps to Compliance:</b></p> <ul style="list-style-type: none"> <li>A. The project proponent shall prepare and obtain approval of a Spill Prevention Control and Countermeasures Response Plan and have</li> </ul>			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
		available on site, from the Kern County Public Health Services Department/Environmental Health Services Division and the California Department of Water Resources, if necessary. B. A copy of the approved Spill Prevention Control and Countermeasures Response Plan, if necessary, shall be submitted to the Kern County Planning and Natural Resources Department. Should a Spill Prevention Control and Countermeasures Response Plan not be required by Kern County Public Health Services Department/Environmental Health Services Division and/or the California Department of Water Resources, documentation stating such shall be submitted to the Kern County Planning and Natural Resources Department.			
<b>Justification:</b> Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.					
<b>4.12</b>	<b>Noise</b>				
<b>#36</b>	<b>MM 4.12-1:</b> The project proponent/operator shall establish a Noise Disturbance Coordinator for the proposed project. The Noise Disturbance Coordinator shall be responsible for responding to any complaints about noise. The Noise Disturbance Coordinator shall determine the cause of the complaint and shall be required to implement reasonable measures to resolve the complaint. Contact information for the Noise Disturbance Coordinator shall be submitted to the Kern County Planning and Natural Resources Department prior to commencement of any ground-disturbing activities.	Prior to commencement of site preparation/construction or mining; during site preparation/construction, mining, and reclamation	Kern County Planning and Natural Resources Department		
		<b>Steps to Compliance:</b> A. This mitigation measure shall be incorporated as a condition of approval. B. The construction contractor shall establish a Noise Disturbance Coordinator for the project prior to the commencement of site preparation/construction or mining. C. The Noise Disturbance Coordinator shall respond to any local complaints about noise.			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
		D. Contact information for the Disturbance Coordinator shall be submitted to the Kern County Planning and Natural Resources Department prior to the commencement of site preparation/ construction or mining. E. The disturbance coordinator shall determine the cause of the noise complaint and shall be required to implement reasonable measures such that the complaint is resolved.			
#37	<b>MM 4.12-2:</b> Two signs, legible at a distance of 50 feet, shall be posted in the following locations: (a) the intersection of the project's Primary Access Road with Mojave Tropico Road, (b) the intersection of the project's Secondary Access Road with Mojave Tropico Road. The signs shall state a Surface Mining and Reclamation Plan (Gem Hill Quarry Project [Conditional Use Permit 45, Map 214]) has been approved for the site, and a telephone number where noise complaints can be registered with the Noise Disturbance Coordinator. Documentation that the signs have been posted shall be provided to the Kern County Planning and Natural Resources Department.	Prior to commencement of site preparation/ construction or mining	Kern County Planning and Natural Resources Department		
		<b>Steps to Compliance:</b> A. The project proponent or contractor shall obtain written approval from the Kern County Planning and Natural Resources Department, for the size, materials, message, and a site plan showing the location of the sign, as referenced in this Mitigation Measure. B. The project proponent or contractor shall install signs as approved by the Kern County Planning and Natural Resources Department. C. The project proponent or contractor shall submit photographs of the approved signs after installation to the Kern County Planning and Natural Resources Department.			
#38	<b>MM 4.12-3:</b> Blasting shall occur during daylight, no more than one time per day between the hours of 10:00 a.m. and 4:00 p.m., Monday through Friday, and shall be engineered to minimize the amount of explosives used according to the United States Bureau of Mines guidelines.  Requested blasting outside of the identified hours can be authorized with written notification by the Planning Director. Requested isolated adjustments to the blasting	Prior to commencement of prior to commencement of blasting operations, and for the duration of blasting operations	Kern County Planning and Natural Resources Department		
		<b>Steps to Compliance:</b> A. This mitigation measure shall be incorporated as a condition of approval.			

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	<p>schedule shall require a detailed report specifying why adjustments are needed. Any authorized adjustments shall require certified mailed notices to residential properties, as determined by the Planning Director, at least one week prior to blasting.</p> <p>Written notification by the Planning Director and the one week mailing requirement may be waived due to unforeseen public health and safety concerns as determined by the federally licensed explosives operator in charge of blasting. If such determination is made, blasting may commence at any time to ensure overall health and safety. If blasting under this public health and safety provision occurs, an incident report shall be provided to the Planning and Natural Resources Department within 48 hours of the incident.</p>	<p>B. The project proponent shall provide the Kern County Planning and Natural Resources Department with a tentative schedule of blasting times prior to commencement of blasting operations. The project proponent shall apprise the Kern County Planning and Natural Resources Department in writing of any revisions to the schedule, such that the Kern County Planning and Natural Resources will be aware of the date and time of all blasts before they occur.</p> <p>C. Written notice of any authorized adjustments to the blasting schedule outside of the mitigation stated hours of 10:00 a.m. to 4:00 p.m., Monday through Friday, shall be mailed to residential properties, as determined by the Planning Director, at least one week prior to blasting.</p> <p>D. If blasting occurs outside of the blasting schedule per this mitigation for public health and safety reasons, an incident report shall be provided to the Kern County Planning and Natural Resources Department within 48 hours of the incident.</p> <p>E. The project proponent shall adhere to United States Bureau of Mines guidelines.</p> <p>F. The Lead Agency shall file the blasting schedule in the case file.</p>			
<b>Justification:</b> Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.					
<b>4.13</b>	<b>Public Services</b>				
<b>#39</b>	<b>MM 4.13-1:</b> The project proponent/operator shall work with Kern County to determine how the use of sales and use taxes from construction and operation of the project can be maximized. This process shall include the project proponent/operator obtaining a street address within the	Prior to commencement of site preparation/construction or mining	Kern County Planning and Natural Resources Department, County Administrative Office Fiscal Division		

Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
	unincorporated portion of Kern County for acquisition, purchasing, and billing purposes and registering this address with the State Board of Equalization. The project proponent/operator shall allow Kern County to use this sales tax information publicly for reporting purposes.	<b>Steps to Compliance:</b> A. This mitigation measure shall be incorporated as a condition of approval. B. Written verification of ownership of the project shall be submitted to the Kern County Planning and Natural Resources Department by April 15 of each calendar year.			
<b>Justification:</b> Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.					
4.14	Transportation and Traffic				
#40	MM 4.14-1: Under Encroachment Permit, issued by the Kern County Public Works Department, the project proponent/operator shall construct access points along the Mojave-Tropico Road frontage as shown on the plans as Primary and Secondary access roads.	Prior to the commencement site preparation/construction or mining	Kern County Planning and Natural Resources Department, Kern County Public Works Department		
		<b>Steps to Compliance:</b> A. This mitigation measure shall be incorporated as a condition of approval. B. The project proponent shall construct access points as referenced in this Mitigation Measure. C. The project proponent shall submit written verification to the Kern County Planning and Natural Resources Department, issued by the Kern County Public Works Department, confirming that access points have been constructed as referenced in this Mitigation Measure.			
<b>Justification:</b> Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.					
4.16	Utilities and Service Systems				



Impact	Mitigation Measure	Time Frame for Implementation	Responsible Monitoring Agency	Date	Initials
#41	<b>MM 4.16-1:</b> During operations as authorized by this approval, debris and waste generated shall be recycled to the extent feasible. A. An on-site Recycling Coordinator shall be designated by the project proponent/operator to facilitate recycling as part of the Maintenance and Trash Abatement/Pest Management Program. B. The Recycling Coordinator shall facilitate the recycling of all construction waste through coordination with contractors, local waste haulers, and/or facilities that recycle construction/demolition wastes. C. The on-site Recycling Coordinator shall also be responsible for ensuring that wastes that require special disposal are handled according to the State and County regulations that are in effect at the time of disposal. D. Contact information of the coordinator shall be provided to the Kern County Planning and Natural Resources Department prior to commencement of operations as authorized by this approval.	Prior to commencement of site preparation/ construction or mining; during site preparation/ construction, mining, and reclamation	Kern County Planning and Natural Resources Department		
		<b>Steps to Compliance:</b> A. This mitigation measure shall be incorporated as a condition of approval. B. The project proponent will designate a Recycling Coordinator who shall ensure implementation of mitigation measures and the Maintenance and Trash Abatement/Pest Management Program. C. Contact information of the coordinator shall be provided to the Kern County Planning and Natural Resources Department D. Kern County Public Works Department will verify in the field during site inspections. E. Provide Kern County Planning and Natural Resources Department and Kern County Public Works Department/Operations & Maintenance Division with a site plan showing the recycling storage area prior to the commencement of site preparation/construction or mining.			
<b>Justification:</b> Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.					

**EXHIBIT B – GEM HILL QUARRY PROJECT**  
**CALIFORNIA STATE LANDS COMMISSION**  
**STATEMENT OF FINDINGS AND**  
**STATEMENT OF OVERRIDING CONSIDERATIONS**

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**1.0 INTRODUCTION**

The California State Lands Commission (Commission or CSLC), acting as a responsible agency under the California Environmental Quality Act (CEQA), makes these Findings and this Statement of Overriding Considerations to comply with CEQA as part of its discretionary approval to authorize an amendment to PRC 9504 General Lease – Right-of-Way Use, to CalPortland, for use of school lands associated with the proposed Gem Hill Quarry Project (Project).

In 1853, the United States Congress granted to California nearly 5.5 million acres of land for the specific purpose of supporting public schools. In 1984, the State Legislature passed the School Land Bank Act (Act), which established the School Land Bank Fund (SLBF) and appointed the Commission as its trustee (Pub. Resources Code, § 8700 et seq.). The Act directed the Commission to develop school lands into a permanent and productive resource base for revenue generating purposes. The Commission manages approximately 462,830 +/- acres of school lands still held in fee ownership by the State and the reserved mineral interests on an additional 790,000± acres where the surface estates have been sold. Revenue from school lands is deposited in the State Treasury for the benefit of the Teachers' Retirement Fund (Pub. Resources Code, § 6217.5).

The Commission is a responsible agency under CEQA for the Project because the Commission must approve an amendment to an existing lease for the Project to go forward and because Kern County (County), as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. The County analyzed the environmental impacts associated with the Project in a Final Environmental Impact Report (EIR) (State Clearinghouse [SCH] No. 2021110076) and, on January 24, 2023, certified the EIR and adopted a Mitigation Measure Monitoring Program (MMMP), Findings, and a Statement of Overriding Considerations.

The Project involves the development of a surface mining operation and reclamation plan on approximately 82 acres that would utilize a 0.75-acre primary access road on State lands to provide access from Mojave Tropic Road.

The County determined that the Project could have significant environmental effects on the following environmental resources:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Public Services
- Transportation and Traffic
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire

Of the 14 resources areas noted above, Project components within the Commission's jurisdiction (i.e., widening and increased use of the existing primary access road) could have significant environmental effects on eight of the resource areas, as follows:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Transportation and Traffic
- Tribal Cultural Resources

In certifying the Final EIR and approving the Project, the County imposed various mitigation measures for Project-related significant effects on the environment as conditions of Project approval and concluded that Project-related impacts would be substantially lessened with implementation of these mitigation measures such that the impacts would be less than significant. However, even with the integration of all feasible mitigation, the County concluded in the EIR that some of the identified impacts would remain significant. As a result, the County adopted a Statement of Overriding Considerations to support its approval of the Project despite the significant and unavoidable impacts. The County determined that, after mitigation, the Project may still have significant impacts on Aesthetics and Biological Resources. Because some of these significant impacts may occur on lands under the jurisdiction of the Commission,

the Commission also adopts the Statement of Overriding Considerations set forth in this exhibit as part of its approval.

As a responsible agency, the Commission complies with CEQA by considering the EIR and reaching its own conclusions on whether, how, and with what conditions to approve a project. In doing so, the Commission may require changes in a project to lessen or avoid the effects, either direct or indirect, of that part of the project which the Commission will be called on to carry out or approve. In order to ensure the identified mitigation measures and/or Project revisions are implemented, the Commission adopts the Mitigation Monitoring Program (MMP) as set forth in Exhibit A as part of its Project approval.

## **2.0 ADMINISTRATIVE RECORD OF PROCEEDINGS AND CUSTODIAN OF THE RECORD**

These Findings are supported by substantial evidence contained in the EIR and other relevant information provided to the Commission or existing in its files, all of which is contained in the administrative record. The administrative record is located at the California State Lands Commission, 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825. The custodian for the administrative record is the California State Lands Commission Division of Environmental Science, Planning, and Management.

