

# Agenda

# County of Inyo Planning Commission

Board of Supervisors Room  
Inyo County Administrative Center  
Independence, California

**LANIE SOMERS**  
**CAITLIN (KATE) J. MORLEY**  
**TODD VOGEL**  
**CALLIE PEEK**  
**SCOTT KEMP**

CATHREEN RICHARDS  
PAULA RIESEN  
MICHAEL ERRANTE  
LESLIE CHAPMAN  
GRACE CHUCHLA

**FIRST DISTRICT**  
**SECOND DISTRICT (CHAIR)**  
**THIRD DISTRICT (VICE CHAIR)**  
**FOURTH DISTRICT**  
**FIFTH DISTRICT**

PLANNING DIRECTOR  
PROJECT COORDINATOR  
PUBLIC WORKS DIRECTOR  
COUNTY ADMINISTRATOR  
DEPUTY COUNTY COUNSEL

Inyo County Planning Commission  
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Independence, CA 93526  
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**NOTICE TO THE PUBLIC:** In order to minimize the spread of the COVID-19 virus, Governor Newsom has issued Executive Orders that temporarily suspend certain requirements of the Brown Act. Please be advised that the Planning Commission will be conducting its hearing exclusively via videoconference by which Planning Commission Members and staff will be participating. The videoconference will be accessible to the public by computer, tablet or smartphone at:

<https://us02web.zoom.us/j/84991389225?pwd=eDhXckUxbHJNZXF2dEQ0cjFXUEN6UT09>

You can also dial in by phone at 1-669-900-6833 Meeting Id: 849 9138 9225 and then enter Passcode: 400960. Public Comment may be provided by emailing the comments prior to the meeting. All emailed comments will be read into the record, and the Planning Commission will take that feedback into consideration as it deliberates. Please send comments to: [inyoplanning@inyocounty.us](mailto:inyoplanning@inyocounty.us)

Items will be heard in the order listed on the agenda unless the Planning Commission rearranges the order or the items are continued. Estimated start times are indicated for each item. The times are approximate and no item will be discussed before its listed time.

Lunch Break will be given at the Planning Commission's convenience.

The Planning Commission Chairperson will announce when public testimony can be given for items on the Agenda. The Commission will consider testimony on both the project and related environmental documents.

The applicant or any interested person may appeal all final decisions of the Planning Commission to the Board of Supervisors. Appeals must be filed in writing to the Inyo County Board of Supervisors within 15 calendar days per ICC Chapter 15 [California Environmental Quality Act (CEQA) Procedures] and Chapter 18 (Zoning), and 10 calendar days per ICC Chapter 16 (Subdivisions), of the action by the Planning Commission. If an appeal is filed, there is a fee of \$300.00. Appeals and accompanying fees must be delivered to the Clerk of the Board Office at County Administrative Center Independence, California. If you challenge in court any finding, determination or decision made pursuant to a public hearing on a matter contained in this agenda, you may be limited to raising only those issues you or someone else raised at the public hearing, or in written correspondence delivered to the Inyo County Planning Commission at, or prior to, the public hearing.

**Public Notice:** In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Planning Department at (760) 878-0263 (28 CFR 35.102-3.104 ADA Title II). Notification 72 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require appropriate alternative formatting of this agenda, please notify the Planning Department 2 hours prior to the meeting to enable the County to make the agenda available in a reasonable alternative format (Government Code Section 54954.2).

## September 22, 2021

10:00  
A.M.

1. **PLEDGE OF ALLEGIANCE.**
2. **ROLL CALL** – Roll Call to be taken by staff.
3. **PUBLIC COMMENT PERIOD** – This is the opportunity for anyone in the audience to address the Planning Commission on any planning subject that is not scheduled on the Agenda.

- Action Item**      4. **APPROVAL OF MINUTES** – Approval of minutes from the August 11, 2021 Planning Commission Meeting.
- Action Item Public Hearing**      5. **CONDITIONAL USE PERMIT-2021-02/ VARIANCE-2021-02/COOK** - The applicant has applied for a Conditional Use Permit to allow for the cultivation of hemp. The applicant is also seeking a yard Variance, which would allow for hemp cultivation to occur within five feet of the property line. The project area was previously used as a garden and a lawn and is located near the community of Lone Pine.
- Action Item Public Hearing**      6. **CONDITIONAL USE PERMIT-2020-06/PINNACLE CANNABIS** – The applicant has applied for a Conditional Use Permit for a cannabis microbusiness. The microbusiness use would include indoor cultivation, non-volatile manufacturing, distribution, and non-storefront retail delivery. The Project is located at 1550 Trona Wildrose Road, near the community of Trona.
- Action Item Public Hearing**      7. **CONDITIONAL USE PERMIT-2021-05/CLUFF** - The applicant has applied for a Conditional Use Permit (CUP) to make the legally nonconforming “resort” use of the property conform to the Inyo County zoning code. The applicant is applying for a CUP so he can expand the services provided by Cardinal Village Resort, near the community of Aspendell. No new construction is being proposed.
- Action Item Public Hearing**      8. **CONDITIONAL USE PERMIT-2019-01/SHADE GROWN FARMS VIOLATION HEARING** - On February 27, 2019 the Planning Commission, upon the recommendation of staff, approved a CUP for the applicant to operate a commercial cannabis cultivation operation at 140 Agate Drive in the community of Stewart Valley. The project proposal included growing cannabis plants of a variety of strains as well as processing the mature plants which entails drying, curing, trimming and packaging at the project site. The CUP was approved with several conditions, one of these being conformance with all applicable provisions of the County Code and State Regulations. The applicant has failed to meet these conditions as construction to house the cannabis operations has occurred with no building, electrical or plumbing permits, therefore, staff is recommending the revocation of CUP.
- Action Item Public Hearing**      9. **HEARING – RADCLIFF MINE/BUSH MANAGEMENT VIOLATION OF CONDITIONAL USE-2007-05/PRUETT – BALLARAT INC** - The County will be seeking an order to revoke the Conditional Use Permit and require immediate closure of all portals and reclaim site.

**COMMISSIONERS' REPORT/COMMENTS**

Commissioners to give their report/comments to staff.

**PLANNING DIRECTOR'S REPORT**

Planning Director, Cathreen Richards, will update the Commission on various topics.

**CORRESPONDENCE – INFORMATIONAL**

# COUNTY OF INYO

## PLANNING COMMISSION

### MINUTES OF August 11, 2021 MEETING

**COMMISSIONERS:**

LANIE SOMERS  
CAITLIN (KATE) J. MORLEY  
TODD VOGEL  
CALLIE PEEK  
SCOTT KEMP

FIRST DISTRICT  
SECOND DISTRICT (CHAIR)  
THIRD DISTRICT (VICE)  
FOURTH DISTRICT  
FIFTH DISTRICT

Inyo County Planning Commission  
Post Office Drawer L  
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**STAFF:**

CATHREEN RICHARDS  
GRACE CHUHLA  
GRAHAM MEESE  
PAULA RIESEN  
LESLIE CHAPMAN  
MIKE ERRANTE

PLANNING DIRECTOR  
DEPUTY COUNTY COUNSEL  
ASSISTANT PLANNER  
PROJECT COORDINATOR  
COUNTY ADMINISTRATOR  
PUBLIC WORKS DIRECTOR

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The Inyo County Planning Commission met in regular session on Wednesday, August 11, 2021, using Zoom for our meeting. Commissioner Morely opened the meeting at 10:03 a.m. These minutes are to be considered for approval by the Planning Commission at their next scheduled meeting.

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**ITEM 1:**     **PLEDGE OF ALLEGIANCE** – All recited the Pledge of Allegiance at 10:03 a.m.

**ITEM 2:**     **ROLL CALL** - Commissioners: Caitlin Morley, Todd Vogel, Callie Peek and Lanie Somers were present.

Staff present: Cathreen Richards, Planning Director; Paula Riesen, Project Coordinator, and Grace Chuhla, Deputy County Counsel.

Staff absent: Leslie Chapman, County Administrator; Michael Errante, Public Works Director.

**ITEM 3:**     **PUBLIC COMMENT PERIOD** – This item provides the opportunity for the public to address the Planning Commission on any planning subject that is not scheduled on the Agenda.

Chair Morley opened the Public Comment Period at 10:04 a.m.

With no one wishing to comment Chair Morley closed the public comment period at 10:05 a.m.

**ITEM 4:**     **APPROVAL OF MINUTES (Action Item)** – Approval of the Minutes from the July 28, 2021 meeting of the Planning Commission.

**MOTION:**     Commissioner Todd Vogel made the motion to approve the minutes, the motion was seconded by Commissioner Callie Peek.

Project Coordinator, Paula Riesen proceeded with roll call for each vote.

The Motion passed 4-0 at 10:05 a.m.

**ITEM 5:**     **General Plan Amendment 2021-01/Inyo County – Housing Element Update -**  
Staff has prepared a draft 2021 General Plan Housing Element update. The update incorporates the requirements of new relevant legislation, the Regional Housing Needs Allocation (RHNA) stipulated by the State, an Affirmatively Furthering Fair Housing Section and new demographic information. This draft updated Housing Element is being provided for the Planning Commission’s review and recommendation to the Board of Supervisors for approval.

Cathreen Richards, Planning Director, presented the Housing Element Update.

Planning Commissioner, Lanie Somers thanked Planning Director, Cathreen Richards for a great presentation. She felt like this information really helped her to get up to speed on the Housing Element Update. Commissioner Lanie Somers then asked if there were any restrictions in regards to the ADU’s.

Cathreen Richards, Planning Director, said there are not any restrictions at this time. The State has kept the rules to a minimum to make it easier for the housing crisis.

Commissioner Somers asked if there were had any effects with Sterling Heights closing.

Director Richards stated that is in the City of Bishop’s jurisdiction not the County’s, so it does not have any effect on the County.

Commissioner Somers asked if Inyo County is working with Mono County on a regional plan for housing.

Director Richards said that at this time there are no regional working collaborations. Each County’s Housing Element is separate and has to plan accordingly.

Deputy County Counsel, Grace Chuhla said there is a group, informally ESTOG, That Elaine Kabala is spear heading to address a regional plan.

Director Richards asked Deputy County Counsel, Grace Chuhla to please share the email address with the commission.

Chair Morley opened the Public Comment Period at 10:52 a.m.

With no one wishing to comment Chair Morley closed the public comment period at 10:53 a.m.

Chair Morley asked for Commissioner Discussion.

Commissioner Peek said she had no questions.

Commissioner Vogel had no questions, but wanted to say the presentation was an amazing piece of work.

Chair Morley said the presentation was an incredible amount of needed information, and she would be able to use these numbers on other projects, thank you.

**MOTION:** Commissioner Todd Vogel made motion to adopt the Resolution Number 2021-03 recommending that the Board of Supervisor's certify the 2021 housing element is a Negative Declaration of Environmental Impact and make findings 1-5 with respect to and approve recommended actions 1-3, general plan amendment number 2021-01/Inyo County – 2021 Housing Element Update and send to the California Department of Housing and Community Development for certification. The motion was seconded by Commissioner Callie Peek.

Project Coordinator, Paula Riesen proceeded with roll call for each vote.

The Motion passed 4-0 at 11:02 a.m.

#### **COMMISSIONERS' REPORT/COMMENTS –**

Commissioner Peek was contacted by a concerned realtor, who has concerns with the drought with regard to people's yards that are overgrown, and not taken care of. The concerned citizen thought the process for making a complaint was hard on the Inyo County Planning web page. Commissioner Peek researched our web page then other counties web site's and found that in her opinion, the Inyo County site was easy to use, but wanted to bring it to the Commission the citizen's complaint.

Chair Morley stated that Deputy County Counsel, Grace Chuhla is working on updating the Title 22.

Deputy County Counsel, Grace Chuhla, elaborated that the Title 22 is being updated in Code Enforcement and working on modernizing in accordance to today's standards.

Director Richards reiterated that all complaints need to be directed to the County Code Enforcement Officer, Steven Rennie.

Chair Kate Morley said she had received an email for the 90<sup>th</sup> General Conference of the California County Planning Commissioners Association, scheduled for October 15,16 2021. She attended the last one in Chico and had learned a lot and if at all possible would like to go again. Also she would recommend this conference; they have a lot of good information for Planning Commissioners.

Planning Director, Cathreen Richards said there was funds available for only one possibly two Commissioners to go at this time. Please let Paula Riesen know soon, so she can make the reservations since spaces are limited.

### **DIRECTOR'S REPORT –**

Planning Director, Cathreen Richards said there will be a need for a September 22, 2021 Planning Commission meeting. It seems there will be a Conditional Use Permit Violation that will need to be addressed at that time.

### **ADJOURNMENT –**

With no further business, Chair Kate Morley requested a motion to adjourn the meeting at 11:12 a.m. The next meeting will September 22, 2021, at 10:00 a.m. and will still be in Zoom format until directed otherwise.

Commissioner Lanie Somers made his final motion to close the meeting.

Seconded by Commissioner Callie Peek.

Project Coordinator, Paula Riesen proceeded with roll call for each vote.

Motion passed 4-0.

Prepared by:  
Paula Riesen  
Inyo County Planning Department



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**AGENDA ITEM NO.:** 5 (Action Item and Public Hearing)

**PLANNING COMMISSION  
MEETING DATE:** September 22, 2021

**SUBJECT:** CUP 2021-02/Cook; and VAR  
2021-02/Cook

**EXECUTIVE SUMMARY**

The applicant, Reginald Cook, sole owner and operator of Eastern Sierra Botanical, has applied for a Conditional Use Permit (CUP) for the cultivation of hemp on his property, located at 1 Hidden Valley Ranch Road, Lone Pine, CA with Assessor Parcel Number (APN) 026-070-09. Due to the shape of the parcel and underlying geology, the applicant has also applied for a Variance to encroach 295 feet into the required 300-foot setback. The CUP is being requested contingent on the Variance.

This project was presented to the Inyo County Planning Commission on July 28, 2021 during which time both the CUP and Variance were approved, but upon further review of the project, the CEQA documentation had not been properly noticed, making the CEQA review process void. The Initial Study and Negative Declaration have since been properly noticed and are now back to the Planning Commission for approval.

**PROJECT INFORMATION**

**Supervisory District:** 5

**Applicant:** Reginald Cook, Eastern Sierra Botanical

**Landowner:** Reginald Cook

**Community:** Lone Pine, CA

**A.P.N.:** 026-070-09

**Existing General Plan:** Rural Protection (RP)

**Existing Zoning:** Open Space, 40 acre minimum (OS-40)



**Surrounding Land Use:**

| <b>Location</b> | <b>Use</b>                  | <b>General Plan Designation</b> | <b>Zone</b>                         |
|-----------------|-----------------------------|---------------------------------|-------------------------------------|
| Site            | Residential and agriculture | Rural Protection (RP)           | Open Space, 40-acre minimum (OS-40) |
| North           | Vacant                      | State and Federal Lands (SFL)   | Open Space, 40-acre minimum (OS-40) |
| East            | Vacant                      | State and Federal Lands (SFL)   | Open Space, 40-acre minimum (OS-40) |
| South           | Vacant                      | State and Federal Lands (SFL)   | Open Space, 40-acre minimum (OS-40) |
| West            | Vacant                      | State and Federal Lands (SFL)   | Open Space, 40-acre minimum (OS-40) |

**Recommended Action:**

- 1.) Approve the Conditional Use Permit 2021-02/Cook, and certify the project as a Negative Declaration under CEQA.
- 2.) Approve the Variance 2021-02/Cook, and certify the project as a Negative Declaration under CEQA.

**Alternatives:**

- 1.) Specify modifications to the proposal and/or the Conditions of Approval.
- 2.) Make specific findings and deny the application.
- 3.) Continue the public hearing to a future date, and provide specific direction to staff regarding additional information and analysis needed.

**Project Planner:**

Graham Meese

**BACKGROUND**

The applicant has applied for a CUP to cultivate hemp on his property located at 1 Hidden Valley Ranch Road, approximately two miles southwest of Lone Pine (vicinity map). In 2018 the applicant was granted a general plan amendment and zone reclassification with the intent to grow marijuana but instead decided to grow industrial hemp. The parcel is approximately 28-acres in size and currently used for residential and agricultural activities including a small vineyard, fruit and nut orchard, and vegetable garden. The property is zoned OS-40, which allows for hemp cultivation with a CUP. The applicant intends to cultivate hemp in three areas of the property totaling approximately 11,410 square feet and use one existing structure to cure the product before transport (see site map). The surrounding area is state and federal property zoned OS-40. The proposed project is in a remote location and is not within 600-feet of a school, daycare, park, or library; and therefore, is not prohibited by state or county exclusion areas.

The applicant has also applied for a variance of 295 feet to cultivate hemp within the 300-foot setback requirements. The available growing area in this parcel is constrained by the shape of the parcel and the unique rock formations found on the property as well as large areas of underground rocks. This property is located in a remote area surrounded by state and federal land zoned OS-40. The three cultivation sites have been previously disturbed and were used as a vegetable garden and lawn. The CUP is being requested contingent on the Variance.

## **STAFF ANALYSIS**

### General Plan Consistency

The goal of this project is to allow for a hemp cultivation operation. The project is consistent with the General Plan designation of Rural Protection (RP) as it provides for “low-intensity agriculture.” The RP General Plan designation is compatible with the existing Open-Space (OS-40) zoning designation. It is also compatible with the General Plan’s Conservation and Open Space Element’s Goal Agriculture (AG) 1.0: Provide and maintain a viable and diverse agriculture industry in Inyo County. The applicant is proposing to grow hemp. This activity is consistent with Goal AG 1.0, as it diversifies the types of agriculture that currently exist in the County.

### Zoning Ordinance Consistency

The proposed project is a CUP to allow for the commercial cultivation of hemp. The OS-40 zone allows for commercial hemp cultivation with a CUP as long as the project can meet the 300-foot setback requirement. Due to the shape of the parcel and underlying geology, the applicant has also applied for a variance to encroach 295 feet into the required 300-foot setback. The CUP is being requested contingent on the Variance. The Open Space zone, within its purpose statement, says that it is established to: encourage the protection of mountainous, hilly upland, valley, agricultural, potential agricultural, fragile desert areas, and other mandated lands from fire, erosion, soil destruction, pollution and other detrimental effects of intensive land use activities. This project will bring more agricultural activities to the county and is consistent with the Open Space purpose statement.

## **ENVIRONMENTAL REVIEW**

Conditional Use Permit 2021-02/Cook and Variance 2021-02/Cook are a Negative Declaration under CEQA. Planning Department staff deemed that the proposed project has no possibility of causing significant environmental effects because the project is occurring in a location that is already disturbed and was used previously as a vegetable garden and lawn. The applicant will be planting directly into the soil, and only naturally amending the soil with leaf mulch, and cow and horse manure. The plants will be watered using drip irrigation from an artesian spring located, and completely contained on the property. The flow from the spring under natural conditions at any time during the year does not create surface flow off of the property and thus is exempt from needing a water right. No listed threatened or endangered plant or animal species are known to exist on the property and this project will not negatively impact the local community, air quality, or transportation services as it is a relatively small project located in an isolated valley surrounded by state and federal lands.

### **TRIBAL CONSULTATION**

In compliance with AB 52, SB 18, and Public Resource Code Section 21080.3.1(b), tribes identified as being local to Inyo County, were notified via a certified letter on May 13, 2021 about the project and the opportunity for consultation on this project. The tribes notified were as follows: Big Pine Tribe of Owens Valley, Bishop Paiute Tribe, Fort Independence Indian Community of Paiutes, Lone Pine Paiute-Shoshone Tribe, Timbisha Shoshone tribe, Twenty-Nine Palms Band of Mission Indians, Cabazon Band of Mission Indians, and the Torrez Martinez Desert Cahuilla Indians.

Inyo County has not received any responses to tribal consultation requests.

### **NOTICING & REVIEW**

The applications for CUP 2021-02/Cook and VAR 2021-02/Cook have been reviewed by the appropriate County departments with no comments indicating there are any issues with the request. The Mono Inyo County Agricultural department stated that if the applicant decides to use any pesticides they must first apply for an Operator ID from the Ag. Commissioner.

The draft Initial Study was posted on the Planning Department's website on July 28 and a Notice of Availability was published with the Inyo County Clerk Recorder on July 29, and in the *Inyo Register* on July 31<sup>th</sup> for a twenty-one day review.

A public hearing notice was published in the Inyo Register on September 9<sup>th</sup> and mailed to property owners within 300-feet of the project location. No comments have been received by staff to date.

### **RECOMMENDATIONS- CUP 2021-02/Cook**

Planning Department staff recommends the approval of Conditional Use Permit 2021-02/Cook and certify that it is a negative declaration under CEQA.

### **FINDINGS**

1. The proposed Conditional Use Permit is a Negative Declaration under CEQA guidelines and the provisions of the California Environmental Quality Act have been satisfied. *[Evidence: Conditional Use Permit 2021-02 is a Negative Declaration under CEQA. The proposed project has no possibility of causing significant environmental effects because the project is occurring in a location that is already disturbed and had been used previously as a personal vegetable garden and lawn. The applicant will be planting directly into the soil, and only naturally amending the soil with leaf mulch, and cow and horse manure. The plants will be watered using drip irrigation from an artesian spring located and completely contained on the property. The flow from the spring under natural conditions at any time during the year does not create surface flow off of the property and thus is exempt from needing a water right. No listed threatened or endangered plant species are known to exist on the property and this project will not negatively impact the local community as it is located in an isolated valley surrounded by state and federal lands.]*

2. The proposed Conditional Use Permit is consistent with the Inyo County General Plan Land Use designation of Rural Protection (RP).
 