## **3.0 FINDINGS**

The Commission's role as a responsible agency affects the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each "public agency" that approves a project for which an EIR has been certified that identifies one or more significant impacts on the environment (Pub. Resources Code, § 21081, subd. (a); State CEQA Guidelines, § 15091, subd. (a).) Because the EIR certified by the County for the Project identifies potentially significant impacts that fall within the scope of the Commission's approval, the Commission makes the Findings set forth below as a responsible agency under CEQA. (State CEQA Guidelines, § 15096, subd. (h); *Riverwatch v. Olivenhain Mun. Water Dist.* (2009) 170 Cal.App.4th 1186, 1202, 1207.

While the Commission must consider the environmental impacts of the Project as set forth in the EIR, the Commission's obligation to mitigate or avoid the direct or indirect environmental impacts of the Project is limited to those parts which it decides to carry out, finance, or approve (Pub. Resources Code, § 21002.1, subd. (d); State CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because the Commission's exercise of discretion involves only amending a General Lease – Right-of-Way Use for this Project, the Commission is responsible for considering only the environmental impacts related to lands or

resources subject to the Commission's jurisdiction. With respect to all other impacts associated with implementation of the Project, the Commission is bound by the legal presumption that the EIR fully complies with CEQA.

The Commission has reviewed and considered the information contained in the Project EIR. All significant adverse impacts of the Project identified in the EIR relating to the Commission's approval of an amendment to a General Lease – Right-of-Way Use, which would allow access to the Project area, are included herein and organized according to the resource affected.

These Findings, which reflect the independent judgment of the Commission, are intended to comply with CEQA's mandate that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects unless the agency makes written findings for each of those significant effects. Possible findings on each significant effect are:

- (1) Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.<sup>1</sup>

A discussion of supporting facts follows each Finding.

- Whenever Finding (1) occurs, the mitigation measures that lessen the significant environmental impact are identified in the facts supporting the Finding.
- Whenever Finding (2) occurs, the agencies with jurisdiction are specified. These agencies, within their respective spheres of influence, have the responsibility to adopt, implement, and enforce the mitigation discussed.
- Wherever Finding (3) is made, the Commission has determined that, even after implementation of all feasible mitigation measures and

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<sup>1</sup> See Public Resources Code section 21081, subdivision (a) and State CEQA Guidelines section 15091, subdivision (a).

consideration of feasible alternatives, the identified impact will exceed the significance criteria set forth in the EIR. Furthermore, to the extent that potentially feasible measures have been alleged or proposed, the Findings explain why certain economic, legal, social, technological or other considerations render such possibilities infeasible. The significant and unavoidable impacts requiring Finding (3) are identified in the Final EIR, discussed in the Responses to Comments, and explained below. Having done everything it can to avoid and substantially lessen these effects consistent with its legal authority and CEQA, the Commission finds in these instances that overriding economic, legal, social, technological, or other benefits of the approved Project outweigh the resulting significant and unavoidable impacts. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

The mitigation measures (MMs) are briefly described in these Findings; more detail on the MMs is included in the Final EIR.

#### A. SUMMARY OF FINDINGS

Based on public scoping, the proposed Project will have No Impact on the following environmental issue areas:

- Agriculture/Forestry
- Population and Housing
- Recreation

The EIR subsequently identified the following impacts as Less Than Significant:

- Energy
- Greenhouse Gas Emissions
- Mineral Resources

For the remaining potentially significant effects, the Findings are organized by significant impacts within the EIR issue areas as presented below.

#### B. POTENTIALLY SIGNIFICANT IMPACTS

The impacts within CSLC jurisdiction identified in Table B-1 were determined in the Final EIR to be potentially significant absent mitigation. After application of mitigation, however, several impacts were determined to be less than significant (LTS). For the full text of each MM, please refer to Exhibit A, Attachment A-1.

However, even with the integration of all feasible mitigation, the County concluded in the EIR that the other identified potentially significant impacts will

remain significant. Table B-1 identifies those impacts that the County determined would be, after mitigation, significant and unavoidable (SU).

**Table B-1 – Significant Impacts by Issue Area**

<b>Environmental Issue Area</b>	<b>Impact Nos. (LTSM)</b>	<b>Impact Nos. (SU)</b>
Aesthetics		4.1-2, 4.1-4
Air Quality	4.2-1, 4.2-2	
Biological Resources	4.3-1	4.3-6
Cultural Resources	4.4-1, 4.4-2, 4.4-3, 4.4-4	
Hazards and Hazardous Materials	4.8-1, 4.8-5	
Hydrology and Water Quality	4.9-1, 4.9-8, 4.9-9	
Transportation and Traffic	4.14-1, 4.14-3, 4.14-4, 4.14-5	
Tribal Cultural Resources	4.15-1a, 4.15-1b, 4.15-2	

As a result, the Commission adopts the Statement of Overriding Considerations set forth as part of this Exhibit to support its approval of the Project despite the significant and unavoidable impacts.

### **C. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION**

The impacts identified below were determined in the Final EIR to be potentially significant absent mitigation; however, the impacts were determined to be less than significant with mitigation (LTSM).

## 1. AIR QUALITY

### **CEQA FINDING NO. 4.2-1**

Impact: **Impact 4.2-1. The Project would conflict with or obstruct implementation of applicable air quality plans**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

#### FACTS SUPPORTING THE FINDING(S)

The proposed Project would result in both short-term construction emissions and long-term operational emissions. The Project is essentially a construction-type Project, as the mined material would be excavated by loaders and transported to markets by street-legal haul trucks. Approximately 82.2 acres would be disturbed, which includes mined area, overburden stockpiles, haul roads, work areas, and retention basins. The EIR considered the Project emissions to be potentially significant.

The Project site is located within the administrative boundaries of the Eastern Kern Air Pollution Control District (EKAPCD), which has jurisdiction over air quality in the Kern County portion of the Mojave Desert Air Basin (MDAB). The EKAPCD has developed plans to attain Federal and State standards for ozone and particulate matter. Implementation of MM 4.2-1 would ensure the Project complies with any applicable requirement of the EKAPCD. With implementation of MM 4.2-1, impacts would be less than significant

#### **MM 4.2-1: The Project shall comply with any applicable requirement of the Eastern Kern Air Pollution Control District**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.



**CEQA FINDING NO. 4.2-2**

Impact: **Impact 4.2-2. The Project would result in a cumulatively considerable net increase of a criteria pollutant for which the Project region is nonattainment under an applicable Federal or State ambient air quality standard.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

**FACTS SUPPORTING THE FINDING(S)**

The Project would result in both short-term construction emissions and long-term operational emissions. Short-term emissions associated with the proposed Project would include vehicle and equipment exhaust and fugitive particulate matter during site preparation including preparation of on-site access roads and stormwater basins. Long-term emissions associated with Project operations would be generated from vehicles and equipment exhaust associated with Project operation and area source fugitive particulate matter. The EIR found Project emissions related to fugitive dust to be potentially significant.

In accordance with EKAPCD rules, dust control measures are required to be in place and operative with an approved Fugitive Dust Emission Control Plan and periodic monitoring by EKAPCD and the Project proponent ensuring that the regulatory standards are met in regards to diesel emissions. MM 4.2-2 through MM 4.2-7 would ensure impacts would be reduced to be less than significant.

**MM 4.2-2: Fugitive Dust Control Plan**

**MM 4.2-3: Surface Disturbance**

**MM 4.2-4: Watering and Presoaking**

**MM 4.2-5: Coverage during Transportation**

**MM 4.2-6: Compliance with the In-Use Off-Road Engine Air Toxic Control Measure**

**MM 4.2-7: Reduction of Nitrogen Oxide Emissions**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

## 2. BIOLOGICAL RESOURCES

### CEQA FINDING NO. 4.3-1

Impact: **Impact 4.3-1. The Project would have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

### FACTS SUPPORTING THE FINDING(S)

Although considered unlikely due to available habitat, the Project could result in a significant impact to special-status wildlife species if they are found on-site. These include nesting birds protected by the Migratory Bird Treaty Act, desert tortoise, golden eagle, burrowing owl, loggerhead shrike, and American badger.

Implementation of MM 4.3-1 and MM 4.3-2 would reduce impacts associated with the long timeframe of the Project disturbing special-status species on-site to less than significant. MM 4.3-4 through MM 4.3-7 would identify areas where special-status bird species are present and avoid, where possible, impacts on the bird species. The measures also require identifying and reporting direct impacts that do occur. Implementation of MM 4.3-4 through MM 4.3-7 would reduce potential impacts to migratory birds and raptors. With the implementation of MMs 4.3-1, 4.3-2, and 4.3-4 through 4.3-7 impacts to sensitive species would be less than significant.

#### **MM 4.3-1: Employee Awareness Program**

#### **MM 4.3-2: Pre-construction Clearance Surveys**

#### **MM 4.3-4: Active Bird Nest Surveys**

#### **MM 4.3-5: Breeding Season Surveys**

#### **MM 4.3-6: Active Nest Monitoring**

#### **MM 4.3-7: Nesting Exclusion Zones**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

### 3. CULTURAL RESOURCES

#### **CEQA FINDING NO. 4.4-1**

Impact: **Impact 4.4-1. The Project would cause a substantial adverse change in the significance of a historical resource, as defined in CEQA Guidelines Section 15064.5.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

#### FACTS SUPPORTING THE FINDING(S)

Project research confirmed the alignment for Mojave-Tropico Road is a historic period roadway. The Project's proposed primary and secondary access road improvements could require some physical impacts to the portion of Mojave-Tropico Road. In addition, the potential exists for unknown buried historical resources to be present on the site. Ground disturbance associated with the widening of the primary access road creates the potential for damage or destruction of previously unidentified cultural resources that could be present on the site. Undiscovered surface or subsurface historical resource deposits could exist, having been obscured from view during pedestrian surveys by site vegetation. Subsurface deposits could be buried, with no surface evidence.

Implementation of MM 4.4-1, MM 4.4-2, and MM 4.4-3 has been incorporated into the Project to reduce this impact to a less than significant level through worker programs, monitors, and treatment measures.

#### **MM 4.4-1: Worker Environmental Awareness Program**

#### **MM 4.4-2: Archaeological and Native American Tribal Monitors**

#### **MM 4.4-3. Archaeological or Historical Resource Treatment Measures**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. 4.4-2**

Impact: **Impact 4.4-2. The Project would cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

**FACTS SUPPORTING THE FINDING(S)**

Ground disturbance associated with Project construction, including the widening of the primary access road, would create the potential for damage or destruction of previously unidentified prehistoric archeological resources that could be present on the site. Undiscovered surface archaeological deposits could exist, having been obscured from view during pedestrian surveys by site vegetation, and subsurface deposits could be buried, with no surface evidence. Therefore, the potential for disturbance or destruction of one or more currently unknown significant prehistoric archaeological resources is considered a potentially significant impact.

Implementation of MM 4.4-1, MM 4.4-2, and MM 4.4-3 has been incorporated into the Project to reduce this impact to a less than significant level through worker programs, monitors, and treatment measures.

**MM 4.4-1: Worker Environmental Awareness Program**

**MM 4.4-2: Archaeological and Native American Tribal Monitors**

**MM 4.4-3. Archaeological or Historical Resource Treatment Measures**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. 4.4-3**

Impact: **Impact 4.4-3. The proposed Project would disturb human remains, including those interred outside of dedicated cemeteries.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Buried human remains could be inadvertently unearthed during excavation activities (including the widening of the primary access road), which could result in damage to those human remains. This impact is considered potentially significant. MM 4.4-4 contains procedures for recording and treating human remains that are discovered during implementation of the Project and would reduce this impact to less than significant.

**MM 4.4-4: Inadvertent Discovery of Human Remains.**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. 4.4-4**

Impact: **Impact 4.4-4. The Project would contribute to cumulative cultural resources impacts.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

There are no known cultural resources of significance within the Project; however, the proposed Project could make a substantial contribution if combined with other past, present, and reasonably foreseeable projects, resulting in cumulative impact to cultural resources.

Implementation of MM 4.4-1, MM 4.4-2, MM 4.4-3, and MM 4.4-4 has been incorporated into the Project to reduce this impact to a less than significant level through worker programs, monitors, and treatment measures.