*[Evidence: The goal of this project is to allow for the cultivation of an agricultural product, hemp, on a parcel of land with an (RP) General Plan designation. The project is consistent with the General Plan designation of Rural Protection (RP) as it provides "low-intensity agriculture." The (RP) General Plan designation is compatible with the existing Open-Space (OS-40) zoning designation. The proposed project is relatively small(11,410 Square Feet) and located on previously disturbed land. This project will bring more agricultural activities to the county and is proposed to be conducted outdoors, using drip irrigation. It is also compatible with the General Plan's Conservation and Open Space Element's Goal Agriculture (AG) 1.0: Provide and maintain a viable and diverse agriculture industry in Inyo County. The applicant is proposing to grow hemp. This activity is consistent with Goal AG 1.0, as it diversifies the types of agriculture that currently exist in the County.]*
  
3. The proposed Conditional Use Permit is consistent with the Inyo County Zoning Ordinance, which permits hemp cultivation activities, as a conditional use, in the OS-40 zone (contingent on the proposed Variance).
 

*[Evidence: The OS-40 zone allows for commercial hemp cultivation with a CUP as long as the project can meet the 300-foot setback requirement. Due to the shape of the parcel and underlying geology, the applicant has also applied for a variance to encroach 295 feet into the required 300-foot setback, thus the approval of the CUP will be contingent upon the approval of the Variance. The Open Space zone, within its purpose statement, says that it is established to: encourage the protection of... agricultural lands from fire, erosion, soil destruction, pollution, and other detrimental effects of intensive land use activities, and crop cultivation is listed as a principal permitted use.]*
  
4. The proposed Conditional Use Permit is necessary or desirable.
 

*[Evidence: The General Plan's Economic Development Element states: 'Inyo County's wealth is...highly dependent on a number of activities that occur throughout the County...including grazing, mining, water transportation, and the growing of crops. These activities are expected to continue long term and are expected to remain stable throughout the time horizon of this General Plan. The applicant has stated that the goal of this project is to examine the economic viability of cultivating hemp on his property and determine what markets he can sell his product to. These goals have the potential to benefit both County businesses, and others in the State.]*
  
5. The proposed Conditional Use Permit is properly related to other uses and transportation and service facilities in the vicinity.
 

*[Evidence: The proposed conditional use permit is for a type of agricultural use. The hemp cultivation would replace a pre-existing personal vegetable garden and lawn. Due to the relatively small size of the project (11,410 square. feet), it will not cause impacts on transportation or service facilities in the vicinity as no special*

*equipment, large vehicles, or paid employees will be needed in the production or harvesting of Hemp.]*

6. The proposed Conditional Use Permit would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.

*[Evidence: The proposed conditional use permit is to allow for hemp cultivation. This agricultural use will not change or increase the current level or general type of allowed uses in the Lone Pine area and the proposed project is located in a privately owned, isolated canyon, not visible by the town of Lone Pine or from the community in Alabama Hills; therefore, it will not create impacts on the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.]*

7. Operating requirements necessitate the Conditional Use Permit for the site.

*[Evidence: Hemp cultivation activities are allowed but require a conditional use permit per Inyo County Code Section 18.45.030(P) and it is, therefore, necessary for the operation of Eastern Sierra Botanicals.]*

## **CONDITIONS OF APPROVAL**

### **1. Hold Harmless**

The applicant shall defend, indemnify and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul an approval of the county, its advisory agencies, its appeals board, or legislative body concerning Conditional Use Permit No. CUP 2021-02/Cook. The County reserves the right to prepare its own defense.

### **2. Compliance with County Code**

The applicant shall conform to all applicable provisions of Inyo County Code and State regulations. If the use provided by this conditional use permit is not established within one year of the approval date it will become void.

### **3. Use of Pesticides**

The applicant shall obtain an Operator ID from the Agricultural Commissioner and contact Inyo County Environmental Health if they intend on using any pesticides.

## **RECOMMENDATIONS- VAR 2021-02/Cook**

Planning Department staff recommends the approval of Variance 2021-02/Cook and certify that it is a negative declaration under CEQA.

### Variance Request & Site Characteristics

The applicant is requesting a variance to cultivate hemp in three areas on his property totaling an area of approximately 11,410 square feet (see site map). Site "A" would encroach 295-feet, site

“B” would encroach 214-feet, Site “C” would encroach 290 feet, and the existing structure used for curing would encroach 272 feet into the required 300-foot setback (see site map and photos). Sites A and B will have approximately 50 hemp plants, and site C will have approximately 800 hemp plants, all planted directly into the ground. All sites will be drip irrigated from an artesian spring located on and completely contained on the property. The soils in all sites have been previously disturbed and used as a vegetable garden and lawn and naturally amended using leaf mulch, horse manure, and cow manure. These same amendments are planned to be used in this project. The applicant shall obtain an Operator ID from the Agricultural Commissioner and contact Inyo County Environmental Health if they intend on using any pesticides or herbicides.

The applicant has requested this variance because the available growing area on this parcel is constrained by the shape of the parcel and the unique rock formations found on the property, as well as large areas of underground rocks (see site photos). The use of preexisting disturbed areas will allow the applicant to cause no new ground disturbance.

This property is located up a remote canyon southwest of Lone Pine and the surrounding parcels are state and federally owned, zoned OS-40. The nearest privately owned parcel is over a mile away, to the south, in the Alabama Hills.

#### Previous Variance History

No prior variances have been applied for regarding this property.

#### Provision for Variances

The Inyo County Zoning Ordinance states that any variance to the terms of the Zoning Ordinance may be granted if such a variance would “*not be contrary to its general intent or the public interest, where due to special conditions or exceptional characteristics of the property or its location or surroundings, a literal enforcement would result in practical difficulties or unnecessary hardships*” (Section 18.81.040).

Further, the Zoning Ordinance states that the following three Findings must be affirmed in order for any variance to be granted:

1. That there are exceptional circumstances applicable to the property involved, or to the intended use, which do not generally apply to other property in the same district.
2. That the result would not be detrimental to the public welfare, or injurious to property in the vicinity.
3. That the strict application of the regulation sought to be modified would result in practical difficulties or hardships inconsistent with, and not necessary for the attainment of, the general purposes of this title.

In addition to the above Findings specified in the Inyo County Zoning Ordinance, California State Government Code requires the following Findings for any variance:

4. The proposed variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.

5. The proposed variance does not authorize a use or activity that is not otherwise expressly authorized by the zoning regulation governing the parcel of property.
6. The proposed variance is consistent with the General Plan.
7. The requirements of the California Environmental Quality Act have been met.

Affirmative variance Findings must describe the special circumstances that act to physically differentiate the project site from its neighbors and make it unique, and thus uniquely justified for a variance; alternatively, negative findings must describe how the project's physical characteristics are not unique or exceptional, and therefore do not justify a variance.

ALL seven of the Findings must be affirmed in order for a variance to be approved.

#### **RECOMMENDATIONS- Variance 2021-02/Cook**

Planning Department staff recommends the approval of Variance 2021-02/Cook and certify that it is exempt from CEQA.

#### Findings

Staff has reviewed this application and can find that all seven of the required Findings can be affirmed:

1. That there are exceptional circumstances applicable to the property involved, or to the intended use, which do not generally apply to other property in the same district.  
*[Affirmative – Evidence: The property is zoned Open Space, 40 Acre minimum (OS-40), which allows for commercial hemp cultivation with a CUP as long as the project can meet the 300-foot setback requirement. The loss of suitable areas to cultivate hemp on this parcel is due to the shape of the parcel, the rock formations throughout the property and large areas of underground rocks. The Open Space zone, within its purpose statement, says that it is established to: encourage the protection of... agricultural lands from fire, erosion, soil destruction, pollution and other detrimental effects of intensive land use activities, and crop cultivation is listed as a principal permitted use.]*
2. That the result would not be detrimental to the public welfare, or injurious to property in the vicinity.  
*[Affirmative – Evidence: Approving this variance will allow for the cultivation of hemp to encroach 295-feet into a 300-foot setback. This property is located in a remote area southwest of Lone Pine and is surrounded by state and federal lands. The closest privately owned parcel with a house is located over a mile away to the south. The proposed variance will not cause a situation that could be considered detrimental to the public welfare as the proposed development is located in an isolated canyon, obscured from public view, and will not have any impact on the surrounding public lands.]*
3. That the strict application of the regulation sought to be modified would result in practical difficulties or hardships inconsistent with, and not necessary for the attainment of, the general purposes of this title.  
*[Affirmative – Evidence: The proposed project site area is constrained by the shape of the parcel, the rock formations throughout the property, and large areas of underground rocks that reduce the areas of viable land to cultivate hemp. These factors create*

*difficulties/hardships in meeting the required setback requirements for the cultivation of hemp in the Open Space zone. Granting a variance to encroach 295-feet into a 300-foot setback would still allow the general purposes of Title 18.12 (OS) of the Zoning Code to be fulfilled, as the encroachment would not change the rural agricultural character or use of the property.]*

4. The proposed variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.

*[Affirmative – Evidence: The project site is located in an isolated canyon in a rural area southwest of Lone Pine surrounded by state and federal lands. The applicant has designed the three plot locations to avoid any additional ground disturbance and to not disrupt the general appearance of the undeveloped hillside. The project area is located in the bottom of a small canyon out of sight from any surrounding towns, neighborhoods, or major roads. For these reasons, the requested variance to encroach into the required setback cannot be said to constitute a grant of special privileges. Rather, it allows the owner to use the property under an allowable conditional use.]*

5. The proposed variance does not authorize a use or activity that is not otherwise expressly authorized by the zoning regulation governing the parcel of property.

*[Affirmative – Evidence: The proposed variance would allow for the cultivation of hemp, a conditional use under the Open Space zoning regulations.]*

6. The proposed variance is consistent with the Inyo County General Plan

*[Affirmative – Evidence: The requested variance presents no inconsistencies with the General Plan land use designation for the project site, which is Rural Protection (RP) as it provides “low-intensity agriculture. The (RP) General Plan designation is compatible with the existing Open-Space (OS-40) zoning designation. It is also compatible with the General Plan’s Conservation and Open Space Element’s Goal Agriculture (AG) 1.0: Provide and maintain a viable and diverse agriculture industry in Inyo County. The applicant is proposing to grow hemp. This activity is consistent with Goal AG 1.0, as it diversifies the types of agriculture that currently exist in the County.]*

7. The requirements of the California Environmental Quality Act have been met.

*[Affirmative – Evidence: Variance 2021-02 is a Negative Declaration under CEQA. The proposed project has no possibility of causing significant environmental effects because the project is occurring in a location that is already disturbed and had been used previously as a vegetable garden and lawn. The applicant will be planting directly into the soil, and only naturally amending the soil with leaf mulch, and cow and horse manure. The plants will be watered using a drip-irrigated from an artesian spring located on and completely contained on the property. The flow from the spring under natural conditions at any time during the year does not create surface flow off of the property and thus is exempt from needing a water right. No listed threatened or endangered plant species are known to exist on the property and this project will not negatively impact the local community as it is located in an isolated valley surrounded by state and federal lands.]*



Conditions of Approval

1.) **Hold Harmless**

The applicant, landowner, and/or operator shall defend, indemnify and hold harmless Inyo County, its agents, officers and employees from any claim, action, or proceeding against the County, its advisory agencies, appeal boards, or its legislative body concerning Variance 2021-02/Cook or applicant's failure to comply with conditions of approval.

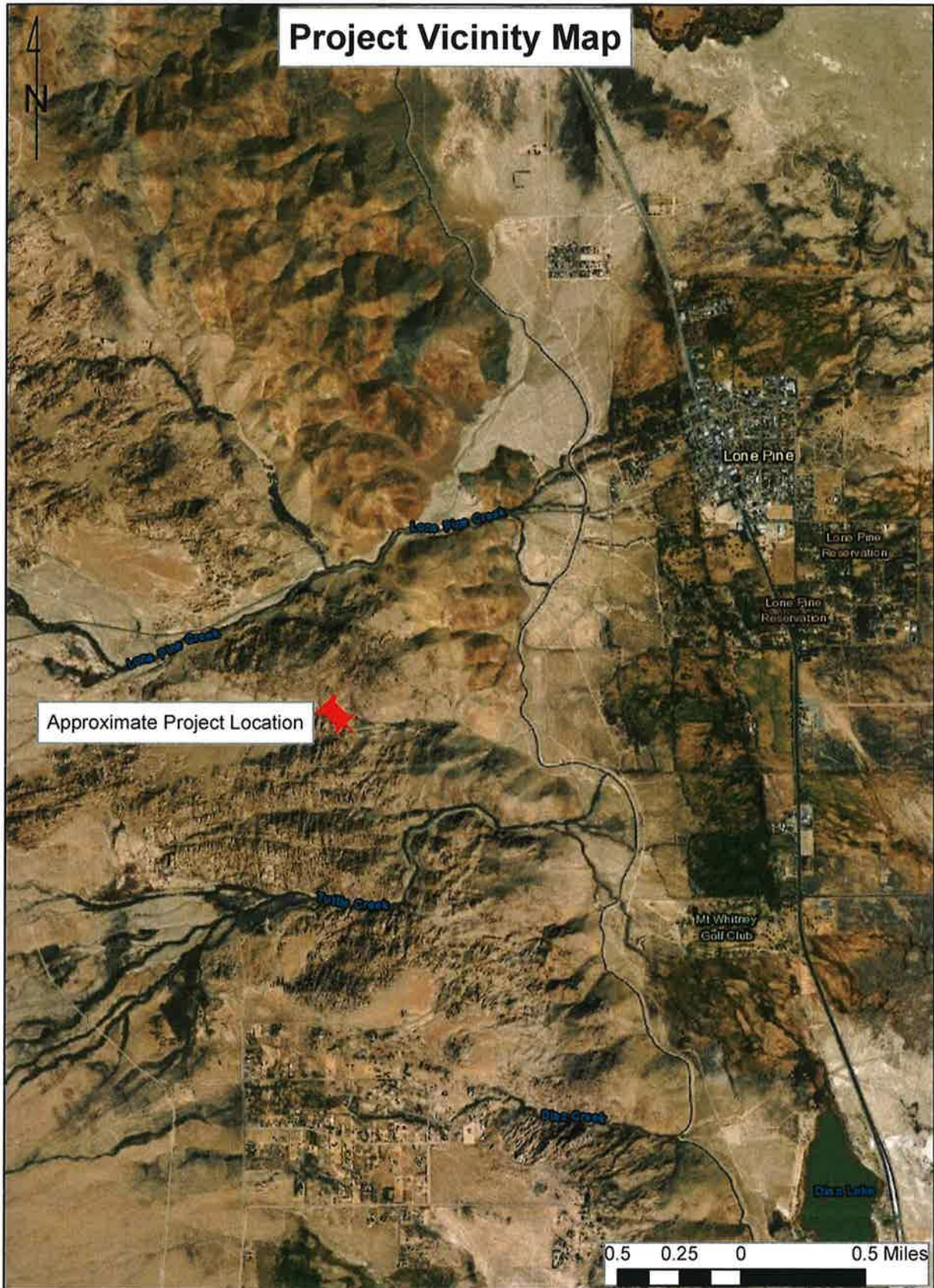
2.) **Compliance with County Code**

The applicant/developer shall conform to all applicable provisions of Inyo County Code including the Building and Safety Code and the Health and Safety Code.

Attachments:

- Vicinity Map
- Site Map
- Site Photos

# Project Vicinity Map



Approximate Project Location

Lone Pine

Lone Pine Reservation

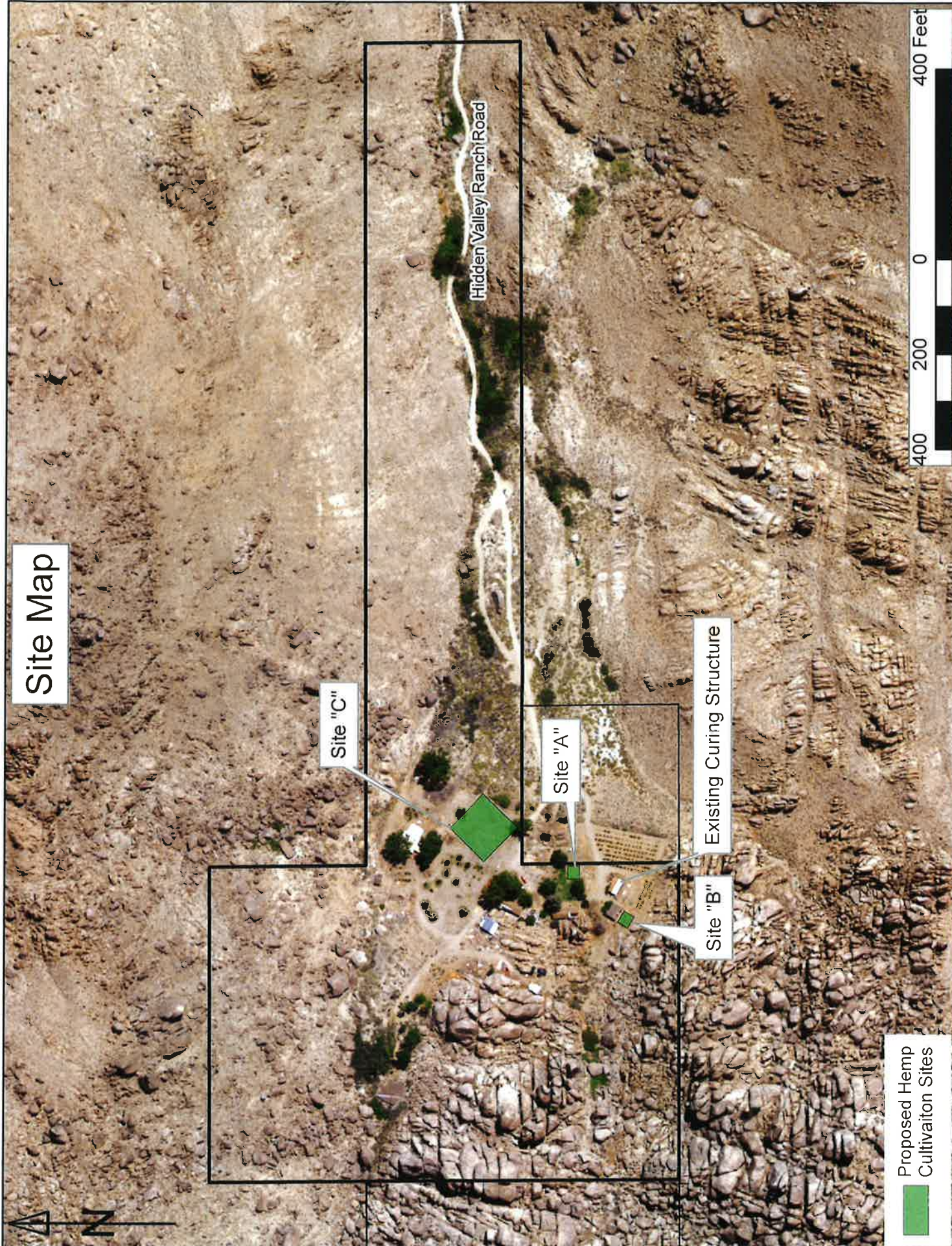
Lone Pine Reservation

MI Whitney Golf Club

Oasis at Lake

0.5 0.25 0 0.5 Miles

# Site Map



Site "C"

Site "A"

Site "B"