**MM 4.4-1: Worker Environmental Awareness Program**

**MM 4.4-2: Archaeological and Native American Tribal Monitors**

**MM 4.4-3. Archaeological or Historical Resource Treatment Measures**

**MM 4.4-4: Inadvertent Discovery of Human Remains**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

#### 4. HAZARDS AND HAZARDOUS MATERIALS

**CEQA FINDING NO. 4.8-1**

Impact: **Impact 4.8-1. The Project would create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

**FACTS SUPPORTING THE FINDING(S)**

The Project would include the transport and use of flammable and other hazardous materials, such as diesel fuels and blasting agents. The primary access road would be used to transport these materials.

Implementation of MM 4.8-1, MM 4.8-2, and MM 4.8-3 would ensure the Project's potential to create a significant hazard to the public or the environment through the routine transport of hazardous materials, is less than significant through the preparation of an Emergency Response Plan, Hazardous Materials Business Plan, and use of properly trained and licensed delivery companies.

**MM 4.8-1: Emergency Response Plan****MM 4.8-2: Hazardous Materials Business Plan****MM 4.8-3: Transport, Handling, and Storage Measures**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. 4.8-5**

Impact: **Impact 4.8-5. The Project would contribute to cumulative hazards and hazardous materials impacts.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

**FACTS SUPPORTING THE FINDING(S)**

Uses proposed on the Project site would include the permitted use of hazardous materials associated with operation of mining and reclamation activities. The

Project would also contribute to the number of trucks hauling potentially hazardous materials on public roadways.

The proposed Project would be required to comply with all applicable Federal, State, and local regulations regarding the transport of hazardous materials. With implementation of these control measures and implementation of MM 4.8-1, MM 4.8-2, and MM 4.8-3, the proposed Project would not result in significant impacts related to reasonably foreseeable upset or accidental conditions involving the release of hazardous materials into the environment. The proposed Project would not contribute significantly to cumulative impacts associated with hazardous materials transport.

**MM 4.8-1: Emergency Response Plan**

**MM 4.8-2: Hazardous Materials Business Plan**

**MM 4.8-3: Transport, Handling, and Storage Measures**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**5. HYDROLOGY AND WATER QUALITY**

**CEQA FINDING NO. 4.9-1**

Impact: **Impact 4.9-1. The Project would violate water quality standards or waste discharge requirements.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

**FACTS SUPPORTING THE FINDING(S)**

The site consists primarily of rolling topography with some steep slopes and nine ephemeral drainages. In addition, seven drainage areas were delineated for the site including the "Primary Access Road" and the "Primary Access Road at Gate." Development of the Project would result in a significant impact to hydrology and water quality if associated Project activities created conditions that would result in the violation of any water quality or waste discharge standards. Such violations could occur through the creation of erosion, sedimentation, and/or polluted runoff (the accidental release of potentially hazardous materials). Appropriate best management practices and compliance with applicable regulations would be implemented to reduce potential water quality impacts to a less than significant level.

MM 4.9-1 requires the preparation of a Stormwater Pollution Prevention Plan (SWPPP) to prevent pollutants from moving off-site and into receiving waters through stormwater. MM 4.9-2 requires the preparation of a Spill Prevention Control and Countermeasures Response Plan to prevent soil contamination. With implementation of MM 4.9-1 and MM 4.9-2, impacts would be less than significant.

**MM 4.9-1: Stormwater Pollution Prevention Plan**

**MM 4.9-2: Spill Prevention Control and Countermeasures Response Plan**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. 4.9-8**

Impact: **Impact 4.9-8. The Project would conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

**FACTS SUPPORTING THE FINDING(S)**

Ground-disturbing activities associated with widening of the primary access road could potentially degrade water quality through erosion and subsequent sedimentation of drainages. Accidental release of potentially harmful materials, such as engine oil and diesel fuel, could degrade the water quality of nearby streams.

The Project would not have an impact to an adopted groundwater management plan. The Project's water use for dust control would be consistent with the Lahontan Region Basin Plan and would not create a conflict with the plan. Preparation of and compliance with a SWPPP (as required by MM 4.9-1) and a Spill Prevention Control and Countermeasures Response Plan (as required by MM 4.9-2) would reduce the Project's potential impacts associated with degradation of water quality through erosion or accidental release of potentially harmful materials to less than significant.

**MM 4.9-1: Stormwater Pollution Prevention Plan**

**MM 4.9-2: Spill Prevention Control and Countermeasures Response Plan**



LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. 4.9-9**

Impact: **Impact 4.9-9. The Project would contribute to cumulative hydrology and/or water quality impacts.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

**FACTS SUPPORTING THE FINDING(S)**

There are no current or proposed projects in the geographic area of the Project that would cumulatively contribute to the violation of any water quality standards or waste discharge requirements. Cumulative projects are not expected to result in substantial depletion of groundwater supplies or interference with groundwater recharge, alteration of existing drainage patterns in a manner which would result in substantial runoff/erosion/siltation, or substantial flooding or creation or contribution of stormwater runoff.

No cumulative impacts would occur; therefore, no mitigation measures in addition to MM 4.9-1 and MM 4.9-2 are required. With implementation of MM 4.9-1 and MM 4.9-2, cumulative impacts would be less than significant.

**MM 4.9-1: Stormwater Pollution Prevention Plan**

**MM 4.9-2: Spill Prevention Control and Countermeasures Response Plan**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**6. TRANSPORTATION AND TRAFFIC**

**CEQA FINDING NO. 4.14-1**

Impact: **Impact 4.14-1. The Project would conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The Project's proposed primary and secondary access road intersections with Mojave-Tropico Road require encroachment permits from Kern County. Implementation of MM 4.14-1 would ensure the Project meets the conditions of existing encroachment permits or obtains and complies with necessary encroachment permits consistent with all County policies; therefore, impacts would be less than significant.

**MM 4.14-1: Construction of Primary and Secondary Access Roads**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. 4.14-3**

Impact: **Impact 4.14-3. The Project would substantially increase hazards due to a design feature.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The Project proponent is required to obtain encroachment permits from Kern County for development and use of the Project's primary and secondary access road intersections with Mojave-Tropico Road.

After obtaining encroachment permits and constructing any road improvements required thereby, the Project would not contribute to an increase in hazards due to a design feature and therefore will not have a significant impact. Therefore, this impact would be less than significant with implementation of MM 4.14-1.