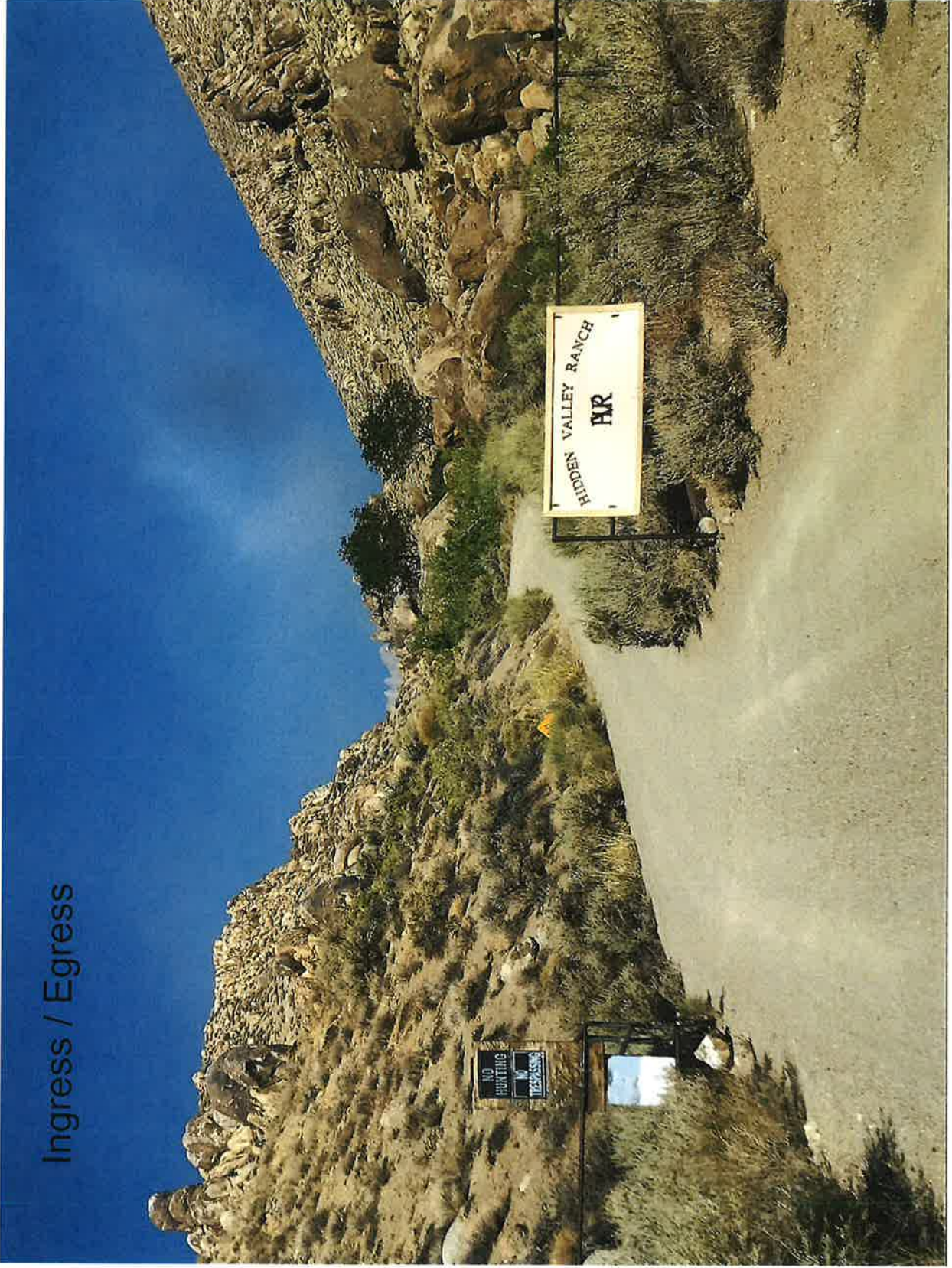
Existing Curing Structure

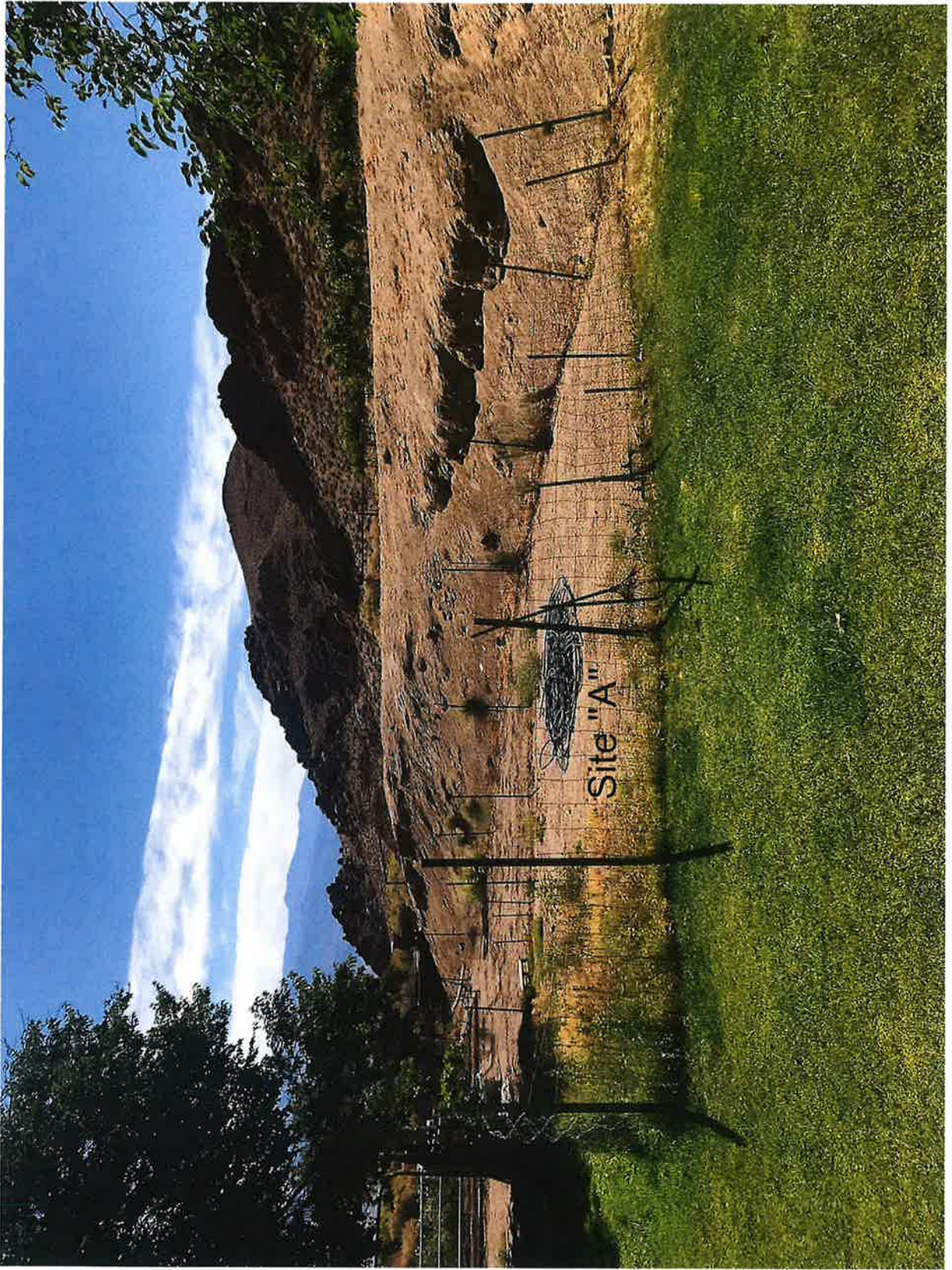
Hidden Valley Ranch Road

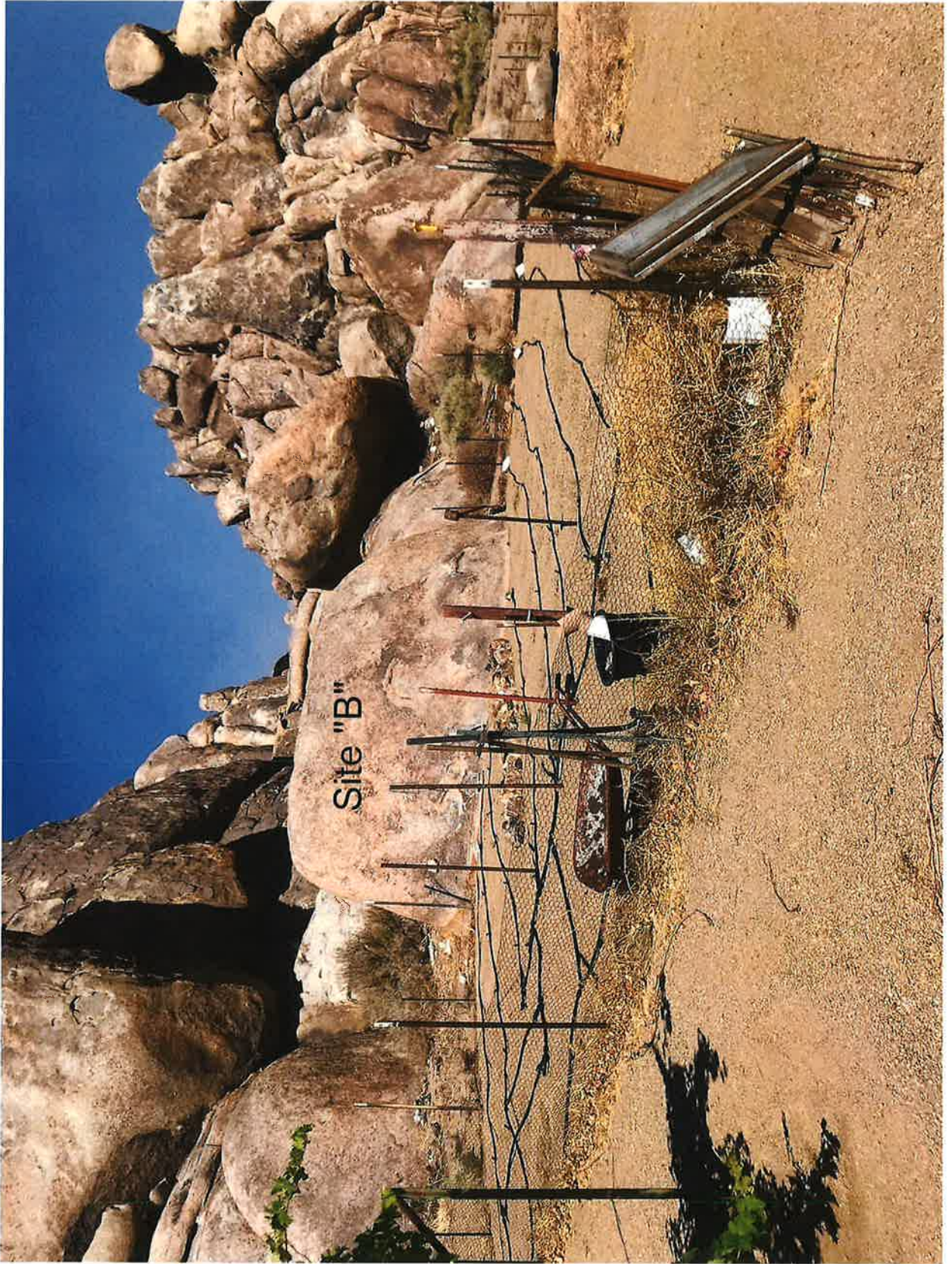
Proposed Hemp Cultivation Sites

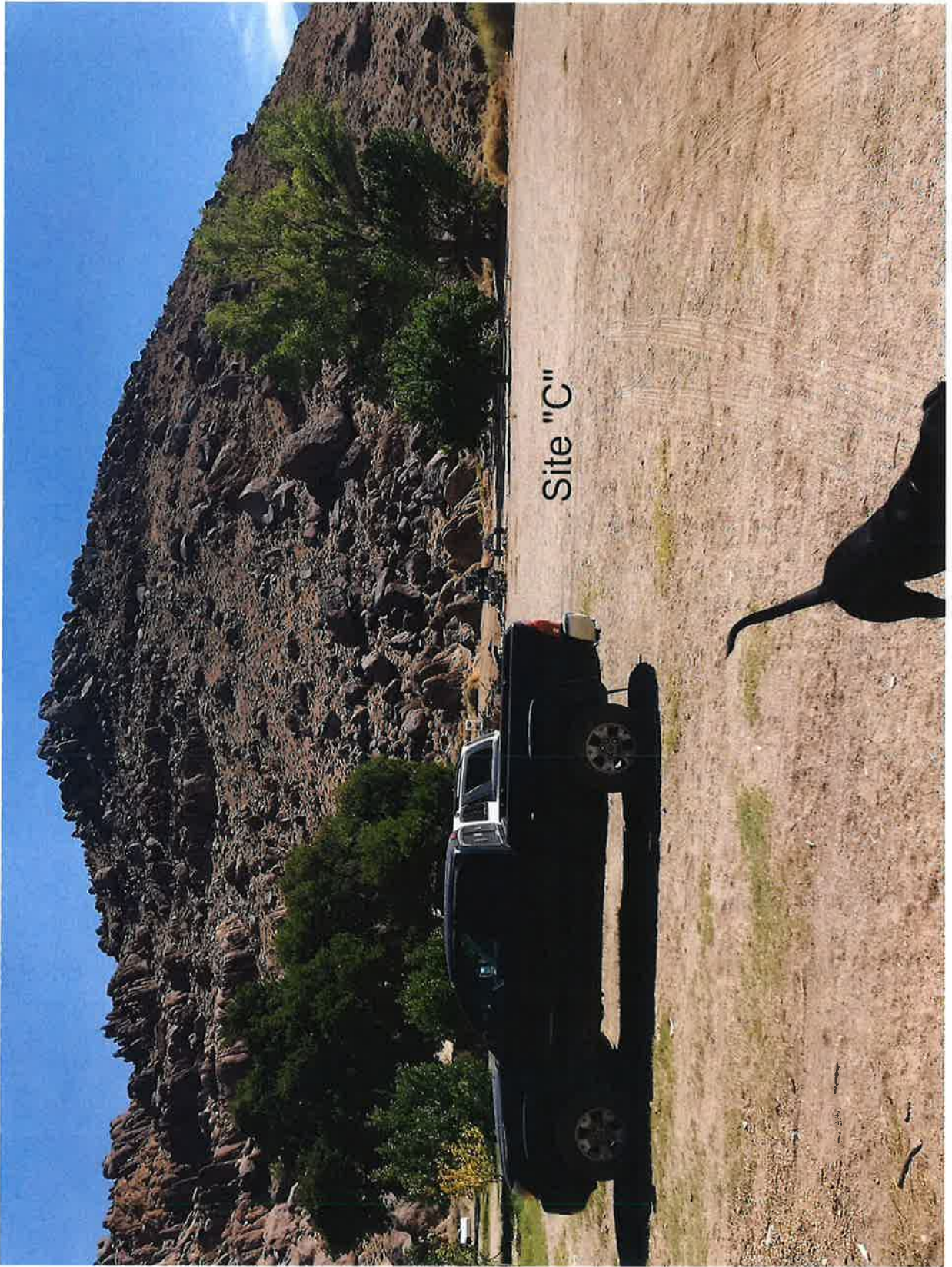
400 200 0 400 Feet

Ingress / Egress









Site "C"



**Planning Department**  
**168 North Edwards Street**  
**Post Office Drawer L**  
**Independence, California 93526**

Phone: (760) 878-0263

FAX: (760) 872-2712

E-Mail: [inyoplanning@inyocounty.us](mailto:inyoplanning@inyocounty.us)

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**AGENDA ITEM NO.:** 6 (Action Item – Public Hearing)

**PLANNING COMMISSION MEETING DATE:** September 22, 2021

**SUBJECT:** Conditional Use Permit (CUP) 2020-06  
Pinnacle Cannabis Microbusiness

#### **EXECUTIVE SUMMARY**

The applicant has applied for a CUP for a Cannabis microbusiness. The microbusiness use would include indoor cultivation, non-volatile manufacturing, distribution, and non-storefront retail delivery. This project includes (3) 320 ft<sup>2</sup> storage buildings, (1) 8,400 ft<sup>2</sup> cultivation greenhouse, (5) 13,000 ft<sup>2</sup> cultivation greenhouses, (1) 3,000 ft<sup>2</sup> mother greenhouse, (1) 3,000 ft<sup>2</sup> metal building for manufacturing non-volatile products, distribution and delivery, (1) 750 ft<sup>2</sup> metal building for pesticide storage, and (1) 10,000 ft<sup>2</sup> metal building for storage and processing. The Project is located at 1550 Trona Wildrose Road, near the community of Trona.

#### **PROJECT INFORMATION.**

**Supervisory District:** 5

**Project Applicant:** James Chester – Pinnacle Cannabis, 9303 Vistoso Way Bakersfield, CA 93312

**Property Owner:** Andy Kasamis – PO Box 780 Trona, CA 93592

**Site Address:** 1550 Trona Wildrose Road, Trona, CA 93592

**Community:** Trona

**A.P.N.:** 038-300-07

**General Plan:** General Industrial (GI)

**Zoning:** General Industrial, 40-acre minimum (M1-40)



**Size of Parcel:** An approximately 15-acre segment of the 80-acre parcel

**Surrounding Land Use:**

| <b>Location:</b> | <b>Use:</b> | <b>Gen. Plan Designation</b> | <b>Zoning</b>  |
|------------------|-------------|------------------------------|--|
| Site             | Vacant      | (GI) Light Industrial        | (M1) General Industrial & Extractive                                   |
| North            | Vacant      | (GI) Light Industrial        | Open Space-40 acre minimum (OS-40) & (M1) Gen. Industrial & Extractive |
| South            | Vacant      | State & Federal Land (SFL)   | Open Space-40 acre minimum (OS-40)                                     |
| East             | Vacant      | State & Federal Land (SFL)   | Open Space-40 acre minimum (OS-40)                                     |
| West             | Vacant      | State & Federal Land (SFL)   | Open Space-40 acre minimum (OS-40)                                     |

**Staff Recommended Action:** 1.) Approve the Conditional Use Permit (CUP) 2020-06/Pinnacle and certify the Mitigated Negative Declaration under CEQA.

**Alternatives:**

- 1.) Deny the CUP.
- 2.) Approve the CUP with additional Conditions of Approval.
- 3.) Continue the public hearing to a future date, and provide specific direction to staff regarding what additional information and analysis is needed.

**Project Planner:** Graham Meese

**STAFF ANALYSIS**

Background and Overview

The applicant has applied for a CUP to operate a cannabis microbusiness located at 1550 Trona Wild Rose Road, north of the community of Trona. The proposed microbusiness license includes indoor cultivation, non-volatile manufacturing, distribution, and non-storefront retail delivery. This project includes (3) 320 ft<sup>2</sup> storage buildings, (1) 8,400 ft<sup>2</sup> cultivation greenhouse, (5) 13,000 ft<sup>2</sup> cultivation greenhouses, (1) 3,000 ft<sup>2</sup> mother greenhouse, (1) 3,000 ft<sup>2</sup> metal building for manufacturing non-volatile products, distribution and delivery, (1) 750 ft<sup>2</sup> metal building for pesticide storage, and (1) 10,000 ft<sup>2</sup> metal building for storage and processing. There will be approximately 4 acres of disturbance on the 15-acre, northeast section, of APN # 038-300-07. The applicant received their commercial cannabis microbusiness license from the County on February 11, 2020.

The property is zoned General Industrial (M1), which allows for cannabis microbusiness activities with a CUP. This is a remote area of the County that primarily has open, vacant, land with some scattered residential and industrial development. The proposed location is not within 600-feet of a school, daycare, park or, library; and therefore, is not prohibited by state or county cannabis exclusion regulations.

#### General Plan Consistency

The goal of this project is to permit a cannabis microbusiness for indoor cultivation, non-volatile manufacturing, distribution, and non-storefront retail delivery. The project is consistent with the General Plan designation of General Industrial (GI), since it requires “*manufacturing, processing... and similar compatible uses where there is a potential for nuisance on surrounding land*” (Policy LU-4.2). The cultivation greenhouses are comparable to an industrial park, and the manufacturing and distribution components also align with General Plan designations for General Industrial. Furthermore, this project uses the most recent air, water, and noise pollution standards (Policy LU-4.4), and has direct vehicle access to a publicly maintained roadway with sufficient parking and loading areas on site (Policy LU-4.7). All of these requirements for general industrial uses are outlined in the Inyo County General Plan.

Additionally, *Section 5.2.3-Economic Development Issues* (Inyo County General Plan) states that the County should “promote multiple compatible economic uses of land whenever possible” (pg. 5-5). This type of industrial use is relatively new and supports markets and retail businesses both inside and outside the County. The microbusiness’ cultivated and manufactured products would supply retail businesses in the County, further down the supply chain, which would encourage local and visitor spending within Inyo County.

#### Zoning Ordinance Consistency

The M1 zoning designation is intended to provide space “for all types of manufacturing, warehousing, and processing, ... provided such activity does not cause pollution of any human or natural resource.” (ICC 18.57.020). The project meets these criteria since the cultivation and manufacturing will have less energy consumed, and less waste produced than a heavier manufacturing use; and, all of the industrial activities will occur indoors. Furthermore, the M1 zone explicitly allows, with a conditional use permit, cannabis microbusiness activities [ICC 18.57.040(L)]. This zone requires 1-parking space for each full-time employee plus guest parking and adequate loading space. There will be five full-time employees and 24 parking spaces, more than the minimum required. The site has adequate space for the loading and unloading of its product and supplies. The project also meets all yard setback requirements. The project is located to the east of an existing junk yard and is otherwise surrounded by vacant state and federal lands.

### **ENVIRONMENTAL REVIEW**

Conditional Use Permit 2020-06/Pinnacle is a Mitigated Negative Declaration under CEQA. This project incorporates several mitigation measures (listed below) as conditions of approval for the issuance of the conditional use permit. Based on the information provided by the applicant, and staff review, Conditional Use Permit 2020-06/Pinnacle

Cannabis does not have the potential to cause environmental impacts that exceed thresholds of significance, either individually or cumulatively.

### **TRIBAL CONSULTATION**

In compliance with AB 52, and Public Resource Code Section 21080.3.1(b), tribes identified as being local to Inyo County, were notified via a certified letter on August 23, 2020, about the project and the opportunity for consultation. The tribes notified were as follows: the Twenty-Nine Palms Band of Mission Indians, Big Pine Paiute Tribe, Bishop Paiute Tribe, Cabazon Band of the Mission Indians, Fort Independence Paiute Tribe, Lone Pine Paiute-Shoshone Tribe, Timbisha Shoshone Tribe, and the Torres Martinez Desert Cahuilla Indians.

None of the Tribes requested consultation.

### **NOTICING & REVIEW**

The application for CUP 2020-06/Pinnacle has been reviewed by the appropriate county departments and comments were received from Environmental Health (see below). This included reviews by the Environmental Health, Treasurer-Tax Collector, Public Works, Building and Safety, and the Inyo/Mono Agricultural Commission.

The Environmental Health Department made comments regarding their drinking water supply, the potential need for a Certified Unified Program Agency (CUPA) hazardous waste permit, sewage/septic system, and solid waste disposal. The applicant has submitted a hazardous materials handling and storage plan and must comply with all County and State Regulations, including applying for a CUPA permit if necessary (see Condition of Approval #4). They also intend to apply for a septic system permit, and the drinking water provided on site will be imported as the existing wells are for irrigation use only.

Public review of the CEQA document was noticed in the Inyo Register and submitted to the State Clearinghouse on July 13, 2021. Comments were received by the California Department of Fish and Wildlife (CDFW), California Department of Toxic Substance Control (DTSC), and the California Department of Cannabis Control (DCC) (Attached). Substantive comments included:

CDFW – CDFW provided both substantive and non-substantive comments. Conditions of Approval have been added to address substantive comments. Since biological surveys already conducted found no special status species on the parcel, as shown on the maps provided in the Phase 1 Biological Report provided and that a large part of the parcel is highly disturbed, the suggested mitigation measures from CDFW have been somewhat adjusted, these include:

- Burrowing Owl - A pre-construction survey shall be conducted no more than 14 days prior to any ground or vegetation disturbing activities, per CDFW's most recent version of the Staff Report on Burrowing Owl Mitigation, and submitted to the Planning Department for review. If burrowing owls are detected during the surveys a relocation plan will be prepared in consultation with and approved by CDFW and US Fish and Wildlife.

- Desert Tortoise - A pre-construction survey shall be conducted no more than 14 days prior to any ground or vegetation disturbing activities, per the US Fish and Wildlife's Desert Tortoise (Mojave Population) Field Manual and submitted to the Planning Department. If tortoises are detected the applicant shall work with CDFW on appropriate mitigation and/or an Incidental Take Permit.
- Desert Kit Fox - A pre-construction survey shall be conducted no more than 14 days prior to any ground or vegetation disturbing activities, and submitted to the Planning Department. If occupied burrows/dens are present project activities shall be immediately halted and the qualified biologist shall notify the Planning Department, CDFW, and USFWS to develop appropriate mitigation and avoidance measures.
- Mojave Ground Squirrel- A pre-construction survey shall be conducted no more than 14 days prior to any ground or vegetation disturbing activities, per CDFW's most recent version of the Staff Report on Mojave Ground Squirrel, and submitted to the Planning Department for review. If Mojave Ground Squirrel presence is detected the applicant shall work with CDFW on appropriate mitigation and/or an Incidental Take Permit.
- Nesting Birds - A pre-construction survey will be conducted for nesting birds, no more than 3-days prior to vegetation clearing or ground disturbance activities, and submitted to the Planning Department. If active nests are found, a Nesting Bird Plan shall be prepared and implemented by a qualified avian biologist, per CDFW requirements, and any grubbing or vegetation removal shall occur outside peak breeding season (March 15 – September 15).
- If any special status wildlife species are identified during the pre-construction surveys, a qualified biologist shall conduct an education program for all persons employed or otherwise working on-site that addresses the particular biology and habitats of the species that are present.
- Special Status Plants – A pre-construction survey will be conducted per CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Native Communities, 2018. If any state listed plants are found the applicant shall work with CDFW on appropriate mitigation plans and/or an Incidental Take Permit.
- Artificial Lighting – night time lighting shall be blocked to prevent light escape to mitigate possible effects to wildlife.
- Lake and Streambed Alteration Permit- Prior to construction the applicant shall obtain written correspondence from CDFW stating that notification under section 1602 of the Fish and Game Code is not required for the project.

DTSC- DTSC provided both substantive and non-substantive comments. Conditions of Approval have been added to address substantive comments. The project applicant is required to follow all local, and state law regarding the storage, use, and transport of hazardous materials.

- Potential release of hazardous substances- The applicant shall consult with Inyo County Environmental Health regarding the storage and use of hazardous materials and apply for a Certified Unified Program Agencies (CUPA), if necessary.

- Aerial deposited lead (ADL) soils- Most of the project site has been previously disturbed and is located adjacent to a rural road that does not receive heavy traffic. Prior to ground disturbing activities, the applicant shall work with the County Public Works Department and/or Building and Safety on a grading plan to ensure best management practices are in place.
- Potential Historic Mining Activities- No previous mining activities were identified in the Phase I Cultural Report. If former mining operations are discovered in the project area, they will be evaluated using DTSCs 1998 Abandoned Mine Lands Assessment Handbook.

DCC- DCC provided both substantive and non-substantive comments. Conditions of Approval have been added to address substantive comments. The project applicant is applying for a cannabis microbusiness for cultivation, non-volatile manufacturing, distribution, and non-storefront retail delivery.

- Volatile manufacturing is not an approved use under this Conditional Use Permit. If the applicant intends to conduct volatile manufacturing in the future, a separate Conditional Use Permit will be required along with the appropriate County and State licenses.
- The applicant will obtain all appropriate licenses from DCC associated with the approved conditional uses.

The public hearing for this CUP was noticed on September 9, 2021 in the Inyo Register and mailed to property owners within 1,500-feet of the project location as required by 18.78.360(F). No additional comments have been received to date.

## **RECOMMENDATION**

Planning Department staff recommends the approval of Conditional Use Permit No. 2020-06/Pinnacle Farms, with the following Findings and Conditions of Approval:

## **FINDINGS**

1. Based upon the Initial Study and all oral and written comments received, adopt the Mitigated Negative Declaration of Environmental Impact and certify that the provisions of the California Environmental Quality Act have been satisfied.

*[Evidence: An Initial Study and Draft Negative Declaration of Environmental Impact were prepared and circulated for public review and comment pursuant to the provisions of the California Environmental Quality Act. The 30-day public comment period ended on August 12, 2021. Comments were received by the California Department of Fish and Wildlife (CDFA), California Department of Cannabis Control (DCC) and California Department of Toxic Substances Control (DTSC). CDFa, DCC, and DTSC provided comments that had potentially significant environmental impacts. Mitigation measures have been added to the project addressing potential impacts to a level of non-significance.]*

2. The proposed Conditional Use Permit is consistent with the Inyo County General Plan Land Use designation of General Industrial (GI).

*[Evidence: The goal of this project is to permit a cannabis microbusiness for indoor cultivation, non-volatile manufacturing, distribution, and non-storefront retail delivery. The project is consistent with the General Plan designation of General Industrial (GI), since it requires “manufacturing, processing... and similar compatible uses where there is a potential for nuisance on surrounding land” (Policy LU-4.2). The cultivation greenhouses are comparable to an industrial park, and the manufacturing and distribution components also align with General Plan designations for General Industrial. Furthermore, this project uses the most recent air, water, and noise pollution standards (Policy LU-4.4), and has direct vehicle access to a publicly maintained roadway with sufficient parking and loading areas on site (Policy LU-4.7). All of these requirements for general industrial uses are outlined in the Inyo County General Plan.*

*Additionally, Section 5.2.3-Economic Development Issues (Inyo County General Plan) states that the County should “promote multiple compatible economic uses of land whenever possible” (pg. 5-5). This type of industrial use is relatively new and supports markets and retail businesses both inside and outside the County. The microbusiness’s cultivated and manufactured products would supply retail businesses in the County, further down the supply chain, which would encourage local and visitor spending within Inyo County.]*

3. The proposed Conditional Use Permit is consistent with the Inyo County Zoning Ordinance, which permits “cannabis microbusiness”, as a conditional use, in the M1 zone.

*[Evidence: The M1 zoning designation is intended to provide space “for all types of manufacturing, warehousing, and processing, ... provided such activity does not cause pollution of any human or natural resource.” (ICC 18.57.020). The project meets these criteria since the cultivation and manufacturing will have less energy consumed, and less waste produced than a heavier manufacturing use; and, all of the industrial activities will occur indoors. Furthermore, the M1 zone explicitly allows, with a conditional use permit, cannabis microbusiness activities [ICC 18.57.040(L)]. This zone requires 1-parking space per each full-time employee plus guest parking and adequate loading space. There will be five full-time employees and 24 parking spaces, more than the minimum required. The site has adequate space for the loading and unloading of its product and supplies. The project also meets all yard setback requirements. The project is located to the east of an existing junk yard and is otherwise surrounded by vacant state and federal lands.]*

4. The proposed Conditional Use Permit is necessary or desirable.

*[Evidence: The General Plan’s Economic Development Element states: ‘Inyo County’s wealth is...highly dependent on a number of activities that occur throughout the County...including grazing, mining, water transportation, and the growing of crops. These activities are expected to continue in the long term, and are expected to remain stable throughout the time horizon of this General Plan.’ The applicant will be cultivating, manufacturing, and selling cannabis products*

*that will serve County businesses and consumers, as well as, other markets in the State making this a desirable project with regard to the County's economy.]*

5. The proposed Conditional Use Permit is properly related to other uses and transportation and service facilities in the vicinity.

*[Evidence: The proposed conditional use permit is for a cannabis microbusiness that includes facilities for cultivation, non-volatile manufacturing, distribution, and non-storefront retail delivery. It will not cause impacts to transportation or service facilities in the vicinity as the project's entrance and exit are accessible via Trona Wildrose Road and it does not create a significant amount of additional people or vehicles in the area. Parking areas will be located on the project parcel and road facilities are already established in the area and provide access to the property. This CUP was reviewed by the County Public Works Department. No issues were identified.]*

6. The proposed Conditional Use Permit would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.

*[Evidence: The proposed conditional use permit is for the operation of a cannabis microbusiness. This project will not change or increase the current level or general type of allowed uses in the Trona area. The proposed security plan for Pinnacle Farms Cannabis Microbusiness has been reviewed by the Sheriff's Department as a cannabis business license requirement. The project was evaluated by Cal Fire's San Bernardino-Inyo-Mono Unit, which has jurisdiction over the project area. There were no comments or concerns conveyed; therefore, it has been determined that the project will not create impacts on the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.]*

7. Operating requirements necessitate the Conditional Use Permit for the site.

*[Evidence: Cannabis micro-business activities require a CUP per Inyo County Code Section 18.57.040(L) and it is, therefore, necessary for the operation of Pinnacle Farms.]*

## **CONDITIONS OF APPROVAL**

### **1. Hold Harmless**

The applicant/developer shall defend, indemnify and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul an approval of the county, its advisory agencies, its appeals board, or legislative body concerning Conditional Use Permit No. CUP 2020-06/Pinnacle Cannabis. The County reserves the right to prepare its own defense.

### **2. Compliance with County Code**

The applicant/developer shall conform to all applicable provisions of Inyo County Code and State regulations including but not limited to building, grading, and public health and safety. If the use provided by this conditional use permit is not established within one year of the approval date it will become void.

3. Volatile manufacturing shall not be conducted under this Conditional Use Permit. If the applicant intends to conduct volatile manufacturing in the future, a separate Conditional Use Permit shall be required along with all appropriate County and State licenses.
4. The applicant shall consult with the Inyo County Environmental Health Department and follow any regulations provided by them regarding well use and septic development. A Certified Unified Program Agencies (CUPA) permit regulating the storage and use of hazardous materials shall be obtained, if necessary.
5. The applicant shall coordinate with Inyo County's Environmental Health Department, the Inyo County Building and Safety Department, as well as the Regional Water Quality Board, to ensure waste discharge requirements for the project are met.
6. Visual Resources - The applicant shall adhere to Inyo County's General Plan Visual Resources requirement (VIS-1.6-Control of Light & Glare), which requires all outdoor light fixtures including street lighting, externally illuminated signs, advertising displays, and billboards use low-energy, shielded light fixtures which direct light downward (i.e., lighting shall not emit higher than a horizontal level) and are fully shielded.
7. Air Quality - The applicant shall follow best management practices to control for dust and odors & will consult with the Great Basin Air Pollution Control District to minimize potential air quality effects during construction and from the Cannabis crop's VOC emissions (Terpenes).



## 8. Biological

- Burrowing Owl - A pre-construction survey shall be conducted no more than 14 days prior to any ground or vegetation disturbing activities, per CDFW's most recent version of the Staff Report on Burrowing Owl Mitigation, and submitted to the Planning Department for review. If burrowing owls are detected during the surveys a relocation plan will be prepared in consultation with and approved by CDFW and US Fish and Wildlife.
- Desert Tortoise - A pre-construction survey shall be conducted no more than 14 days prior to any ground or vegetation disturbing activities, per the US Fish and Wildlife's Desert Tortoise (Mojave Population) Field Manual and submitted to the Planning Department. If tortoises are detected the applicant shall work with CDFW on appropriate mitigation and/or an Incidental Take Permit.
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- Special Status Plants – A pre-construction survey shall be conducted per CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Native Communities, 2018. If any state-listed plants are found the applicant shall work with CDFW on appropriate mitigation plans and/or an Incidental Take Permit.
- Artificial Lighting (indoor) – night time indoor lighting shall be blocked to prevent light escape to mitigate possible effects to wildlife.
- Lake and Streambed Alteration Permit- Prior to construction the applicant shall obtain written correspondence from CDFW stating that notification under section 1602 of the Fish and Game Code is not required for the project.

- 9. Wastewater** - The applicant shall provide evidence that a proper wastewater plan for the project is in place prior to obtaining a building permit, approved by the County Environmental Health Department. The plan shall show that either:
  1. Wastewater will be collected in a sealed container and hauled for disposal at a permitted facility; or,
  2. Separate regulatory authorization is obtained for onsite disposal of the cannabis wastewater by enrollment under the Small Industrial General Order. Disposal to land is prohibited unless this authorization is obtained.
- 10. Public Works** - Prior to ground disturbing activities, the applicant shall work with the County Public Works Department and/or Building and Safety on a grading plan to ensure best management practices, for proper water drainage that meets all applicable state and federal regulations, are in place.
- 11. Soils**- If former mining operations are discovered in the project area, they shall be evaluated using DTSCs 1998 Abandoned Mine Lands Assessment Handbook.

# Project Vicinity

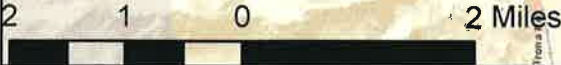
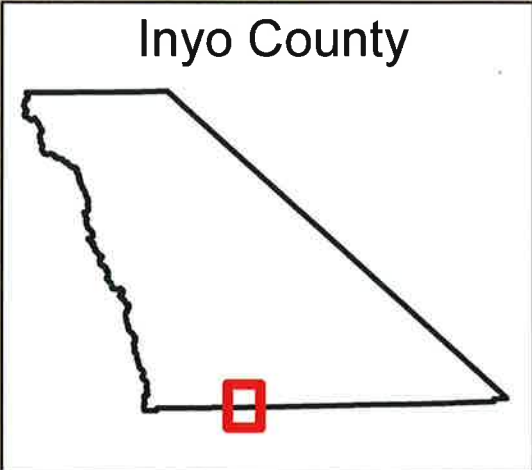


Project Location

Inyo County

San Bernadino County

Trona



# Site Map



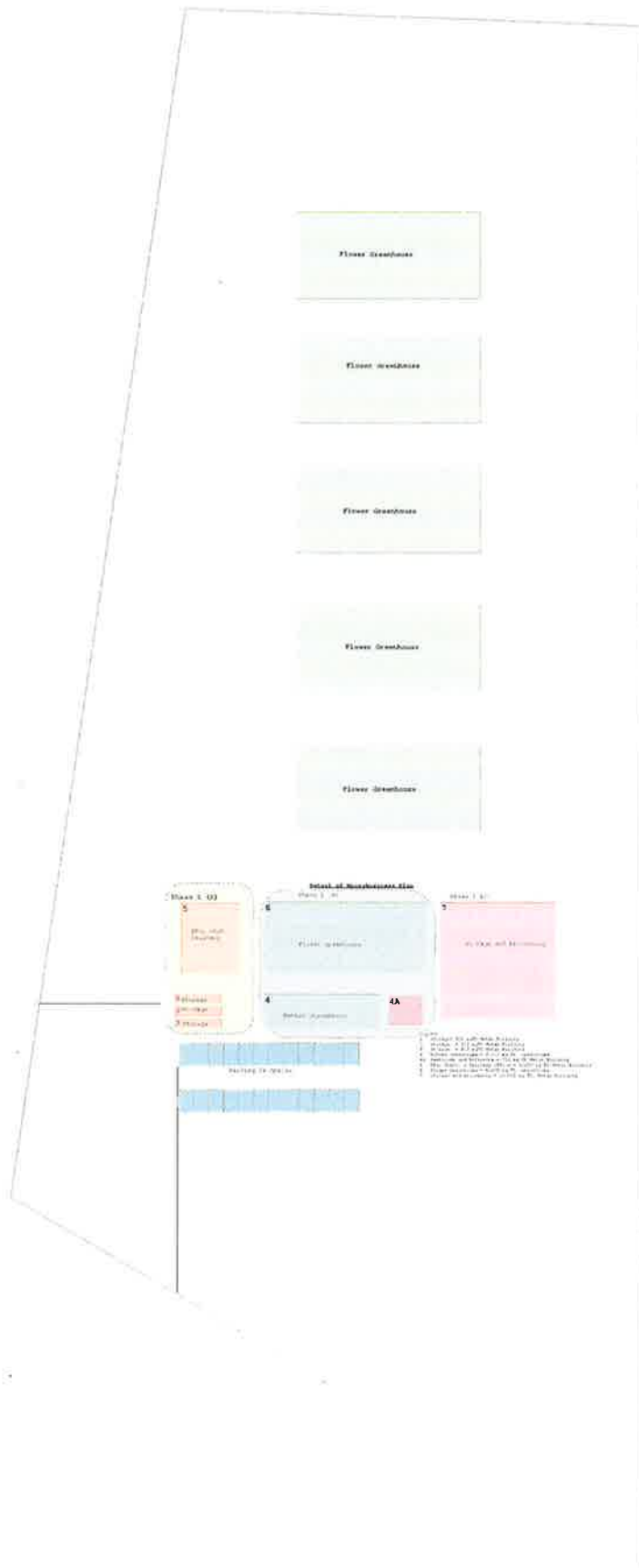
Project Location

Trona Wildrose Rd

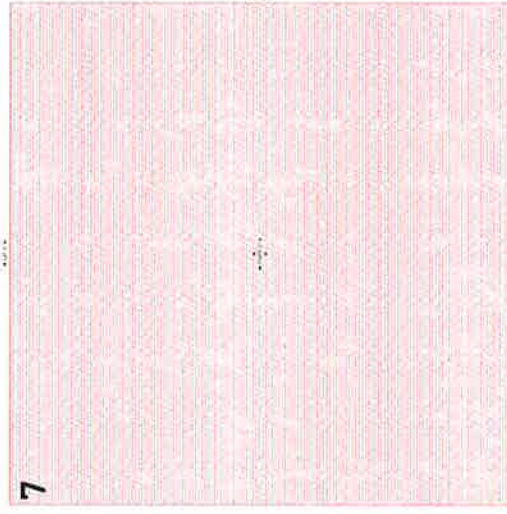
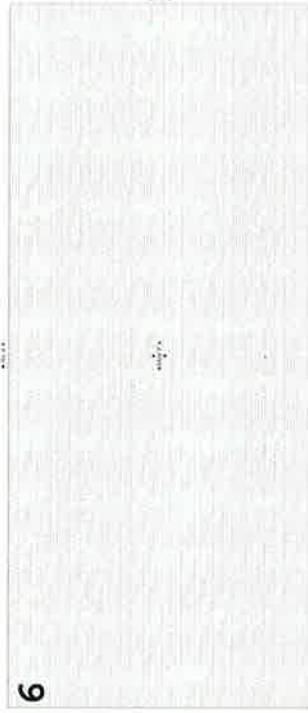
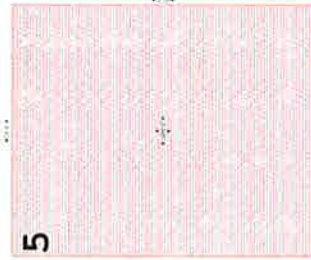
Trona Airport Rd

300 150 0 300 Feet

# Site Plan



Detail of Microbusiness Plan



Legend:

1. Storage- 320 sqft Metal Building
2. Storage - 320 sqft Metal Building
3. Storage - 320 sqft Metal Building
4. Mother Greenhouse - 3,000 sq.ft. Greenhouse
- 4A. Pesticide and Nutrients - 750 sq.ft Metal Building
5. MFG, Distro & Delivery Office - 3,000 sq.ft Metal Building
6. Flower Greenhouse - 8,400 sq.ft. Greenhouse
7. Storage and Processing - 10,000 sq.ft. Metal Building



August 12, 2021

Inyo County Planning Department  
Steve Karamitros  
Post Office Drawer L  
Independence, CA 93526  
email: [inyoplanning@inyocounty.us](mailto:inyoplanning@inyocounty.us)

Re: Initial Study/Negative Declaration (IS/ND) for CUP 2020-06; Pinnacle Cannabis (SCH No. 2021070224)

Dear Mr. Karamitros:

Thank you for providing the California Department of Cannabis Control (DCC) the opportunity to comment on the Initial Study/Negative Declaration (IS/ND) prepared by the County of Inyo for the proposed CUP 2020-06; Pinnacle Cannabis project (Proposed Project).

DCC has jurisdiction over the issuance of licenses to cannabis microbusinesses, which engage in at least three of the following activities at one location:

- Cultivation – up to 10,000 total square feet
- Manufacturing – use of non-volatile solvents, mechanical extraction or infusion
- Distribution or distribution transport-only
- Retail – storefront or non-storefront

DCC may issue a license to a microbusiness that meets all licensing requirements, and where the local jurisdiction authorizes these activities. (Bus. & Prof. Code, § 26012(a).) All commercial cannabis businesses within the California require a license from DCC. For more information pertaining to commercial cannabis business license requirements, including DCC regulations, please visit: <https://cannabis.ca.gov/resources/rulemaking/>.

DCC expects to be a Responsible Agency for this project under the California Environmental Quality Act (CEQA) because the project will need to obtain an annual microbusiness license from DCC. In order to ensure that the IS/ND is sufficient for DCC's needs at that time, DCC requests that a copy of the IS/ND, revised to respond to the comments provided in this letter, and a signed Notice of Determination be provided to the applicant, so the applicant can include them with the application package it submits to DCC. This should apply not only to this Proposed Project, but to all future CEQA documents related to cannabis cultivation applications in Inyo County.

DCC offers the following comments concerning the IS/ND.

## **General Comments (GCs)**

### ***GC 1: Proposed Project Description***

Certain comments provided in the comment table below relate to the need for additional detail regarding the description of the Proposed Project. In general, a more detailed project description would be helpful to DCC. The following information would make the IS/ND more informative:

- 1) Description of the size and location of any existing natural features, such as vegetation, water features, and topography of the Proposed Project site.
- 2) Specific information describing the activities within the proposed three 320-square-foot storage buildings, six 10,000-square-foot cultivation greenhouses, 3,000-square-foot mother greenhouse, and two 3,000-square-foot metal buildings for manufacturing volatile and non-volatile products; as well as any other structures that may be existing or constructed as part of the Proposed Project, and any other proposed features (e.g., waste collection areas, employee break and restroom facilities, hazardous materials storage, septic system).
- 3) Descriptions of the distinct phases of the Proposed Project construction and operations. To the extent that these details are reasonably foreseeable, the IS/ND should clarify how and/or whether corresponding operations would vary across phases of the project (e.g., variations in the number of employees hired, vehicle trips, equipment usage, and/or requirements for physical resources [e.g., water, energy]).
- 4) Description of the proposed canopy size and the cultivation techniques to be used (e.g., indoor outdoor, mixed-light).
- 5) Description of the manufacturing techniques that will be used.
- 6) Specifics on the Proposed Project's operations and routine maintenance. This would include:
  - a. Hours of operation;
  - b. Number of employees, including the estimated number of daily trips to and from the site for employee commuting, delivery of materials or supplies, and shipment of products;
  - c. Any heavy equipment that will be used for cultivation operations, including tractors, forklifts, mowers, etc.;
  - d. Any water efficiency equipment that would be used;
  - e. Utilities that would serve the project; and
  - f. Source(s) and amounts of energy expected to be used in operating the project, including any generators that may be used, as well as any energy management and efficiency features incorporated into the Proposed Project.
  - g. Source(s) and amounts of water expected to be used in operating the project, including any irrigation or other water efficiency features incorporated into the Proposed Project.