**MM 4.14-1: Construction of Primary and Secondary Access Roads**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. 4.14-4**

Impact: **Impact 4.14-4. The Project would result in inadequate emergency access.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

**FACTS SUPPORTING THE FINDING(S)**

The proposed Project could result in inadequate emergency access if the proposed Project designs fail to meet appropriate standards, fail to provide adequate truck access, or would result in hazardous conditions.

Implementation of MM 4.14-1 would ensure adequate emergency access is maintained with the construction of the primary and secondary access roads. Therefore, this impact would be less than significant.

**MM 4.14-1: Construction of Primary and Secondary Access Roads**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. 4.14-5**

Impact: **Impact 4.14-5. The Project would contribute to cumulative transportation impacts.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

**FACTS SUPPORTING THE FINDING(S)**

The Project would generate fewer than 50 trips during any peak hour and therefore does not require a traffic impact study and is presumed to have a less than significant impact related to Level of Service (LOS). This conclusion also reflects a cumulative analysis, and the Project would not result in a significant contribution to LOS deficiencies in the surrounding road network but would contribute to potential safety hazards and regional emergency access. With implementation of MM 4.14-1, the cumulative impact would be less than significant.

**MM 4.14-1: Construction of Primary and Secondary Access Roads**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

## **7. TRIBAL CULTURAL RESOURCES**

### **CEQA FINDING NO. 4.15-1A**

Impact: **Impact 4.15-1A. The Project would cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the CRHR, or in a local register of historical resources as defined in PRC Section 5020.1(k).**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

### **FACTS SUPPORTING THE FINDING(S)**

No tribal cultural resources have been identified within the Project site through consultation with Native American representatives. However, the potential exists for tribal cultural resources to be encountered.

MM 4.4-1 through MM 4.4-4 would require cultural resources sensitivity training for site workers, Native American monitors during ground-disturbing activities, cessation of ground disturbance and implementation of treatment measures in the event that historical resources are encountered during ground-disturbing activities, and cessation of work and consultation with the Native American Heritage Commission and Most Likely Descendent in the event of discovery of human remains if the County Coroner determines that the remains are Native American. Implementation of MM 4.4-1 through MM 4.4-4 would reduce impacts to a less than significant level.

#### **MM 4.4-1: Worker Environmental Awareness Program**

#### **MM 4.4-2: Archaeological and Native American Tribal Monitors**

#### **MM 4.4-3. Archaeological or Historical Resource Treatment Measures**

#### **MM 4.4-4: Inadvertent Discovery of Human Remains**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. 4.15-1B**

Impact: **Impact 4.15-1B. The Project would cause a substantial adverse change in the significance of a tribal cultural resource that is a resource determined by the Lead Agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of PRC Section 5024.1.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

**FACTS SUPPORTING THE FINDING(S)**

No tribal cultural resources have been identified within the Project site through consultation with Native American representatives. However, the potential exists for tribal cultural resources to be encountered.

MM 4.4-1 through MM 4.4-4 would require cultural resources sensitivity training for site workers, Native American monitors during ground-disturbing activities, cessation of ground disturbance and implementation of treatment measures in the event that archaeological resources are encountered during ground-disturbing activities, and cessation of work and consultation with the Native American Heritage Commission and Most Likely Descendent in the event of discovery of human remains if the County Coroner determines that the remains are Native American. Implementation of MM 4.4-1 through MM 4.4-4 would reduce impacts to a less than significant level.

**MM 4.4-1: Worker Environmental Awareness Program**

**MM 4.4-2: Archaeological and Native American Tribal Monitors**

**MM 4.4-3. Archaeological or Historical Resource Treatment Measures**

**MM 4.4-4: Inadvertent Discovery of Human Remains**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. 4.15-2**

Impact: **Impact 4.15-2. The Project will not contribute to cumulative tribal cultural resources impacts.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

**FACTS SUPPORTING THE FINDING(S)**

Cumulative development within southeastern Kern County has the potential to result in cumulative impacts to tribal cultural resources, if present. No tribal cultural resources within the Project site have been identified through consultation with Native American representatives. Consequently, the incremental effects of the Project, after mitigation, would not have the potential to make a considerable contribution, in combination with impacts from past, present, or reasonably foreseeable projects to a cumulative significant impact on tribal cultural resources.

MM 4.4-1 through MM 4.4-4 would require cultural resources sensitivity training for site workers, Native American monitors during ground-disturbing activities, cessation of ground disturbance and implementation of treatment measures in the event that archaeological or historical resources are encountered during ground-disturbing activities, and cessation of work and consultation with the Native American Heritage Commission and Most Likely Descendent in the event of discovery of human remains if the County Coroner determines that the remains are Native American. Implementation of MM 4.4-1 through MM 4.4-4 would reduce impacts to a less than significant level.

**MM 4.4-1: Worker Environmental Awareness Program**

**MM 4.4-2: Archaeological and Native American Tribal Monitors**

**MM 4.4-3. Archaeological or Historical Resource Treatment Measures**

**MM 4.4-4: Inadvertent Discovery of Human Remains**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

## **D. SIGNIFICANT AND UNAVOIDABLE IMPACTS**

The following impacts were determined in the Final EIR to be significant and unavoidable. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

### **1. AESTHETICS**

#### **CEQA FINDING NO. 4.1-2**

Impact: **Impact 4.1-2. The Project would substantially degrade the existing visual character or quality of public views of the site and its surroundings.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

#### **FACTS SUPPORTING THE FINDING(S)**

The Project would result in adverse changes to the visual quality and character of the site due to visibility of an active mining operation, including truck traffic, and long-term visibility of engineered slopes and unnatural landforms.

Implementation of MM 4.1-1 would reduce visual impacts associated with the proposed Project by requiring a maintenance and trash abatement program, ensuring that the site is kept free of debris and trash. However, because there are no feasible mitigation measures that can be implemented to reduce the Project's visual impact to less than significant, impacts to visual resources would remain significant and unavoidable.

#### **MM 4.1-1 Maintenance and Trash Abatement/Pest Management Program.**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

**CEQA FINDING NO. 4.1-4**

Impact: **Impact 4.1-4. The Project would result in cumulative aesthetics impacts related to visual character.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

**FACTS SUPPORTING THE FINDING(S)**

Development of other projects in the vicinity of the Project site would result in varying degrees of changes in the visual character of the Project region. Although individually these projects may not result in significant visual impacts, development of the proposed Project in combination with existing, proposed, approved, and reasonably foreseeable development is considered to have the potential to result in a substantial contribution to cumulative changes in the visual character of southern Kern County.