- 7) The IS/ND should include local street maps, topographic maps, aerial photographs, site plans, property diagrams, and/or other graphics to show the existing site conditions, the Proposed Project, and the surrounding area. This would allow DCC to understand the general location and surrounding features, as well as to visualize the layout of existing and Proposed Project features. Most importantly, these figures would help document some of the information that is described in the document.

### ***GC 2: Manufacturing Using Volatile Solvents***

Under the heading "Project Description," the first page of the IS/ND states that the project is "for a cannabis microbusiness license, including cultivation, non-volatile manufacturing, distribution, and non-storefront retail delivery." In the next sentence of the same paragraph, however, it indicates that the project will include two 3,000 ft<sup>2</sup> metal buildings for "manufacturing *volatile and non-volatile* products." (Emphasis added.) The IS/ND should clearly specify whether the project includes manufacturing using volatile solvents. If the project will include manufacturing using volatile solvents, a manufacturing license from the DCC will be required in addition to a microbusiness license. In addition, the IS/ND should provide a description of the volatile substances that will be used in product manufacture, and should include analyses of the potential environmental impacts that may result from the use of these substances. In addition, the analyses should describe and consider any measures the Proposed Project will implement that may lessen or reduce potential impacts. In particular, the document should include detailed analyses of impacts related to air quality, hazards and hazardous substances, and greenhouse gas emissions.

### ***GC 3: Acknowledgement of DCC Regulations***

The IS/ND does not acknowledge that the Proposed Project requires a microbusiness license from DCC. The IS/ND could be improved if it acknowledged that DCC is responsible for licensing, regulation, and enforcement of commercial cannabis microbusiness activities, as defined in the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) (Bus. & Prof. Code, § 26012(a)). In particular, the IS/ND's analysis could benefit from discussion of the protections for environmental resources provided by DCC's cultivation and manufacturing regulations. The impact analysis for each of the following resource topics could be further supported by a discussion of the effects of state regulations on reducing the severity of impacts for each applicable topic:

- Aesthetics (See 3 California Code of Regulations §§ 16304(c), 16304(g).)
- Air Quality and Greenhouse Gas Emissions (See §§ 15002(c)(29), 16102(s), 16304(e), 16305, 16306.)
- Biological Resources (See §§ 15501, 16102(w), 16102(dd), 16216, 16304(a-c), 16304(g).)
- Cultural Resources (See § 16304(d).)
- Energy (See §§ 15501, 16102(s), 16305, 16306.)

- Hazards and Hazardous Materials (See §§ 15501, 16102(q), 16106(a)(3), 16304(f), 16307, 17208 - 17216, 17225.)
- Hydrology and Water Quality (See §§ 15501, 16102(p), 16102(v), 16102(w), 16102(dd), 16107(b), 16216, 16304(a) and (b), 16307.)
- Noise (See §§ 16304(e), 16306.)
- Public Services (See §§ 15002(c)(29), 15501, 15044-15047, 17200, 17201, 17202
- Utilities and Service Systems (See §§ 15501, 16102(s), 16108, 16308.)
- Cumulative Impacts (related to the above topics).

***GC 4: Page Numbers***

The IS/ND does not include page numbers and/or line numbering. For the purposes of this letter, DCC's comments have, therefore, referred to sections or headings within the document to provide context. For future CEQA documents, it would be easier to review and provide comments on the IS/ND if page numbers and/or line numbers could be specified.

***GC 5: Impact Analysis***

Several comments provided in the comment table below relate to the absence of information or support for impact statements in the document. CEQA requires that Lead Agencies evaluate the environmental impacts of proposed projects and support factual conclusions with "substantial evidence." Substantial evidence includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. In general, the IS/ND would be improved if additional evidence (e.g., regulatory setting, environmental setting, impact analysis and methodology, impact assessment, etc.) was provided to support the impact statements in the checklist, including the sources of information relied upon to make conclusions.

***GC 6: Site-Specific Reports and Studies***

The IS/ND references certain project-specific plans, studies, and project-specific data, including a Biological Assessment and a Cultural Resources Assessment. In addition, to ensure that DCC has supporting documentation for the IS/ND, DCC requests that the County advise applicants to provide copies of all project-specific plans and supporting documentation with their state application package(s) for any annual cannabis business license(s) to DCC.

***GC 7: Evaluation of Cumulative Impacts***

It is important for CEQA analyses to consider the cumulative impacts of cannabis cultivation in Inyo County. Of particular importance are topics for which the impacts of individual projects may be less than significant, but where individual projects may make a considerable contribution to a significant cumulative impact. These topics include, but are not limited to:

- cumulative impacts from groundwater diversions on the health of the underlying aquifer, including impacts on other users and impacts on stream-related resources connected to the aquifer;

- cumulative impacts related to transportation; and
- cumulative impacts related to air quality and objectionable odors.

The IS/ND would be improved by acknowledging and analyzing the potential for cumulative impacts resulting from the Proposed Project coupled with other cannabis cultivation projects being processed by the County, and any other reasonably foreseeable projects in Inyo County that could contribute to cumulative impacts similar to those of the Proposed Project.

### **Specific Comments and Recommendations**

In addition to the general comments provided above, DCC provides the following specific comments regarding the analysis in the IS/ND.

| Comment No. | Section Nos.                         | Resource Topic(s)                                | IS/ND Text   | DCC Comments and Recommendations   |
|-------------|--------------------------------------|--|--|--|
| 1           | Introduction                         | Project Description                              | This project would require (3) 320 ft <sup>2</sup> storage buildings, (6) 10,000 ft <sup>2</sup> cultivation greenhouses, (1) 3,000 ft <sup>2</sup> mother greenhouse, [...] | <p>The Project Description states that six 10,000 square foot cultivation greenhouses and a 3,000 square foot nursery are included in the Proposed Project, but does not indicate the size of the total proposed canopy. The document would be improved if it described the square footage of the cultivation area, including the canopy size, the processing area, and any additional features of the site (see General Comment 1).</p> <p>Please be aware that a microbusiness license may include up to 10,000 total square feet of cultivation area. (Cal. Code Regs., tit. 3 § 15502.) If the Proposed Project would include cultivation activities in excess of 10,000 total square feet, the project would require one or more cultivation licenses from DCC.</p> |
| 2           | Appendix G Introduction, Question 10 | Other Public Agencies Whose Approval is Required | N/A (General Comment)  | <p>The document would be strengthened if it listed DCC as an agency whose approval would be required to operate the Proposed Project. Also, the IS/ND would be improved if it listed all agencies requiring approval and what type of permit is required from each agency listed. This would include the appropriate commercial cannabis licenses from DCC, and a Lake and Streambed Alteration Agreement from California Department of Fish and Wildlife, or a statement that one is not required.</p>  |

| Comment No. | Section Nos.  | Resource Topic(s) | IS/ND Text   | DCC Comments and Recommendations  |
|-------------|---------------|-------------------|--|---|
| 3           | I(a) and I(b) | Aesthetics        | N/A (General Comment)  | The document would be improved if it provided a description of all scenic vistas and scenic resources in the vicinity of the Proposed Project and provided an analysis of how and whether the Proposed Project may impact such resources.   |
| 4           | I(d)          | Aesthetics        | No, the project is required to meet State regulations and County General Plan policy, related to light and glare; therefore, the project will not affect day or nighttime views. | The IS/ND would be improved if it described County General Plan policies that would apply to light and glare. If the Proposed Project includes mixed-light cultivation, the IS/ND would be strengthened if it referenced DCC's requirements that lights used in mixed-light cultivation activities must be fully shielded from sunset to sunrise to avoid nighttime glare. The document could also cite DCC's requirements that all outdoor lighting for security purposes must be shielded and downward facing. (Cal. Code Regs., tit. 3 §§ 16304(c), 16304(g)). Then, the document should describe how the Proposed Project would comply with these policies and regulations. |
| 5           | III(a)        | Air Quality       | No, there is not an air quality plan for the area in which the project is proposed.  | The IS/ND would be improved if it described local, regional, state, and federal air quality standards, and provided a description of any project operations or equipment that may contribute to air emissions, including manufacturing equipment, volatile solvents, generators, ventilation equipment, carbon scrubbers, heavy machinery, and vehicles. The document should provide an analysis of   |

| Comment No. | Section Nos. | Resource Topic(s) | IS/ND Text   | DCC Comments and Recommendations whether the Proposed Project will meet such standards.  |
|-------------|--------------|-------------------|--|--|
| 6           | III(b)       | Air Quality       | No, there are not air quality standards being violated in the area for the area in which the project is proposed.  | The IS/ND would be improved if it included a list of applicable air quality standards and an analysis of whether project operations would be in compliance with such standards.  |
| 7           | III(d)       | Air Quality       | N/A (General Comment)  | The document would be strengthened if it described the type and location of sensitive receptors in the vicinity of the Proposed Project, then provided an analysis of how compliance with County Environmental Health Department and State regulations would ensure a less than significant impact for those sensitive receptors. The analysis should include a discussion of whether vehicle travel on dirt roads or paths may result in impacts related to dust and particulate. |
| 8           | III(e)       | Air Quality       | No, little odor is produced when working with cannabis distillate. All extractions will be done in a closed-loop ventilation system, with no gas escaping during the extraction process. Cannabis products will be stored in airtight containers and the project will employ air filtration systems to prevent odor from leaving the buildings. Odors will | The IS/ND would be improved if it provided a description of anticipated odors resulting from cannabis cultivation operations and analyzed whether significant impacts would occur. If cannabis cultivation (or other operational activities) would result in significant impacts related to odor, the document should specify any measures that would mitigate such impacts to less-than-significant levels.   |

| Comment No. | Section Nos. | Resource Topic(s)    | IS/ND Text   | DCC Comments and Recommendations  |
|-------------|--------------|----------------------|--|---|
| 9           | IV(a)        | Biological Resources | <p>not be detectable outside the business premises.</p> <p>Life history and occurrence information for rare species detected during the survey or reported from the region (CDFW 2021a) can be found in the Biological Resources Report.</p> | <p>The IS/ND would be improved if it summarized relevant life history and occurrence information for rare species within the impact analysis discussion. In addition, the document would be strengthened if it specified the parameters for the review of the California Natural Diversity Database (CNDDDB) and the special status species lists maintained by the US Fish and Wildlife Service and the California Department of Fish and Wildlife (e.g., what was the radius specified for the search, what quadrants were searched).</p> <p>In addition, the document would be more informative if it provided the Biological Resources Report used to support impact conclusions of the IS/ND. DCC requests that the County advise applicants to provide copies of all project-specific plans and supporting documentation with their state application package(s) for any annual cannabis business license(s) to DCC. (See General Comment 6.)</p> |
| 10          | IV(b)        | Biological Resources | <p>There is a Riverine habitat, classified as a R4SBC, depicted in Figure 2, running from northwest to southeast through the southern part of the site.</p>  | <p>The IS/ND would be strengthened if figures referenced in the impact discussion were provided in the IS/ND.</p>   |

| Comment No. | Section Nos. | Resource Topic(s)    | IS/ND Text   | DCC Comments and Recommendations  |
|-------------|--------------|----------------------|--|---|
| 11          | IV(d)        | Biological Resources | If project construction begins between March 15 and September 15, a qualified biologist shall survey all shrubs and structures within the project site for nesting birds, prior to project activities (including construction and/or site preparation).  | If this is intended to be a mitigation measure or condition of approval, it should be specified as such, and the IS/ND should provide an analysis of how such mitigation measures or conditions would reduce impacts to less-than-significant levels. |
| 12          | V(b)         | Cultural Resources   | In the unlikely event an archaeological or cultural resource is discovered on the site during any future development, work shall immediately stop and Inyo County staff shall immediately be notified per Inyo County Code (ICC) Chapter 9.52, Disturbance of Archaeological, Paleontological and Historical Features of the Inyo County Code. Construction activities shall be diverted until the significance of the find is assessed. | If this is intended to be a mitigation measure or condition of approval, it should be specified as such, and the IS/ND should provide an analysis of how the mitigation measures or conditions would reduce impacts to less-than-significant levels.  |
| 13          | VI(a)        | Energy               | No, the microbusiness facility will use energy primarily for cultivation and manufacturing uses.   | The IS/ND would be improved if it provided an analysis of all equipment that uses energy, including manufacturing equipment, lighting, generators, ventilation  |



| Comment No. | Section Nos. | Resource Topic(s)        | IS/ND Text   | DCC Comments and Recommendations   |
|-------------|--------------|--------------------------|--|--|
| 14          | VII(b)       | Geology and Soils        | Future development will require compliance with the California Building Standards that require Best Management Practices to be implemented to minimize erosion and keep all site materials from leaving the site.        | <p>equipment, carbon scrubbers, heavy machinery, and vehicles. The document should provide a description of the energy source(s) that would supply the Proposed Project, and a description of any energy conservation features that may be a part of the Proposed Project.</p> <p>In addition, the document would be strengthened if it described how the Proposed Project would comply with DCC regulations relating to the use of renewable energy in cultivation projects. (Cal. Code Regs., tit. 3 §§ 16203(g), 16305.)</p> <p>The IS/ND would be improved if it explained what is meant by "future development." If the Proposed Project would be developed in phases, information about the size, activities, and staffing of each phase should be included in the project description. (See General Comment 1.)</p> |
| 15          | VIII(a)      | Greenhouse Gas Emissions | No, the proposed cannabis cultivation project will not generate greenhouse gas emissions that will have a significant impact. Temporary construction-related emissions will occur, but such dust related impacts will be | <p>The IS/ND would be improved by providing support for this statement. Additionally, operational impacts should be discussed, such as a description of any equipment to be used in manufacturing, cultivation, delivery of materials, and shipment of product from the Proposed Project site. The IS/ND should also identify what threshold of significance is being used to</p>  |

| Comment No. | Section Nos.  | Resource Topic(s)               | IS/ND Text  | DCC Comments and Recommendations  |
|-------------|---------------|---------------------------------|---|---|
| 16          | VIII(b)       | Greenhouse Gas Emissions        | <p>minimized through best management practices.</p> <p>No, the proposed project will not cause conflicts with a plan, policy or regulation adopted for the purpose of reducing greenhouse gasses.</p> | <p>make this determination, and analyze whether and how the activities described would fall below the threshold.</p> <p>The IS/ND would be more informative if the plans, policies, and regulations referenced here were listed.</p>  |
| 17          | IX(a) and (b) | Hazards and Hazardous Materials | N/A (General Comment)   | <p>If the Proposed Project would include manufacturing activities using volatile solvents, the IS/ND should describe the solvents that would be used and the measures that would be employed to limit hazards to the public and the environment. Then the document should provide an analysis of whether the use or reasonably foreseeable upset and accident conditions of volatile solvents may cause significant impacts. (See General Comment 2.)</p> |
| 18          | IX(f)         | Hazards and Hazardous Materials | <p>No, the proposed project will not physically interfere with an adopted emergency plan or emergency evacuation plan.</p>  | <p>The IS/ND would be improved if it provided support for this statement.</p>   |
| 19          | X(b)          | Hydrology and Water Quality     | <p>No, the project would use 1.2 acre-feet of water annually for cultivation.</p>   | <p>The IS/ND would be improved if it provided a source for this figure, or the calculations relied on to determine annual water use for the Proposed Project.</p> <p>In addition, the document indicates that water for the Proposed Project would be</p>   |

| Comment No. | Section Nos. | Resource Topic(s)           | IS/ND Text   | DCC Comments and Recommendations  |
|-------------|--------------|-----------------------------|--|---|
| 20          | X(b)         | Hydrology and Water Quality | The applicant will have to comply with well permit(s) requirements from the County Environmental Health Department and meet all State regulations pertaining to wells and groundwater. | The document should be more informative if it listed and/or described the County's well permit requirements.  |
| 21          | X(c)(ii)     | Hydrology and Water Quality | No, the proposed storm drain system is hydraulically adequate to provide the necessary conveyance of stormwater.   | The IS/ND would be improved if it described the proposed storm drain system, including diagrams and/or site plans, and provided an analysis of how the proposed system would ensure there would be no significant impacts due to surface runoff or flooding on- or offsite. |
| 22          | X(c)(iii)    | Hydrology and Water Quality | N/A (General Comment)  | The document would be improved if it described how runoff from cultivation activities would be treated and/or managed to ensure there would be no significant impacts related to agricultural runoff.   |
| 23          | XIII(a)      | Noise                       | N/A (General Comment)  | The document would be improved if it described the sources of noise (e.g., equipment, operation and maintenance activities) expected to occur during project operations and the levels of noise those sources are likely to generate.                                       |

| <b>Comment No.</b> | <b>Section Nos.</b> | <b>Resource Topic(s)</b>                                | <b>IS/ND Text</b>     | <b>DCC Comments and Recommendations</b>   |
|--------------------|---------------------|---|-----------------------|---|
| 24                 | XIV                 | Population and Housing                                  | N/A (General Comment) | The document would be more informative if it provided an estimate of the number of employees expected to work at the Proposed Project.  |
| 25                 | XV                  | Public Services   | N/A (General Comment) | The IS/ND would be improved by providing support for the conclusions in this section.   |
| 26                 | XIX(b)              | Utilities and Service Systems                           | N/A (General Comment) | The document would be improved if it provided an analysis, supported by data, for whether the Proposed Project would have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years. (See Specific Comment 16.)                    |
| 27                 | XXI(b)              | Mandatory Findings of Significance (Cumulative Impacts) | N/A (General Comment) | The IS/ND should identify whether any other cannabis growing operations exist or have been proposed in the vicinity of the Proposed Project, and provide an analysis of whether the Proposed Project would make a considerable contribution to any cumulative impacts from these other projects. (See General Comment 7.) |

## **Conclusion**

DCC appreciates the opportunity to provide comments on the IS/NND for the Proposed Project. If you have any questions about our comments or wish to discuss them, please contact Kevin Ponce, Senior Environmental Scientist Supervisor, at (916) 247-1659 or via e-mail at [Kevin.Ponce@cannabis.ca.gov](mailto:Kevin.Ponce@cannabis.ca.gov).

Sincerely,

Lindsay Rains  
Licensing Program Manager



**Jared Blumenfeld**  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

Meredith Williams, Ph.D.  
Director  
8800 Cal Center Drive  
Sacramento, California 95826-3200



**Gavin Newsom**  
Governor

July 26, 2021

Mr. Steve Karamitros  
Inyo County  
168 N. Edwards St.  
Independence, CA 93526  
[SKaramitros@inyocounty.us](mailto:SKaramitros@inyocounty.us)

NEGATIVE DECLARATION FOR CONDITIONAL USE PERMIT 2020-06/PINNACLE  
CANNABIS – DATED JULY 13, 2021 (STATE CLEARINGHOUSE NUMBER:  
2021070224)

Dear Mr. Karamitros:

The Department of Toxic Substances Control (DTSC) received a Negative Declaration (ND) for Conditional Use Permit 2020-06/Pinnacle Cannabis (Project). The Lead Agency is receiving this notice from DTSC because the Project includes one or more of the following: groundbreaking activities, work in close proximity to a roadway, work in close proximity to mining or suspected mining or former mining activities, presence of site buildings that may require demolition or modifications, importation of backfill soil, and/or work on or in close proximity to an agricultural or former agricultural site.

DTSC recommends that the following issues be evaluated in the ND Hazards and Hazardous Materials section:

1. The ND should acknowledge the potential for historic or future activities on or near the project site to result in the release of hazardous wastes/substances on the project site. In instances in which releases have occurred or may occur, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment should be evaluated. The ND should also identify the mechanism(s) to initiate any required investigation and/or remediation and the government agency who will be responsible for providing appropriate regulatory oversight.
2. Refiners in the United States started adding lead compounds to gasoline in the 1920s in order to boost octane levels and improve engine performance. This

practice did not officially end until 1992 when lead was banned as a fuel additive in California. Tailpipe emissions from automobiles using leaded gasoline contained lead and resulted in aerially deposited lead (ADL) being deposited in and along roadways throughout the state. ADL-contaminated soils still exist along roadsides and medians and can also be found underneath some existing road surfaces due to past construction activities. Due to the potential for ADL-contaminated soil DTSC, recommends collecting soil samples for lead analysis prior to performing any intrusive activities for the project described in the ND.

3. If any sites within the project area or sites located within the vicinity of the project have been used or are suspected of having been used for mining activities, proper investigation for mine waste should be discussed in the ND. DTSC recommends that any project sites with current and/or former mining operations onsite or in the project site area should be evaluated for mine waste according to DTSC's 1998 [Abandoned Mine Land Mines Preliminary Assessment Handbook](#)
4. If buildings or other structures are to be demolished on any project sites included in the proposed project, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk. Removal, demolition and disposal of any of the above-mentioned chemicals should be conducted in compliance with California environmental regulations and policies. In addition, sampling near current and/or former buildings should be conducted in accordance with DTSC's 2006 [Interim Guidance Evaluation of School Sites with Potential Contamination from Lead Based Paint, Termiticides, and Electrical Transformers](#).
5. If any projects initiated as part of the proposed project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to [DTSC's 2001 Information Advisory Clean Imported Fill Material](#).
6. If any sites included as part of the proposed project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the ND. DTSC recommends the current and former agricultural lands be evaluated in accordance with DTSC's 2008 [Interim Guidance for Sampling Agricultural Properties \(Third Revision\)](#).

Mr. Steve Karamitros

July 26, 2021

Page 3

DTSC appreciates the opportunity to comment on the ND. Should you need any assistance with an environmental investigation, please submit a request for [Lead Agency Oversight Application](#). Additional information regarding voluntary agreements with DTSC can be found at [DTSC's Brownfield website](#).