Implementation of MM 4.1-1 would reduce the visual impact of the Project by requiring a maintenance and trash abatement program, but the Project would result in significant and unavoidable impacts related to visual character despite implementation of mitigation. While other projects in the region would also be required to implement various mitigation measures to reduce impacts, the Project's impacts related to visual character cannot be mitigated to a degree that impacts are no longer significant. Even with implementation of MM 4.1-1, the Project's contribution to significant impacts associated with visual character would be cumulatively significant and unavoidable.

**MM 4.1-1: Maintenance and Trash Abatement/Pest Management Program**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.



## 2. BIOLOGICAL RESOURCES

### **CEQA FINDING NO. 4.3-6**

Impact: **Impact 4.3-6. The Project would contribute to cumulative biological resource impacts.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

### FACTS SUPPORTING THE FINDING(S)

Given the number of present and reasonably foreseeable future development projects in the Antelope Valley, the proposed Project, when combined with other projects, would contribute to cumulative loss of habitat for special-status species.

Implementation of MM 4.3-1 through MM 4.3-7 would reduce impacts to habitat to less than significant for the proposed Project. However, the proposed Project, when combined with other related development projects proposed throughout the County, would cumulatively impact habitat for special-status species. Thus, cumulative impacts would be significant and unavoidable. With implementation of MM 4.3-1 through MM 4.3-7, cumulative impacts would be significant and unavoidable.

#### **MM 4.3-1: Employee Awareness Program**

#### **MM 4.3-2: Preconstruction Clearance Surveys**

#### **MM 4.3-3: Escape Ramps**

#### **MM 4.3-4: Active Bird Nest Surveys**

#### **MM 4.3-5: Breeding Season Surveys**

#### **MM 4.3-6: Active Nest Monitoring**

#### **MM 4.3-7: Nesting Exclusion Zones**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

#### E. FINDINGS ON ALTERNATIVES

As explained in *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1000:

*When it comes time to decide on project approval, the public agency's decisionmaking body evaluates whether the alternatives [analyzed in the EIR] are actually feasible.... At this final stage of project approval, the agency considers whether '[s]pecific economic, legal, social, technological, or other considerations...make infeasible the mitigation measures or alternatives identified in the environmental impact report.' Broader considerations of policy thus come into play when the decisionmaking body is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives [citations omitted].*

The three alternatives analyzed in the EIR represent a reasonable range of potentially feasible alternatives that could reduce one or more significant impacts of the Project. These alternatives include:

- 1) Alternative A: No Project Alternative
- 2) Alternative B: Reduced Footprint Alternative
- 3) Alternative C: Reduced Depth of Mining Alternative

As presented in the EIR, the alternatives were described and compared with each other and with the proposed Project.

Under State CEQA Guidelines section 15126.6, subdivision (e)(2), if the No Project Alternative is identified as the environmentally superior alternative, the EIR must also identify an environmentally superior alternative among the other alternatives. Based on the analysis contained in the EIR, Alternative B would be considered the environmentally superior alternative.

The County independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the County's independent judgment as to alternatives. The County found that the proposed Project provides the best balance between the Project goals and objectives and the Project's benefits. The three CEQA alternatives proposed and evaluated in the EIR were rejected as being infeasible for the following reasons provided in the County's Findings Regarding Alternatives (incorporated herein by reference).

1) Alternative A: No Project Alternative

The No Project Alternative would avoid all of the significant and unavoidable impacts associated with the proposed Project. This alternative would result in less impact to all remaining environmental issue areas. However, the No Project Alternative would not achieve any of the Project objectives. Although this alternative would create less environmental impacts overall, the objectives that shape the Project would not be realized under this alternative

2) Alternative B: Reduced Footprint Alternative

The Reduced Footprint Alternative (Alternative B) would result in similar but to a slightly lesser degree of environmental impacts to aesthetics, air quality, biological resources, cultural resources, energy, geology and soils, greenhouse gas emissions, hydrology and water quality, noise, transportation, tribal cultural resources, utilities and service systems, and wildfire as compared to the proposed Project. Alternative B would result in similar environmental impacts related to hazards and hazardous materials, land use and planning, and public services as compared to the proposed Project. Alternative B would not reduce the significant and unavoidable visual (Project-specific and cumulative) or biological resources (cumulative) impacts of the Project to less than significant.

Alternative B would result in a disadvantage as compared to the Project because it would reduce the amount of reserves and mineral resource production over the life of the Project; however, Alternative B would be a feasible alternative that meets all of the Project objectives while reducing potential impacts of the proposed Project.

3) Alternative C: Reduced Depth of Mining Alternative

Alternative C would result in similar but to a slightly lesser degree of environmental impacts to air quality, energy, geology and soils, greenhouse gas emissions, hydrology and water quality, noise, transportation, utilities and service systems, and wildfire as compared to the proposed Project. Alternative C would result in similar environmental impacts related to aesthetics, biological resources, cultural resources, and tribal cultural resources, as compared to the proposed Project. Alternative C would not reduce the significant and unavoidable visual (Project-specific and cumulative) or biological resources (cumulative) impacts of the Project to less than significant.

Although this alternative would reduce the amount of material mined and the overall life of the operation, it would still achieve the Project objectives

including providing a reliable, sustainable, local source of high quality pozzolanic volcanic tuff, although to a lesser extent than the proposed Project.

Based upon the objectives identified in the Final EIR and the detailed mitigation measures imposed upon the Project, the Commission has determined that the Project should be approved, subject to such mitigation measures (Exhibit A, Mitigation Monitoring Program), and that any remaining unmitigated environmental impacts attributable to the Project are outweighed by the following specific economic, fiscal, social, environmental, land use, and other overriding considerations.

#### **4.0 STATEMENT OF OVERRIDING CONSIDERATIONS**

##### **A. INTRODUCTION**

This section addresses the Commission's obligations under Public Resources Code section 21081, subdivisions (a)(3) and (b). (See also State CEQA Guidelines, §§ 15091, subd. (a)(3), 15093.) Under these provisions, CEQA requires the Commission to balance, as applicable, the economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the Lease amendment approval related to the Gem Hill Quarry Project against the backdrop of the Project's unavoidable significant environmental impacts. For purposes of CEQA, if the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable significant environmental effects, those effects may be considered acceptable and the decision-making agency may approve the underlying project. (State CEQA Guidelines § 15092, subd. (b)(2)(B).) CEQA, in this respect, does not prohibit the Commission from approving the Lease even if the Project activities as authorized under the Lease may cause significant and unavoidable environmental effects.