If you have any questions, please contact me at (916) 255-3710 or via email at [Gavin.McCreary@dtsc.ca.gov](mailto:Gavin.McCreary@dtsc.ca.gov).

Sincerely,



Gavin McCreary  
Project Manager  
Site Evaluation and Remediation Unit  
Site Mitigation and Restoration Program  
Department of Toxic Substances Control

cc: (via email)

Governor's Office of Planning and Research  
State Clearinghouse  
[State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

Mr. Dave Kereazis  
Office of Planning & Environmental Analysis  
Department of Toxic Substances Control  
[Dave.Kereazis@dtsc.ca.gov](mailto:Dave.Kereazis@dtsc.ca.gov)





State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Inland Deserts Region  
3602 Inland Empire Blvd. Ste. C-220  
Ontario, CA 91762  
www.wildlife.ca.gov

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



August 9, 2021  
*Sent via email*

Graham Meese  
Assistant Planner  
Inyo County  
168 N. Edwards St.  
P.O. Drawer "L"  
Independence, CA 93526

Pinnacle Cannabis (Project)  
Negative Declaration (ND)  
SCH# 2021070224

Dear Mr. Meese:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Negative Declaration (ND) in Inyo County for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife; CDFW appreciates the opportunity to respond to the Draft ND. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

## **CDFW ROLE**

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the state. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** Pinnacle Growth Inc.

**Project Description:** The Draft ND proposes the development of a cultivation, processing, distribution, and non-storefront retail delivery facility on approximately 1.5 to 2 acres of a 15-acre segment in the northeast of the 80-acre parcel at Assessor Parcel Number (APN) 038-300-07-00 in Inyo County, CA. The parcel is currently designated for industrial use. The Project will include the construction of three 320 ft<sup>2</sup> storage buildings, six 10,000 ft<sup>2</sup> greenhouses for cultivation, one 3,000 ft<sup>2</sup> mother greenhouse, and two 3,000 ft<sup>2</sup> metal buildings for manufacturing/processing for a total building area of approximately 69,960 ft<sup>2</sup>. Water for the Project is proposed to come from an existing well on the parcel, which is supplied by groundwater and requires the approval of the Inyo County Environmental Health Department.

**Location:** The Project is located in Searles Valley, in southern Inyo County, east of Highway 395. The Project parcel is identified as APN 038-300-07 in the Draft ND, which corresponds with the address 1555 Trona Wildrose Road, Trona, CA 93592, Inyo County (APN 038-300-07-00; GPS coordinates: 35.81897, -117.3407). While not explicitly depicted in a figure, the portion of parcel inferred to be developed in the proposed Project lies on the east side of Trona Wildrose Road north of Trona Airport Road. The parcel is surrounded by Bureau of Land Management property that is currently open space to the west, northwest, south, and east. An undeveloped, privately owned parcel lies northeast of the site. The Project parcel falls within the Rattlesnake Canyon (US Geological Survey Hydrologic Unit Code 12) subwatershed, with mapped streams running through the parcel that drain south to Searles Lake. The parcel is located within the Searles Valley Groundwater Basin.

**Timeframe:** The Draft ND gives no timeframe for the construction of the Project.

## **COMMENTS AND RECOMMENDATIONS**

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (i.e., biological resources). CDFW has reviewed the Draft ND and determined that it lacks sufficient detail to determine whether the County has identified and disclosed the Project's impacts (i.e., direct, indirect, and cumulative) to biological resources and whether those impacts are less than significant. CDFW offers the following comments and

recommendations to assist Inyo County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

- Project location: Please note that the address provided in the NOA and Draft ND ("1550 Trona Wildrose Road") does not correspond to the address associated with the APN provided ("1555 Trona Wildrose Road").
- Incomplete description of Project activities: Key components of the Project description, including the specific location and scope of the Project, have not been included in the Draft ND. The Draft ND indicates the approximate area of the Project—namely, a 15-acre segment of the larger 80-acre parcel—however, it does not indicate where in that 15-acre segment the estimated 1.5 to 2 acres of impacts would occur. The final CEQA document should include a written description and figure accurately illustrating the site layout. In addition, the Draft ND includes no building/construction specifications or description of the cannabis cultivation structures (i.e., "(6) 10,000 ft<sup>2</sup> cultivation greenhouses, (1) 3,000 ft<sup>2</sup> mother greenhouse"; p. 1 of Draft ND). To be considered indoor cultivation, a structure should have a permanent roof and walls, as well as an impermeable floor. Cultivation structures that may be opened to the atmosphere will have different impacts on biological resources than completely enclosed structures (e.g., pesticides and artificial light will have greater impacts if structures are not completely enclosed; see the section "Cannabis-Specific Impacts on Biological Resources" below). Specifications are also lacking for the "drainage conveyance" and tank that are proposed to collect cultivation runoff (p. 13 of Draft ND). In addition, no timeframe is provided for the construction of the Project, and details have not been provided regarding Project site access, construction of roads/parking lots on-site, fencing, security lighting, and landscaping. CDFW recommends that the final CEQA document include a complete Project description and analyze the impacts to biological resources.
- Hydrology and CDFW jurisdictional waters: The Draft ND (p. 13) indicates that the area is "virtually flat" and that "there are no streams in the area that will be affected by the increase of impervious surface" created by the Project. However, the location and scope of impervious surfaces resulting from the Project has not been disclosed, so it is not possible to determine whether impacts are less than significant. Multiple mapped streams (including US Geological Survey National Hydrography Dataset [NHD] ephemeral flowlines) cross the parcel at APN 038-300-07-00. These streams are identifiable in aerial imagery, and topographic map contours indicate that they drain southward to Searles Lake. CDFW recommends that the final CEQA document fully disclose the location and scope of construction for the proposed Project and ensure that impacts to streams and biological resources have been analyzed. CDFW jurisdiction extends to all rivers, lakes, and streams, including those that are ephemeral. CDFW's Lake and Streambed Alteration (LSA) Program should be notified (Fish and Game Code section 1602) of cannabis-related Project activities prior to construction so that impacts to streams and associated resources may be assessed to determine whether an LSA Agreement is required. See the section "Role of Lake and Streambed Alteration (LSA) Program in Cannabis Licensing" below.

## **Assessment of Impacts to Biological Resources**

### California Endangered Species Act (CESA)

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate species of plant and animal species, pursuant to CESA. CDFW recommends that an incidental Take Permit (ITP) be obtained if the Project has potential to “take” (California Fish and Game Code Section 86 defines “take” as hunt, pursue, catch, capture, or kill or attempt to hunt, pursue, catch, capture, or kill) state-listed CESA species, either through construction or over the life of the property. CESA ITPs are issued to protect, conserve, enhance, and restore state listed CESA species and their habitats.

### Biological Report and Adequacy of Surveys

The Draft ND bases its analysis of impacts to biological resources on a report by Geode Environmental Inc. (April, 2021), which conducted an assessment of the 15-acre segment of the parcel east of Trona Wild Rose Road where development is proposed (Biological Resources Report, p. 5). The Biological Resources Report indicates that a focused survey for desert tortoise (*Gopherus agassizii*; federal threatened species and state threatened/candidate endangered species) was combined with habitat assessments for burrowing owl (*Athene cunicularia*; CDFW Species of Special Concern [SSC]) and Mohave ground squirrel (*Xerospermophilus mohavensis*; state threatened species) on March 2, 2021, from 1015 to 1515 hours. CDFW is concerned that the focused survey for desert tortoise was combined with habitat assessments and that the focused survey/habitat assessments were not conducted at the appropriate time of year to accurately detect the presence of special status wildlife and plant species.

CDFW is not able to fully assess impacts to desert tortoise populations due to the lack of information given in the project description regarding construction plans and details. CDFW is available to consult regarding the timing of the desert tortoise surveys and their limited scope per the 2019 USFWS desert tortoise protocol: “Applicants or surveyors should contact appropriate federal, state and local agencies in the planning process because they may have their own requirements that need to be considered during the approval process for projects. Early coordination with these agencies will allow you to move through the planning process more efficiently.” In addition, the focused survey/habitat assessments involved a 15-acre segment of the 80-acre parcel, which may not be adequate to assess indirect impacts to biological resources on the remainder of the parcel.

CDFW is concerned about the potential for special status species to occur on the parcel and that waiting to assess the site for the presence of special status species until the time of construction will not reduce impacts to less than significant, particularly for species such as burrowing owl, desert tortoise, desert kit fox (*Vulpes macrotis arsipus*; protected as a fur-bearing mammal), Mohave ground squirrel, American badger (*Taxidea taxus*; CDFW Species of Special Concern), and special status plants (see sections below). As a result, CDFW recommends the mitigation measures given below. Deficiencies in the County’s

CEQA documentation can affect later project approval by CDFW in its role as a Responsible Agency.

Burrowing Owl (*Athene cunicularia*)

CDFW is not able to fully assess impacts to burrowing owl populations due to the lack of information given in the project description regarding construction plans and details. The Draft ND states that no evidence of burrowing owls was observed on the site (Biological Resources Report, p. 17). However, given that the ND does not specify the footprint in the Project description, CDFW cannot analyze the Project's potential impacts to burrowing owl. The potential Project impacts to burrowing owl are unknown and may include areas that were not surveyed (e.g., the remainder of APN 038-300-07-00, which may provide artificial burrow substrates). Therefore, CDFW recommends that the County follow the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation* (CDFW 2012 or most recent version), which specifies that project impact evaluations include the following steps: (1) habitat assessment, (2) surveys, and (3) an impact assessment. The three progressive steps are effective in evaluating whether a project will result in impacts to burrowing owls, and the information gained from the steps will inform any subsequent avoidance and minimization measures. Absent clarification regarding timing, construction methods, and footprint of the Project, CDFW recommends the following mitigation measure including a habitat assessment in the remainder of the parcel, as well as pre-construction surveys:

**MM BIO-1: A habitat assessment for burrowing owl shall be conducted in the remainder of parcel in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012 or most recent version). If the burrowing owl habitat assessment identifies burrowing owl habitat on site, focused surveys should be conducted according to the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012 or most recent version).**

**Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012 or most recent version). Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation*. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. CDFW shall be notified of burrowing owl survey results within 48 hours of detection. The qualified biologist shall coordinate with USFWS and CDFW to conduct an impact assessment to develop avoidance and minimization measures to be approved by CDFW prior to commencing Project activities.**

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) for proposed MM BIO-1. The draft MMRP with MM BIO-1 through MM BIO-11 is enclosed as Attachment 1 at the end of this letter.

Desert Tortoise (*Gopherus agassizii*)

CDFW is not able to fully assess impacts to desert tortoise populations due to the lack of information given in the project description regarding construction plans and details. A query of the California Natural Diversity Database (CNDDDB) and Biogeographic Information and Observation System (BIOS), including unprocessed data, returned a reported occurrence of desert tortoise approximately 0.7 miles from the Project site. The Draft ND acknowledges the potential for desert tortoise to be found on the Project site but reports that no tortoises or signs of tortoises were present during the focused survey (Biological Resources Report, p. 15). CDFW is concerned that the timing of the March 2021 focused survey, which was combined with other assessments, was insufficient to determine the presence of desert tortoise on the Project site. The Draft ND does not adequately identify impacts to desert tortoise. Chapter 4 of the *Desert Tortoise (Mojave Population) Field Manual* indicates that "surveys should be conducted during the desert tortoise's most active periods (April through May or September through October)" (USFWS 2009, p. 4–8). CDFW is concerned that waiting until pre-construction surveys to assess whether desert tortoise is on the Project site will not reduce impacts to less than significant. Absent an adequate Project description and clarification of the avoidance and minimization measures proposed, CDFW recommends that prior to commencing Project activities, a focused survey for desert tortoise following the *Desert Tortoise (Mojave Population) Field Manual* should be conducted by a qualified biologist. Absent clarification regarding timing, construction methods, and footprint of the Project, CDFW recommends the following mitigation measure, which includes both focused and pre-construction surveys:

**MM BIO-2: Prior to commencing Project activities, a focused survey for desert tortoise shall be conducted by a qualified biologist, according to protocols in chapter 4 of the *Desert Tortoise (Mojave Population) Field Manual* (USFWS 2009 or most recent version), during the species' most active periods (April through May or September through October). CDFW recommends working with USFWS and CDFW concurrently to ensure a consistent and adequate approach to planning survey work and that biologists retained to complete desert tortoise protocol-level surveys submit their qualifications to CDFW and USFWS prior to initiation of surveys.**

**No more than 14 calendar days prior to start of Project activities, a qualified biologist shall conduct pre-construction surveys for desert tortoise as described in the USFWS *Desert Tortoise (Mojave Population) Field Manual* (USFWS 2009 or most recent version). Pre-construction surveys shall be completed using perpendicular survey routes within the Project area and 50-foot buffer zone. Pre-construction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until two negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Should desert tortoise presence be confirmed during the survey, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance and minimization measures.**

Desert Kit Fox (*Vulpes macrotis arsipus*)

CDFW is not able to fully assess impacts to desert kit fox populations due to the lack of information given in the project description regarding construction plans and details. Desert kit fox is protected as a fur-bearing mammal under Title 14 of the California Code of Regulations (Chap. 5, § 460) and may not be taken at any time. While no desert kit foxes were observed on the Project site according to the Draft ND (Biological Resources Report, p. 17), a previously inhabited kit fox den was reported 550 ft north of the site. Because desert kit fox has high fidelity to natal dens, it is crucial to adequately assess whether desert kit fox is present on the Project site well in advance of commencing Project activities. If desert kit fox is found on-site during breeding season, it could delay Project activities until appropriate vegetation and construction buffers can be established on the Project site. Absent clarification regarding timing, construction methods, and footprint of the Project, CDFW recommends pre-construction surveys for desert kit fox as follows:

**MM BIO-3: No more than 14 days prior to the beginning of ground disturbance and/or Project activities, a qualified biologist shall conduct pre-construction surveys to determine if potential desert kit fox burrows/dens are present in the Project area. Pre-construction surveys should include 100-percent visual coverage of the Project area and cannot be combined with other surveys conducted for other species while using the same personnel. If the pre-construction surveys confirm occupied desert kit fox habitat, Project activities shall be immediately halted, and the qualified biologist shall notify CDFW and USFWS to develop avoidance, minimization, and mitigation measures. No disturbance of active dens shall take place when juvenile desert kit fox may be present and dependent on parental care.**

Mohave Ground Squirrel (*Xerospermophilus mohavensis*)

CDFW is not able to fully assess impacts to Mohave ground squirrel populations due to the lack of information given in the project description regarding construction plans and details. The Draft ND indicates that no suitable habitat for Mohave ground squirrel was observed on the Project site (Biological Resources Report, p. 18). However, Mohave ground squirrel has been reported in the vicinity of the Project site, as near a 1.1 mile. Because the site is surrounded by open desert, and because CDFW's California Wildlife Habitat Relationship model indicates the Project site is within habitat that is of medium quality for Mojave ground squirrel, CDFW recommends that pre-construction surveys be conducted. No focused Mohave ground squirrel surveys were conducted on the Project site. CDFW recommends that a focused, species-specific survey, conducted by a qualified biologist, using the *Mohave Ground Squirrel Survey Guidelines* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83975&inline>), be completed at the appropriate time of year and time of day when Mojave ground squirrel is active or otherwise identifiable. Absent clarification regarding timing, construction methods, and footprint of the Project, CDFW recommends the following mitigation measure be added to the final CEQA document:

**MM-BIO 4: Prior to commencement of Project activities, focused surveys should be conducted by a qualified biologist, at the appropriate time of year and time of day**

**when Mohave ground squirrel is active or otherwise identifiable, according to the protocols in the *Mohave Ground Squirrel Survey Guidelines* (CDFG, 2010 or most recent version). Should Mohave ground squirrel presence be confirmed during the survey, Project activities shall be immediately halted, and the qualified biologist shall notify CDFW.**

**Preconstruction surveys following the *Mohave Ground Squirrel Survey Guidelines* (CDFG, 2010 or most recent version) shall be performed by a qualified biologist authorized by a Memorandum of Understanding issued by CDFW. The preconstruction surveys shall cover the Project area and a 50-foot buffer zone. Should Mohave ground squirrel presence be confirmed during the survey, the qualified biologist shall notify CDFW and the Project proponent shall obtain an ITP for Mohave ground squirrel prior to the start of Project activities.**

### Nesting Birds

CDFW is not able to fully assess impacts to nesting bird populations due to the lack of information given in the project description regarding construction plans and details. It is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

CDFW is concerned about impacts to nesting birds from vegetation removal on the Project site and from construction (e.g., noise/disturbance). Although the Draft ND addresses the need for nesting bird surveys, the timing and scope of are insufficient. CDFW recommends the revised document include specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur. Project-specific avoidance and minimization measures may include, but are not limited to, Project phasing and timing (avoiding peak breeding season), monitoring of Project-related noise (where applicable), sound walls, and buffers, where appropriate. CDFW recommends that pre-construction surveys be conducted as a mitigation measure and that they be completed no more than 3 days prior to vegetation clearing or ground disturbance activities; instances of nesting could be missed if surveys are conducted sooner. Note that nesting bird surveys must be conducted regardless of the time of year to protect species that may nest outside the peak breeding season, such as raptors and hummingbirds. Absent clarification regarding timing, construction methods, and footprint of the Project, CDFW recommends the following mitigation measure:

**MM BIO-5: Regardless of the time of year, nesting bird surveys shall be conducted by a qualified avian biologist no more than three (3) days prior to vegetation**



clearing or ground disturbance activities. Preconstruction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the preconstruction nesting bird surveys, a Nesting Bird Plan (NBP) shall be prepared and implemented by the qualified avian biologist. At a minimum, the NBP shall include guidelines for addressing active nests, establishing buffers, ongoing monitoring, establishment of avoidance and minimization measures, and reporting. The size and location of all buffer zones, if required, shall be based on the nesting species, individual/pair's behavior, nesting stage, nest location, its sensitivity to disturbance, and intensity and duration of the disturbance activity. To avoid impacts to nesting birds, any grubbing or vegetation removal shall occur outside peak breeding season.

#### Special Status Plants

CDFW is not able to fully assess impacts to special status plants in the area due to the lack of information given in the project description regarding construction plans and details. The final CEQA document should include measures to fully avoid and otherwise protect special status plant species from Project-related direct and indirect impacts. Plants constituting California Rare Plant Ranks 1A, 1B, 2A, and 2B generally meet the criteria of a CESA-listed species and should be considered as an endangered, rare, or threatened species for the purposes of CEQA analysis. CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (2018 or most recent version; <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>) states, "The failure to locate a known special status plant occurrence during one field season does not constitute evidence that this plant occurrence no longer exists at this location, particularly if adverse conditions are present." Absent clarification regarding timing, construction methods, and footprint of the Project, CDFW recommends the following mitigation measure:

**MM BIO-6: A focused plant survey shall be conducted by a qualified biologist for rare plants prior to commencing Project activities when most plant species would be identifiable. The survey should follow CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Species Native Plant Populations and Natural Communities* (CDFW 2018 or most recent version), and survey results should report any additional special status plant species found to be present in the Project area. Should any special status plants be present in the Project area, a qualified restoration specialist shall assess whether perennial species may be successfully transplanted to an appropriate natural site or whether on-site or off-site conservation is warranted to mitigate Project impacts. If successful transplantation of perennial species is determined by a qualified restoration specialist, the receiver site shall be identified, and transplantation shall occur at the appropriate time of year. Additionally, the qualified restoration specialist shall perform seed collection and dispersal from special status annual plant species to a natural site as a conservation strategy to minimize and mitigate Project impacts. If these measures are implemented, monitoring of plant populations shall be conducted annually for 5 years to assess the mitigation's effectiveness.**

**The performance standard for mitigation shall be no net reduction in the size or viability of the local population.**

#### Minimizing Impacts to Other Species

According to the Draft ND (Biological Resources Report, p. 14), 12 wildlife species, including special status species American badger (*Taxidea taxus*) and desert kit fox (*Vulpes macrotis arsipus*), were detected on or near the Project site. Because of the potential for these and other species to occur on-site, CDFW recommends inclusion of the following mitigation measure:

**MM BIO-7: A qualified biologist shall be on-site prior to and during all ground- and habitat-disturbing activities to move out of harm's way wildlife that would otherwise be injured or killed from Project-related activities. Movement of wildlife out of harm's way should be limited to only those individuals that would otherwise be injured or killed, and individuals should be moved only as far as necessary to ensure their safety. Measures shall be taken to prevent wildlife from re-entering the Project site. Only biologists authorized by a Memorandum of Understanding issued by CDFW shall move CESA-listed species.**

#### Employee Awareness of Wildlife Resources

CDFW is concerned that because the Project area is bordered by open desert, Project development will bring biological hazards common to urban-wildland interface areas. Waste management must be a priority as accessible waste can encourage opportunistic species such as rats, ravens, and coyotes to become more prevalent, posing a substantial predation hazard to wildlife. Predators like ravens and coyotes are both known to prey on desert tortoise and other sensitive species. Waste management plans should include waste receptacles with closing, lockable lids and a waste removal schedule that does not allow for excess waste to accrue. Increased traffic may also pose a hazard to species in the form of vehicle-animal collisions which often lead to the death of the animal. For slow moving species like desert tortoise, busy roads or driveways in their territory can have a significant impact on populations.

Project activities, including construction and routine work for the life of the Project, will affect local wildlife. Part of the Project proponent's responsibility is to educate individuals that will be on-site, whether they are employees or contractors, on the wildlife species that may be present and how to limit impacts to wildlife species in the area. CDFW recommends that the following Employee Education Program be added to the final CEQA document as a mitigation measure:

**MM BIO-8: A qualified biologist shall conduct an education program for all persons employed or otherwise working on the Project site prior to performing any work on-site. The program shall consist of a presentation that includes a discussion of the biology of the habitats and species that may be present at the site. The qualified biologist shall also include as part of the education program information about the distribution and habitat needs of any special status species that may be present, legal protections for those species, penalties for violations, and**

**mitigation measures. The Employee Education Program should include, but not be limited to: (1) Best practices for managing waste and reducing activities that can lead to increased occurrences of opportunistic species and the impacts these species can have on wildlife in the area. (2) Protected species that have the potential to occur on the Project site including, but not limited to, burrowing owl, desert tortoise, desert kit fox, American badger, Mohave ground squirrel, rare and sensitive plants, and nesting birds. Interpretation shall be provided for any non-English speaking workers, and the same instruction shall be provided for any new workers prior to their performing any work on-site.**

### **Cannabis-Specific Impacts on Biological Resources**

CDFW recommends that the County consider cannabis-specific impacts to biological resources that may result from the Project activities.

#### Pesticides, Including Fungicides, Herbicides, Insecticides, and Rodenticides

Cannabis cultivation sites (whether indoor or outdoor) often use substantial quantities of pesticides, including fungicides, herbicides, insecticides, and rodenticides. Wildlife, including beneficial arthropods, birds, mammals, amphibians, reptiles, and fish, can be poisoned by pesticides after exposure to a toxic dose through ingestion, inhalation, or dermal contact (Fleischli et al. 2004, Pimentel 2005, Berny 2007). They can also experience secondary poisoning through feeding on animals that have been directly exposed to the pesticides. Even if used indoors, rodenticides may result in secondary poisoning through ingestion of sickened animals that leave the premises or ingestion of lethally poisoned animals that are disposed of outside. Nonlethal doses of pesticides can negatively affect wildlife; pesticides can compromise immune systems, cause hormone imbalances, affect reproduction, and alter growth rates of many wildlife species (Pimentel 2005, Li and Kawada 2006, Relyea and Diecks 2008, Baldwin et al. 2009).

CDFW recommends minimizing use of synthetic pesticides, and, if they are used, to always use them as directed by the manufacturer, including proper storage and disposal. Toxic pesticides should not be used where they may pass into waters of the state, including ephemeral streams, in violation of Fish and Game Code section 5650(a)(6). Anticoagulant rodenticides and rodenticides that incorporate "flavorizers" that make the pesticides appetizing to a variety of species should not be used at cultivation sites (the passage of AB 1788, signed by the governor on September 29, 2020, banned the general use of second-generation anticoagulants in California). Alternatives to toxic rodenticides may be used to control pest populations at and around cultivation sites, including sanitation (removing food sources such as pet food, cleaning up refuse, and securing garbage in sealed containers) and physical barriers (e.g., sealing holes in roofs and walls). Snap traps should not be used outdoors as they pose a hazard to nontarget wildlife. Sticky or glue traps should be avoided, as these pose a hazard to nontarget wildlife and result in a prolonged/inhumane death. The California Department of Pesticide Regulation (CDPR) stipulates that pesticides must meet certain criteria to be legal for use on cannabis. For details, visit <https://www.cdpr.ca.gov/docs/cannabis/questions.htm> and <https://www.cdpr.ca.gov/docs/county/cacltrs/penfltrs/penf2015/2015atch/attach1502.pdf>.

The Draft ND (pp. 13, 14) states that pesticides, herbicides, and fungicides may be used in the cannabis cultivation facilities (i.e., greenhouses that have not been fully described in the Draft ND) and stored on-site. CDFW recommends the following mitigation measure focused on avoiding impacts to biological resources:

**MM BIO-9: Prior to construction and issuance of any grading permit, Inyo County shall develop a plan with measures to avoid, minimize, or mitigate the impacts of pesticides used in cannabis cultivation, including fungicides, herbicides, insecticides, and rodenticides. The plan should include, but is not limited to, the following elements: (1) Proper use, storage, and disposal of pesticides, in accordance with manufacturers' directions and warnings. (2) Avoidance of pesticide use where toxic runoff may pass into waters of the State, including ephemeral streams. (3) Avoidance of pesticides that cannot be used on cannabis in the state of California, as set forth by the Department of Pesticide Regulation. (4) Avoidance of anticoagulant rodenticides and rodenticides with "flavorizers". (5) Avoidance of sticky/glue traps. (6) Inclusion of alternatives to toxic rodenticides, such as sanitation (removing food sources such as pet food, cleaning up refuse, and securing garbage in sealed containers) and physical barriers.**

#### Artificial Light

Cannabis cultivation operations often use artificial lighting or "mixed-light" techniques in indoor operations to increase yields. If not disposed of properly, these lighting materials pose significant environmental risks because they contain mercury and other toxins (O'Hare et al. 2013). In addition to containing toxic substances, artificial lighting often results in light pollution, which has the potential to significantly and adversely affect fish and wildlife. Night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication (e.g., birdsong; Miller 2006), determining when to begin foraging (Stone et al. 2009), behavioral thermoregulation (Beiswenger 1977), and migration (Longcore and Rich 2004). Phototaxis, a phenomenon that results in attraction and movement toward light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore and Rich 2004).

The Draft ND indicates that Project activities will involve new sources of artificial light for buildings. Because of the potential for artificial light to impact nocturnal wildlife species and migratory birds that fly at night, CDFW recommends the following mitigation measure:

**MM BIO-10: Light shall not be visible outside of any structure used for cannabis cultivation. Employ blackout curtains where artificial light is used to prevent light escapement. Eliminate all nonessential lighting from cannabis sites and avoid or limit the use of artificial light during the hours of dawn and dusk when many wildlife species are most active. Ensure that lighting for cultivation activities and security purposes is shielded, cast downward and toward developed areas, and does not spill over onto other properties or upward into the night sky (see the International Dark-Sky Association standards at <http://darksky.org/>). Use LED lighting with a correlated color temperature of 3,000 Kelvins or less, properly**

**dispose of hazardous waste, and recycle lighting that contains toxic compounds with a qualified recycler.**

### Noise

Construction and operation of cannabis facilities may result in a substantial amount of noise through road use, equipment, and other project-related activities. This may adversely affect wildlife species in several ways as wildlife responses to noise can occur at exposure levels of only 55 to 60 decibels (Barber et al. 2009). (For reference, normal conversation is approximately 60 decibels, and natural ambient noise levels [e.g., forest habitat] are generally measured at less than 50 decibels.) Anthropogenic noise can disrupt the communication of many wildlife species including frogs, birds, and bats (Sun and Narins 2005, Patricelli and Blickley 2006, Gillam and McCracken 2007, Slabbekoorn and Ripmeester 2008). Noise can also affect predator-prey relationships as many nocturnal animals such as bats and owls primarily use auditory cues (i.e., hearing) to hunt. Additionally, many prey species increase their vigilance behavior when exposed to noise because they need to rely more on visual detection of predators when auditory cues may be masked by noise (Rabin et al. 2006, Quinn et al. 2017). Noise has also been shown to reduce the density of nesting birds (Francis et al. 2009) and cause increased stress that results in decreased immune responses (Kight and Swaddle 2011).

The Draft ND indicates that the Project activities will include “construction related noise from grading activities, engine noise from trucks, and building construction” (p. 15). CDFW recommends the following: Consider use of noise suppression devices such as mufflers or enclosures for generators. Restrict use of equipment to hours least likely to disrupt wildlife (e.g., not at night or in early morning). Do not use generators except for temporary use in emergencies. Power to sites can be provided by solar PV (photovoltaic) systems, cogeneration systems (natural gas generator), small micro-hydroelectric systems, or small wind turbine systems. Consider use of noise suppression devices such as mufflers or enclosure for generators. Sounds generated from any means must be below the 55–60 dB range within 50 feet from the source.

### **Role of Lake and Streambed Alteration (LSA) Program in Cannabis Licensing**

CDFW is not able to fully assess impacts to streams on the site due to the lack of information given in the project description regarding construction plans and details. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may adversely impact any river, stream, or lake. Multiple mapped streams (including US Geological Survey National Hydrography Dataset [NHD] ephemeral flowlines) cross the parcel at APN 038-300-07-00. CDFW’s LSA Program should be notified of Project activities prior to construction so that impacts to streams and associated resources may be assessed, and, if appropriate, avoidance and minimization measures may be proposed.

The Department of Cannabis Control (DCC) requires cannabis cultivators to demonstrate compliance with Fish and Game Code section 1602 prior to issuing a cultivation license (Business and Professions Code, § 26060.1). To qualify for an Annual License from DCC, cultivators must have an LSA Agreement or written verification from CDFW that one is not

needed. Cannabis cultivators may apply online for an LSA Agreement through the Environmental Permit Information Management System (EPIMS; <https://epims.wildlife.ca.gov>) and learn more about cannabis cultivation permitting at <https://wildlife.ca.gov/Conservation/Cannabis/Permitting>. CDFW recommends the following mitigation measure:

**MM BIO-11: Prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from CDFW stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project Sponsor should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.**

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## **FILING FEES**

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

## **CONCLUSION**

CDFW appreciates the opportunity to comment on the Draft ND for Pinnacle Cannabis to assist Inyo County in identifying and mitigating Project impacts on biological resources. CDFW has assessed the Draft ND and found that it does not adequately describe the Project; as a result, CDFW is not able to determine if the County has identified and analyzed impacts on biological resources or whether those impacts are less than significant. Deficiencies in the County's CEQA documentation can affect later project approval by CDFW in its role as a Responsible Agency. CDFW recommends that prior to the adoption of the final CEQA document, Inyo County revise the document to include a complete description of the specific location and scope of the Project and analysis of impacts to biological resources that includes appropriate avoidance, minimization, and mitigation measures.

Graham Meese, Assistant Planner  
August 9, 2021  
Page 15

CDFW has Cannabis Unit staff who are available to provide guidance on identifying, minimizing, and mitigating impacts to biological resources and any CDFW permitting that will be associated with this project. If you have questions or would like to set up a meeting with CDFW staff to discuss this letter, please contact Kevin Francis, Environmental Scientist, at [kevin.francis@Wildlife.ca.gov](mailto:kevin.francis@Wildlife.ca.gov).

Sincerely,

DocuSigned by:  
*Alisa Ellsworth*  
84FBB8273E4C480...

Alisa Ellsworth  
Environmental Program Manager

#### **Attachment 1: MMRP for CDFW-Proposed Mitigation Measures**

cc: Kevin Francis, Environmental Scientist, CDFW  
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## ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

| Mitigation Measure   | Schedule  | Responsible Party  |
|--|---|--------------------|
| <p><b>MM BIO-1: Burrowing Owls</b><br/>                     A habitat assessment for burrowing owl shall be conducted in the remainder of parcel in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version). If the burrowing owl habitat assessment identifies burrowing owl habitat on site, focused surveys should be conducted</p> | <p><b>Preconstruction surveys:</b><br/>                     No more than 14 days prior to any ground- or vegetation-disturbing Project activities</p> | <p>Inyo County</p> |



|   |   |                    |
|---|---|--------------------|
| <p>according to the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version).</p> <p>Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version). Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the Staff Report on Burrowing Owl Mitigation. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. CDFW shall be notified of burrowing owl survey results within 48 hours of detection. The qualified biologist shall coordinate with USFWS and CDFW to conduct an impact assessment to develop avoidance and minimization measures to be approved by CDFW prior to commencing Project activities.</p>  |   |                    |
| <p><b>MM BIO-2: Desert Tortoise</b><br/>       Prior to commencing Project activities, a focused survey for desert tortoise shall be conducted by a qualified biologist, according to protocols in chapter 4 of the Desert Tortoise (Mojave Population) Field Manual (USFWS 2009 or most recent version), during the species' most active periods (April through May or September through October). CDFW recommends working with USFWS and CDFW concurrently to ensure a consistent and adequate approach to planning survey work and that biologists retained to complete desert tortoise protocol-level surveys submit their qualifications to CDFW and USFWS prior to initiation of surveys.</p> <p>No more than 14 calendar days prior to start of Project activities, a qualified biologist shall conduct pre-construction surveys for desert tortoise as described in the USFWS Desert Tortoise (Mojave Population) Field Manual (USFWS 2009 or most recent version). Pre-construction surveys shall be completed using perpendicular survey routes within the Project area and 50-foot buffer zone. Pre-construction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until two negative results from</p> | <p>No more than 14 days prior to beginning any Project activities. Ongoing throughout Project activities.</p> | <p>Inyo County</p> |

|   |   |                    |
|---|---|--------------------|
| <p>consecutive surveys using perpendicular survey routes for desert tortoise are documented. Should desert tortoise presence be confirmed during the survey, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance and minimization measures.</p>  |   |                    |
| <p><b>MM BIO-3: Desert Kit Fox</b><br/>       No more than 14 days prior to the beginning of ground disturbance and/or Project activities, a qualified biologist shall conduct pre-construction surveys to determine if potential desert kit fox burrows/dens are present in the Project area. Pre-construction surveys should include 100-percent visual coverage of the Project area and cannot be combined with other surveys conducted for other species while using the same personnel. If the pre-construction surveys confirm occupied desert kit fox habitat, Project activities shall be immediately halted, and the qualified biologist shall notify CDFW and USFWS to develop avoidance, minimization, and mitigation measures. No disturbance of active dens shall take place when juvenile desert kit fox may be present and dependent on parental care.</p>   | <p>No more than 14 days prior to beginning any Project activities.</p>                                  | <p>Inyo County</p> |
| <p><b>MM-BIO 4: Mohave Ground Squirrel</b><br/>       Prior to commencement of Project activities, focused surveys should be conducted by a qualified biologist, at the appropriate time of year and time of day when Mohave ground squirrel is active or otherwise identifiable, according to the protocols in the Mohave Ground Squirrel Survey Guidelines (CDFG, 2010 or most recent version). Should Mohave ground squirrel presence be confirmed during the survey, Project activities shall be immediately halted, and the qualified biologist shall notify CDFW.</p> <p>Preconstruction surveys following the Mohave Ground Squirrel Survey Guidelines (CDFG, 2010 or most recent version) shall be performed by a qualified biologist authorized by a Memorandum of Understanding issued by CDFW. The preconstruction surveys shall cover the Project area and a 50-foot buffer zone. Should Mohave ground squirrel presence be confirmed during the survey, the qualified biologist shall notify CDFW and the Project proponent shall obtain an ITP for Mohave ground squirrel prior to the start of Project activities.</p> | <p>Prior to construction and issuance of any grading permit. Ongoing throughout Project activities.</p> | <p>Inyo County</p> |

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|--|---|--------------------|
| <p><b>MM BIO-5: Nesting Birds</b><br/>       Regardless of the time of year, nesting bird surveys shall be conducted by a qualified avian biologist no more than three (3) days prior to vegetation clearing or ground disturbance activities. Preconstruction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the preconstruction nesting bird surveys, a Nesting Bird Plan (NBP) shall be prepared and implemented by the qualified avian biologist. At a minimum, the NBP shall include guidelines for addressing active nests, establishing buffers, ongoing monitoring, establishment of avoidance and minimization measures, and reporting. The size and location of all buffer zones, if required, shall be based on the nesting species, individual/pair's behavior, nesting stage, nest location, its sensitivity to disturbance, and intensity and duration of the disturbance activity. To avoid impacts to nesting birds, any grubbing or vegetation removal shall occur outside peak breeding season.</p> | <p>Within 3 days of beginning any vegetation clearing or ground disturbing activities.</p>              | <p>Inyo County</p> |
| <p><b>MM BIO-6: Special Status Plants</b><br/>       A focused plant survey shall be conducted by a qualified biologist for rare plants prior to commencing Project activities when most plant species would be identifiable. The survey should follow CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Species Native Plant Populations and Natural Communities (CDFW 2018 or most recent version), and survey results should report any additional special status plant species found to be present in the Project area. Should any special status plants be present in the Project area, a qualified restoration specialist shall assess whether perennial species may be successfully transplanted to an appropriate natural site or whether on-site or off-site conservation is warranted to mitigate Project impacts. If successful transplantation of perennial species is determined by a qualified restoration specialist, the receiver site shall be identified, and transplantation shall occur at the appropriate time of year. Additionally, the qualified restoration specialist shall perform seed collection and dispersal from special status annual plant species to a natural site as a</p>                            | <p>Prior to construction and issuance of any grading permit. Ongoing throughout Project activities.</p> | <p>Inyo County</p> |

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| <p>conservation strategy to minimize and mitigate Project impacts. If these measures are implemented, monitoring of plant populations shall be conducted annually for 5 years to assess the mitigation's effectiveness. The performance standard for mitigation shall be no net reduction in the size or viability of the local population.</p>  |  |                    |
| <p><b>MM BIO-7: Minimizing Impacts</b><br/>         A qualified biologist shall be on-site prior to and during all ground- and habitat-disturbing activities to move out of harm's way wildlife that would otherwise be injured or killed from Project-related activities. Movement of wildlife out of harm's way should be limited to only those individuals that would otherwise be injured or killed, and individuals should be moved only as far as necessary to ensure their safety. Measures shall be taken to prevent wildlife from re-entering the Project site. Only biologists authorized by a Memorandum of Understanding issued by CDFW shall move CESA-listed species.</p>  | <p>Ongoing during Project activities.</p>  | <p>Inyo County</p> |
| <p><b>MM BIO-8: Employee Education Program</b><br/>         A qualified biologist shall conduct an education program for all persons employed or otherwise working on the Project site prior to performing any work on-site. The program shall consist of a presentation that includes a discussion of the biology of the habitats and species that may be present at the site. The qualified biologist shall also include as part of the education program information about the distribution and habitat needs of any special status species that may be present, legal protections for those species, penalties for violations, and mitigation measures. The Employee Education Program should include, but not be limited to: (1) Best practices for managing waste and reducing activities that can lead to increased occurrences of opportunistic species and the impacts these species can have on wildlife in the area. (2) Protected species that have the potential to occur on the Project site including, but not limited to, burrowing owl, desert tortoise, desert kit fox, American badger, Mohave ground squirrel, rare and sensitive plants, and nesting birds. Interpretation shall be provided for any non-English speaking workers, and the same instruction shall be provided for any new workers prior to their performing any work on-site.</p> | <p>Prior to any person performing work on-site. Ongoing throughout Project activities.</p> | <p>Inyo County</p> |

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|--|--|--------------------|
| <p><b>MM BIO-9: Pesticides</b><br/>         Prior to construction and issuance of any grading permit, Inyo County shall develop a plan with measures to avoid, minimize, or mitigate the impacts of pesticides used in cannabis cultivation, including fungicides, herbicides, insecticides, and rodenticides. The plan should include, but is not limited to, the following elements: (1) Proper use, storage, and disposal of pesticides, in accordance with manufacturers' directions and warnings. (2) Avoidance of pesticide use where toxic runoff may pass into waters of the State, including ephemeral streams. (3) Avoidance of pesticides that cannot be used on cannabis in the state of California, as set forth by the Department of Pesticide Regulation. (4) Avoidance of anticoagulant rodenticides and rodenticides with "flavorizers". (5) Avoidance of sticky/glue traps. (6) Inclusion of alternatives to toxic rodenticides, such as sanitation (removing food sources such as pet food, cleaning up refuse, and securing garbage in sealed containers) and physical barriers.</p> | <p>Prior to construction and issuance of any grading permit.</p> | <p>Inyo County</p> |
| <p><b>MM BIO-10: Artificial Light</b><br/>         Light shall not be visible outside of any structure used for cannabis cultivation. Employ blackout curtains where artificial light is used to prevent light escapement. Eliminate all nonessential lighting from cannabis sites and avoid or limit the use of artificial light during the hours of dawn and dusk when many wildlife species are most active. Ensure that lighting for cultivation activities and security purposes is shielded, cast downward and toward developed areas, and does not spill over onto other properties or upward into the night sky (see the International Dark-Sky Association standards at <a href="http://darksky.org/">http://darksky.org/</a>). Use LED lighting with a correlated color temperature of 3,000 Kelvins or less, properly dispose of hazardous waste, and recycle lighting that contains toxic compounds with a qualified recycler.</p>   | <p>Ongoing throughout Project activities.</p>                    | <p>Inyo County</p> |
| <p><b>MM BIO-11: LSA Program</b><br/>         Prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from CDFW stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project Sponsor should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and</p>  | <p>Prior to construction and issuance of any grading permit.</p> | <p>Inyo County</p> |

Graham Meese, Assistant Planner  
August 9, 2021  
Page 22

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|---|--|--|
| Game Code section 1602 resources associated with the Project. |  |  |
|---|--|--|



**Planning Department  
168 North Edwards Street  
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**AGENDA ITEM NO.:** 7 (Action Item – Public Hearing)  
**PLANNING COMMISSION MEETING DATE:** September 22, 2021  
**SUBJECT:** Conditional Use Permit (CUP) 2021-05/Cluff

#### **EXECUTIVE SUMMARY**

The Applicant Ken Cluff, of Cardinal Village Resort, is applying for a CUP to expand the uses at a legally non-conforming “resort” and cause it to be conforming to the Open Space zoning designation in which it is located. The Cardinal Village Resort has been operational for almost 70 years providing lodging, dining, and recreational opportunities near the community of Aspendell, west of Bishop. The applicant is applying for the CUP so he can expand the services to include serving alcoholic beverages. No new construction is being proposed at this time.

#### **PROJECT INFORMATION.**

**Supervisory District:** 1

**Project Applicant:** Ken Cluff, Cardinal Village Resort

**Property Owner:** Ken and ShaleAnn Cluff

**Site Address:** 311 Cardinal Rd. Bishop, CA 93514

**Community:** Aspendell, CA

**A.P.N.:** 014-050-22

**General Plan:** Rural Protection (RP)

**Zoning:** Open Space with a forty-acre minimum (OS-40)

**Size of Parcel:** Approximately 4.9 acres

**Surrounding Land Use:**

| <b>Location:</b> | <b>Use:</b>                         | <b>Gen. Plan Designation</b>  | <b>Zoning</b>                        |
|------------------|-------------------------------------|-------------------------------|--------------------------------------|
| Site             | Resort- Lodging, dining, recreation | Rural Protection (RP)         | Open Space - 40 acre minimum (OS-40) |
| North            | Forest Service Cabins & Open Space  | State and Federal Lands (SFL) | Open Space - 40 acre minimum (OS-40) |
| East             | Vacant/Open Space                   | State and Federal Lands (SFL) | Open Space - 40 acre minimum (OS-40) |
| South            | Vacant/Open Space                   | State and Federal Lands (SFL) | Open Space - 40 acre minimum (OS-40) |
| West             | Vacant/Open Space                   | State and Federal Lands (SFL) | Open Space - 40 acre minimum (OS-40) |

**Staff Recommended Action:** **1.) Approve the Conditional Use Permit (CUP) 2021-05/Cluff and find the project is exempt under CEQA.**

**Alternatives:**

- 1.) Deny the CUP.
- 2.) Approve the CUP with additional Conditions of Approval.
- 3.) Continue the public hearing to a future date, and provide specific direction to staff regarding what additional information and analysis is needed.