This Statement of Overriding Considerations presents a list of (1) the specific significant effects on the environment attributable to the approved Project that cannot feasibly be mitigated to below a level of significance, (2) benefits derived from the approved Project, and (3) specific reasons for approving the Project.

Although the County and Commission have imposed mitigation measures to reduce impacts, impacts remain that are considered significant after application of all feasible mitigation. Significant impacts of the approved Project fall under two resource areas: Aesthetics and Biological Resources (see Table B-2). These impacts are specifically identified and discussed in more detail in the Commission's CEQA Findings and in the County's Final EIR. While the Commission

has required all feasible mitigation measures, these impacts remain significant for purposes of adopting this Statement of Overriding Considerations.

**Table B-2 – Significant and Unavoidable Impacts Identified for the Approved Project**

Impact	Impact Description
<b>Impact 4.1-2. The Project would substantially degrade the existing visual character or quality of public views of the site and its surroundings.</b>	The Project would result in adverse changes to the visual quality and character of the site due to visibility of an active mining operation, including truck traffic, and long-term visibility of engineered slopes and unnatural landforms.
<b>Impact 4.1-4. The Project would result in cumulative aesthetics impacts related to visual character.</b>	Development of other projects in the vicinity of the Project site would result in varying degrees of changes in the visual character of the Project region. Although individually these projects may not result in significant visual impacts, development of the proposed Project in combination with existing, proposed, approved, and reasonably foreseeable development is considered to have the potential to result in a substantial contribution to cumulative changes in the visual character of the Project region.
<b>Impact 4.3-6. The Project would contribute to cumulative biological resource impacts.</b>	Given the number of present and reasonably foreseeable future development projects in the Antelope Valley, the proposed Project, when combined with other projects, would contribute to cumulative loss of habitat for special-status species.

#### B. BALANCING OF BENEFITS AND RISKS ASSOCIATED WITH LEASE AMENDMENT APPROVAL

State CEQA Guidelines section 15093, subdivision (a) requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project.

### C. COMMISSION ADOPTION OF STATEMENT OF OVERRIDING CONSIDERATIONS

As noted above, under Public Resources Code section 21081, subdivisions (a)(3) and (b) and State CEQA Guidelines section 15093, subdivision (a), the decision-making agency is required to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or state-wide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve a project.

For purposes of CEQA, if these benefits outweigh the unavoidable significant environmental effects of a proposed project, the decision-making agency may approve the underlying project. CEQA, in this respect, does not prohibit the Commission from approving the Project, even if the activities authorized by that approval may cause significant and unavoidable environmental effects. This balancing is particularly difficult given the significant and unavoidable impacts on the resources discussed in the EIR and these Findings. Nevertheless, the Commission finds, as set forth below, that the benefits anticipated by implementing the Project outweigh and override the expected significant effects.

The Commission has balanced the benefits of the Project against the significant unavoidable impacts that will remain after approval of the lease associated with the Approved Project and with implementation of all feasible mitigation in the EIR that is adopted as enforceable conditions of the Commission's approval of the Project. Based on all available information, the Commission finds that the benefits of the approved Project outweigh the significant and unavoidable adverse environmental effects, and considers such effects acceptable.

The Project would provide the following benefits:

1. The proposed project would create an environmentally sound project that would balance the recovery of the pozzolanic volcanic tuff resource with the protection of other resources including wildlife habitat, sensitive and special-status species, groundwater, surface water, and air quality.
2. The proposed project would establish a mine in a location that contains sufficient land with surrounding compatible uses and would also provide a mine in an area in proximity to the project proponent's cement plants and other users of pozzolanic volcanic tuff, and near the intended market areas, thereby alleviating current and future traffic and associated impacts.
3. The proposed project would generate an estimated daily average of 20 full time equivalent jobs during operation, which would provide increased business for local contractors and vendors.

4. The proposed project would minimize environmental impacts by:
  - a. Using existing rights-of-way, roads, and other existing infrastructure where practicable
  - b. Reducing greenhouse gas emissions that would otherwise occur from the production of cement.

The Commission adopts and makes this Statement of Overriding Considerations with respect to the impacts identified in the EIR and these Findings that cannot be reduced to a less than significant level. Each benefit set forth above or described below constitutes an overriding consideration warranting approval of the project, independent of the other benefits, despite each and every significant unavoidable impact.

#### D. CONCLUSION

The Commission has considered the Final EIR and all of the environmental impacts described therein including those that cannot be mitigated to a less than significant level and those that may affect Public Trust uses of State school land. Based on the foregoing and pursuant to Public Resources Code section 21081 and State CEQA Guidelines sections 15096 subdivision (h) and 15093, the Commission has considered the fiscal, economic, legal, social, environmental, and public health and safety benefits of the Project and has balanced them against the Project's significant and unavoidable and unmitigated adverse environmental impacts and, based upon substantial evidence in the record, has determined that the benefits of the Project outweigh the adverse environmental effects. The Commission finds that the remaining significant unavoidable impacts of the Project are acceptable in light of these benefits. Such benefits outweigh such significant and unavoidable impacts of the Project and provide the substantive and legal basis for this Statement of Overriding Considerations.

The Commission finds that to the extent that any impacts identified in the Final EIR remain unmitigated, mitigation measures have been required to the extent feasible, although the impacts could not be reduced to a less than significant level.

This Project involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq. The proposed Project includes parcel 228-003 of the Significant Lands Inventory and classified as use category Class B, which authorizes limited use. Environmental values identified for the parcel include biological (specifically in the range of desert tortoise) and cultural resources. As part of the EIR, protocol surveys were conducted for desert tortoise on the parcel with negative results and no signs of the species were found on the parcel. An existing access road is located

through the center of the parcel to the west. This industrial road will be retained and widened. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the Project, as proposed, is consistent with its use classification.

Based on the above discussion, the Commission finds that the benefits of the Project outweigh the significant unavoidable impacts that could remain after mitigation is applied and considers such impacts acceptable.