**Project Planner:** Graham Meese

**STAFF ANALYSIS**

Background and Overview

The Applicant Ken Cluff, of Cardinal Village Resort, is applying for a CUP to expand the uses at a legally non-conforming “resort” and cause it to be conforming to the Open Space zoning designation in which it is located. The Cardinal Village Resort has been operational for almost 70 years providing lodging, dining, and recreational opportunities near the community of Aspendell, west of Bishop. The resort has operated as legally nonconforming under 81.78.230, but the applicant would like to expand the services provided by the resort to include serving alcoholic beverages and must obtain a CUP per Inyo County Code 18.78.240. No new construction is being proposed at this time.

The general project area is in a location surrounded by open space, with two USFS cabins and the community of Aspendell approximately ¼ mile to the north.



Vicinity Map

Vicinity Map

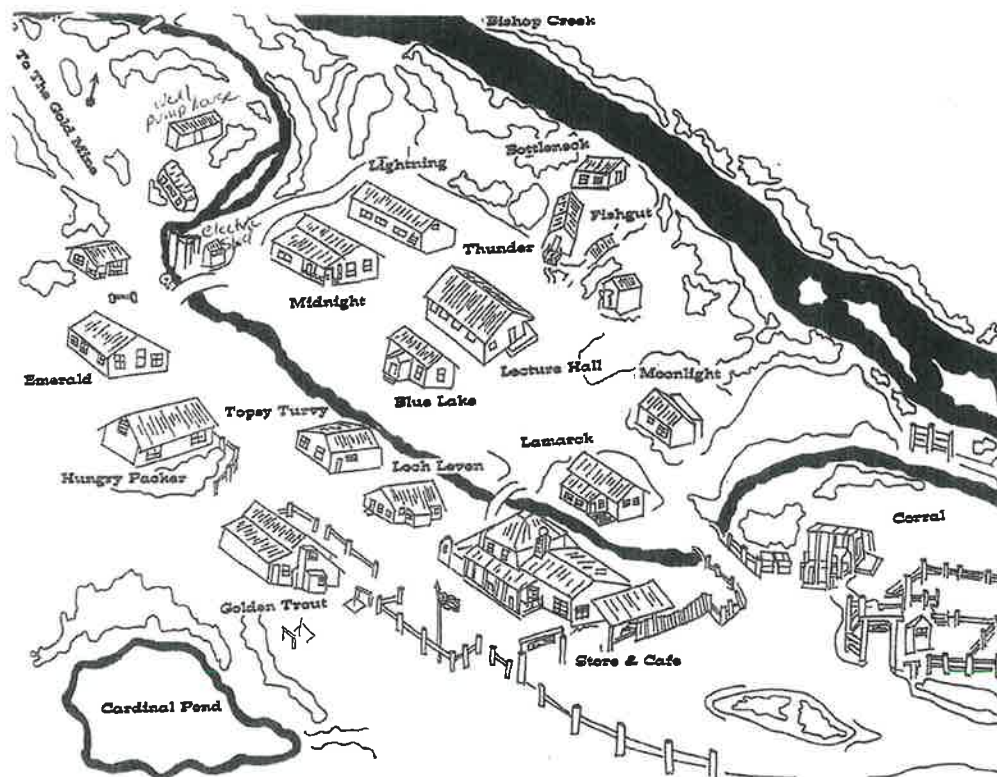


Site Map

Site Map



## Resort Layout



### General Plan Consistency

The goal of this project is to allow for an established legally nonconforming resort use on the site to continue in compliance with County's zoning ordinance. The project is consistent with the General Plan designation of Rural Protection (RP), as it allows for the managed production of natural resources and recreation uses. The Cardinal Village Resort provides low-intensity recreational opportunities and has been a fishing preserve since its creation in the 1940's. It is also compatible with the General Plan's Economic Development Element's Goal ED-2: Bring more destination-spending into Inyo County. The continued operation and opportunity to expand the services provided will create a boost to the local economy while people are staying the resort. It also provides about 12-16 full time seasonal jobs during the summer and 2 part time jobs during the winter.

### Zoning Ordinance Consistency

The purpose of the Open Space zoning designation is to encourage the protection of mountainous, hilly upland, and valley areas from detrimental effects of intensive land use activities, and allows for "resorts" a permitted conditional use. Cardinal Village Resort is an established low impact recreational use at the site and the applicant is seeking the CUP to continue to operate the resort in compliance with County's zoning ordinance.

## **ENVIRONMENTAL REVIEW**

Conditional Use Permit 2021-05/Cluff is Categorical Exempt under CEQA Guidelines 15301, Existing Facilities – Class 1. Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The CUP is being applied for to permit the operation of an existing resort with a minor use alteration of allowing for alcoholic beverage service, causing it to be Exempt.

Additionally, any future replacement or reconstruction of the existing structures would be covered under Class 2 (15302) and any new construction or conversion of small structures would likely be covered under Class 3 (15303). No new construction is being proposed at this time, however.

## **NOTICING & REVIEW**

The application for CUP 2021-05/Cluff has been reviewed by the appropriate County departments with no comments indicating there are any issues with the request.

A public hearing notice was published in the Inyo Register on September 9<sup>th</sup> and mailed to property owners within 300-feet of the project location. No comments have been received by staff to date.

## **RECOMMENDATION**

Planning Department staff recommends the approval of CUP No. 2021-05/Cluff, with the following Findings and Conditions of Approval:

## **FINDINGS**

1. The proposed CUP is exempt under CEQA Guidelines 15301, Existing Facilities – Class 1; 15302, replacement or reconstruction of existing facilities – Class 2; and 15303, construction or conversion of Small Structures – Class 3; and, the provisions of the California Environmental Quality Act have been satisfied.

*[Evidence: Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The CUP is being applied for to permit the operation of an existing resort with a minor use expansion to allow for alcoholic beverage service, causing it to be Exempt. Additionally, any future replacement or reconstruction of the existing structures would be covered under Class 2 (15302) and any new construction or conversion of small structures would likely be covered under Class 3 (15303). No new construction is being proposed at this time.]*

2. The proposed CUP is consistent with the Inyo County General Plan Land Use designation of Rural Protection (RP).  
*[Evidence: The goal of this project is to allow for an established legally nonconforming resort use on the site to continue in compliance with County's zoning ordinance. The project is consistent with the General Plan designation of Rural Protection (RP), as it allows for the managed production of natural resources and recreation uses. The Cardinal Village Resort provides low-intensity recreational opportunities and has been a fishing preserve since its creation in the 1940's. It is also compatible with the General Plan's Economic Development Element's Goal ED-2: Bring more destination-spending into Inyo County. The continued operation and opportunity to expand the services provided will create a boost to the local economy while people are staying the resort.]*
  
3. The proposed CUP is consistent with the Inyo County Zoning Ordinance, which permits "resorts" as a conditional use in Open Space.  
*[Evidence: The purpose of the Open Space zoning designation is to encourage the protection of mountainous, hilly upland, and valley areas from detrimental effects of intensive land use activities, and allows for "resorts" a permitted conditional use. Cardinal Village Resort is an established low impact recreational use at the site and the applicant is seeking the conditional use permit to continue to operate the resort in compliance with County's zoning ordinance.]*
  
4. The proposed CUP is necessary or desirable.  
*[Evidence: The General Plan's Economic Development Element's Goal ED-2 states: 'Bring more destination spending into Inyo County'. Cardinal Village Resort provides lodging, dining, and recreational opportunities. This creates a boost to the local economy while people are staying the resort. It also provides about 12-16 full time seasonal jobs during the summer and 2 part time jobs during the winter; therefore, this is a desirable use.]*
  
5. The proposed CUP is properly related to other uses and transportation and service facilities in the vicinity.  
*[Evidence: The proposed CUP is to make an existing use and associated buildings compliant with the County's Zoning Code. It will not change or increase the current level or type of use; and therefore, will have no impact on transportation or service facilities in the vicinity.]*
  
6. The proposed CUP would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.  
*[Evidence: The CUP is being proposed to make an existing use compliant the County's Zoning Code. It will not change or increase the current level or type of use; and therefore, it will not create impacts on the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.]*

7. Operating requirements necessitate the CUP for the site.  
*[Evidence: The use of the property as a resort requires a CUP per permit per Inyo County Code Section 18.12.040, but has been operating as legally nonconforming per Inyo County Code Section 18.78.230. The applicant would like to expand the services provided by the resort to include alcoholic beverage service, therefore per Inyo County Code 18.78.240, the CUP is necessary for the continued operations at the site.]*

## **CONDITIONS OF APPROVAL**

### **1. Hold Harmless**

The applicant/developer shall defend, indemnify and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul an approval of the county, its advisory agencies, its appeals board, or legislative body concerning CUP No. 2021-05/Cluff. The County reserves the right to prepare its own defense.

### **2. Compliance with County Code**

The applicant/developer shall conform to all applicable provisions of Inyo County Code. If the use provided by this conditional use permit is not established within one year of the approval date it will become void.



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**AGENDA ITEM NO.:** 8 (Action Item – Public Hearing)

**PLANNING COMMISSION MEETING DATE:** September 22, 2021

**SUBJECT:** **Violation of Conditional Use Permit (CUP) 2019-01/Shade Grown Farms**

**EXECUTIVE SUMMARY**

On February 27, 2019, the applicant, Lowell Shade, was approved for a CUP to operate a commercial cannabis cultivation operation located at 140 Agate Street in the community of Stewart Valley (staff report and Notice of Decision attached). The CUP was conditioned with, among other things, a requirement to conform to all applicable provisions of the Inyo County Code and State Regulations. Mr. Shade has failed to meet this condition with regard to building and safety code.

**PROJECT INFORMATION.**

**Supervisory District:** 5

**Project Applicant:** Shade Grown Farms LLC

**Property Owner:** Lowell Shade

**Site Address/** 140 Agate Street, Stewart Valley, CA

**Community:** Stewart Valley

**A.P.N.:** 048-540-08

**General Plan:** Residential Estate (RE)

**Zoning:** Rural Residential with a 5-acre minimum (RR-5)

**Size of Parcel:** Approximately 5-acres

**Surrounding Land Use:**

| <b>Location:</b> | <b>Use:</b>                                     | <b>Gen. Plan Designation</b> | <b>Zoning</b>                                  |
|------------------|---|------------------------------|--|
| Site             | Residential and horse stables/arena/greenhouses | Residential Estate (RE)      | Rural Residential with a 5-acre minimum (RR-5) |
| North            | Vacant  | N/A State of Nevada          | N/A State of Nevada                            |
| East             | Vacant  | N/A State of Nevada          | N/A State of Nevada                            |
| South            | Vacant  | Residential Estate (RE)      | Rural Residential with a 5-acre minimum (RR-5) |
| West             | Vacant  | Residential Estate (RE)      | Rural Residential with a 5-acre minimum (RR-5) |

**Staff Recommended Action:**            **1.) Revoke the Conditional Use Permit (CUP) 2019-01/Shade Grown Farms with the Findings as provided in the staff report and Certify this action is exempt under CEQA.**

**Alternatives:**                                    1.) Do not revoke the CUP.  
2.) Continue the public hearing to a future date, and provide specific direction to staff regarding what additional information and analysis is needed.

**Project Planner:**                                    Cathreen Richards

**STAFF ANALYSIS**

Background and Overview

On February 27, 2019 the Planning Commission, upon the recommendation of staff, approved a CUP for the applicant, Lowell Shade, to operate a commercial cannabis cultivation operation at 140 Agate Drive in the community of Stewart Valley (see map below). The project proposal included growing cannabis plants of a variety of strains as well as processing the mature plants, which entails drying, curing, trimming and packaging at the project site.

This CUP was approved with several conditions of approval, these are:

1. The applicant shall provide adequate water and septic systems, public restrooms, and a plan for pesticide and fertilizer use, storage and removal to the satisfaction of the Inyo County Environmental Health Department prior to any Building Permits being granted. Failure to provide shall also cause revocation of CUP 2019-01/Shade Grown Farms.
  
2. **Hold Harmless**  
The applicant/developer shall defend, indemnify and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul an approval of the county, its advisory agencies, its appeals board, or



legislative body concerning Conditional Use Permit No. CUP 2019-01/Shade Grown Farms. The County reserves the right to prepare its own defense.

**3. Compliance with County Code**

The applicant/developer shall conform to all applicable provisions of Inyo County Code and State regulations. If the use provided by this conditional use permit is not established within one year of the approval date it will become void.

Mr. Shade was given information regarding the building and environmental health departments' requirements and permitting processes. Since the approval, the environmental health department has verbally agreed that Mr. Shade has changed his operations enough that he meets their conditions and/or that some of those conditions no longer apply.

With regard to Condition #3, it requires compliance with Title 14 the County Building and Safety Code, which incorporates by reference the California Building and Safety Code. Mr. Shade has been advised of this on numerous occasions. Instead of honoring the Conditions of Approval of his CUP, Mr. Shade has erected greenhouses on the property without the benefit of building permits. Electrical and plumbing work has also been conducted without permits. Also, during this time Mr. Shade has been growing cannabis in violation of the terms of his CUP.

Building and safety department staff notified the Planning Department of Mr. Shade's failure to obtain the appropriate permits for his cannabis operations and of the fact that much of the work that has been done on the property has resulted in a dangerous situation, especially with regard to the electrical work. Building and safety staffs have had numerous conversations with Mr. Shade about these issues and have scheduled several inspections with Mr. Shade that were subsequently cancelled by Mr. Shade.

Any failure to meet the Conditions of Approval on a landuse permit, including a CUP, puts it in violation. Since Mr. Shade has had two years and numerous offers of help and descriptions of what he needs to do to be in compliance, while he has continued to grow cannabis, staff is recommending that the Planning Commission revoke the CUP. The revocation of this CUP will also likely result in Mr. Shade losing his County and State cannabis cultivation licenses.

## Site Location Map



## RECOMMENDATION

Planning Department staff understands the implications of this CUP revocation on Mr. Shade's cannabis business. He has, however, been non-compliant with the Conditions of Approval set forth for the CUP for over 2-years. Building and safety staffs have tried during this time to help Mr. Shade with the permitting process to no avail; therefore, staff is recommending that the Planning Commission revoke CUP 2019-01/Shade Grown Farms.

## Findings

The Notice of Violation was properly served to Mr. Lowell Shade, as the owner of the property and the permit holder.

*[Evidence: Copies of the Notice were sent via US mail and via email on August 11, 2021.]*

This hearing was properly noticed.

*[Evidence: Notice of the date of his hearing was provided in the Inyo Register and mailed to property owners within 1,500-feet of the project property location on September 11, 2021, which is more than 10 days before the date of this hearing.]*

Lowell Shade is in violation of the Conditions of Approval required for CUP 2019-01/Shade Grown Farms.

*[Evidence: CUP 2019-01/Shade Grown Farms was approved on February 27, 2019. Mr. Shade has been engaged in commercial cannabis cultivation since the approval without the benefit of proper building, plumbing or electrical permits, which is required by Condition #3 of CUP 2019-01/Shade Grown Farms.]*

This action is Exempt from CEQA under 15321- Enforcement Actions by Regulatory Agencies.

#### **ATTACHMENTS**

- Staff Report
- Notice of Decision



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**AGENDA ITEM NO.:** 10 (Action Item – Public Hearing)

**PLANNING COMMISSION MEETING DATE:** February 27, 2019

**SUBJECT:** Conditional Use Permit (CUP) 2019-01/Shade Grown Farms

**EXECUTIVE SUMMARY**

The applicant has applied for a CUP to operate a commercial cannabis cultivation operation located at 140 Agate Street in the community of Stewart Valley. The applicant has been approved by the Board of Supervisors for a Cannabis Cultivation, under 5,000-square-foot Business License (Attached).

**PROJECT INFORMATION.**

**Supervisory District:** 5

**Project Applicant:** Shade Grown Farms LLC

**Property Owner:** Lowell Shade

**Site Address/** 140 Agate Street, Stewart Valley, CA

**Community:** Stewart Valley

**A.P.N.:** 048-540-08

**General Plan:** Residential Estate (RE)

**Zoning:** Rural Residential with a 5-acre minimum (RR-5)

**Size of Parcel:** Approximately 5-acres

**Surrounding Land Use:**

| <b>Location:</b> | <b>Use:</b>                                     | <b>Gen. Plan Designation</b> | <b>Zoning</b>                                  |
|------------------|---|------------------------------|--|
| Site             | Residential and horse stables/arena/greenhouses | Residential Estate (RE)      | Rural Residential with a 5-acre minimum (RR-5) |
| North            | Vacant  | N/A State of Nevada          | N/A State of Nevada                            |
| East             | Vacant  | N/A State of Nevada          | N/A State of Nevada                            |
| South            | Vacant  | Residential Estate (RE)      | Rural Residential with a 5-acre minimum (RR-5) |
| West             | Vacant  | Residential Estate (RE)      | Rural Residential with a 5-acre minimum (RR-5) |

**Staff Recommended Action:**                    **1.) Approve the Conditional Use Permit (CUP) 2019-01/Shade Grown Farms with the Findings and Conditions as provided in the staff report and Certify it is exempt under CEQA.**

**Alternatives:**    1.) Deny the CUP.  
2.) Approve the CUP with additional Conditions of Approval.  
3.) Continue the public hearing to a future date, and provide specific direction to staff regarding what additional information and analysis is needed.

**Project Planner:**    Cathreen Richards

**STAFF ANALYSIS**

Background and Overview

The applicant applied for a CUP to operate a commercial cannabis cultivation operation, located at 140 Agate Drive in the community of Stewart Valley. This establishment will grow cannabis plants of a variety of strains. The mature plants will also be dried, cured, trimmed and packaged at the project site. The property is zoned RR-5.0 which allows for commercial cannabis cultivation with a CUP. The surrounding area is vacant and zoned RR, with the exception of north and east, which is located in the State of Nevada, but is also vacant. The proposed location is not within 600-feet of a school, daycare, park or library; and therefore, is not prohibited by state or county exclusion areas.

The property proposed for Shade Grown Farms was previously used as rodeo grounds. It is developed and highly disturbed. There is a single-family home where the owner/grower will reside. Currently there are 6 greenhouses located on the property. Three of these greenhouses are proposed to be updated, improved for cannabis cultivation, and permitted through the County Building and Safety Department. Each is approximately 3,000-square-feet and can accommodate about 3,000 plants.

The applicant states that the proposed cultivation operation will require 1,000-1,500 gallons of water per week, through metered drip lines. This amount of water use is minimal and is similar to what a second residential dwelling (accessory dwelling unit)

would use, which is a principle permitted use in the RR zone. The average California household water use is 85-gallons per person. Even a small household of 2-people would use a comparable amount - close to 1,200-gallons per week.

Transport of the packaged product will happen at the end of the harvest season. A transportation company will pick up product from the site. The applicant estimates that at first there will be a weekly pickup and they could have up to approximately 2 to 3 pickups per week as the business grows. This amount of additional traffic on Ash Meadows Road is minimal.

The applicant is currently working with the Environmental Health Department to address water, septic, public restrooms and pesticide and fertilizer use, storage and disposal. The project will be conditioned on the completion of these issues to the satisfaction of the Environmental Health Department.

#### Site Location Map



Pictures of the Project Property



### General Plan Consistency

The goal of this project is to allow for a commercial cannabis cultivation operation. The project is consistent with the General Plan designation of RE as it applies to areas with large lot residential development, in rural areas where the open characteristics of the area are maintained. The RE General Plan designation is compatible with the existing RR zoning designation. It is also compatible with the General Plan's Conservation and Open Space Element's Goal Agriculture (AG) 1.0: Provide and maintain a viable and diverse agriculture industry in Inyo County. The applicant is proposing to grow cannabis to sell. This activity is consistent with Goal AG 1.0 as it provides for a more diverse agriculture industry than is currently present in the County.

### Zoning Ordinance Consistency

The RR zoning designation allows for agriculture uses along with residential. Commercial cannabis cultivation is also allowed in the RR zone with a Conditional Use Permit on lots greater than 2.5-acres in Stewart Valley. The applicant has applied for the conditional use permit to operate Shade Grown Farms in compliance with the County's zoning ordinance.

### **ENVIRONMENTAL REVIEW**

Pursuant to the California Environmental Quality Act (CEQA), the proposal is covered by the General Rule 15061(b) (3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This application for a CUP is for a property that is already developed, denuded of vegetation and is highly disturbed; the proposed activities will result in no change to the impact of uses than are possible without the CUP or currently or historically conducted on the property; and, Pursuant to the California Environmental Quality Act (CEQA), potential, subsequent, development to this proposal falls into the Categorical Exemption Class 3 New Construction or Conversion of Small Structures (15303)(a) One single-family residence, or a second dwelling unit in a residential zone. . . . may be constructed or converted under this exemption.

### **NOTICING & REVIEW**

The application for CUP 2019-01/Shade Grown Farms has been reviewed by the appropriate county departments and no issues were reported, other than those being addressed by the applicant with the Environmental Health Department. For a conditional use permit to be approved by the Planning Commission, a Cannabis Business License must be approved prior. Shade Grown Farms was approved for a business license by the Board of Supervisors on December 18, 2018 after a thorough review and scoring by the Commercial Cannabis Permitting Office. This included reviews by the Environmental Health and Sheriff's departments.

CUP 2019-01/Shade Grown Farms was noticed on February 16, 2019 in the Inyo Register and mailed to property owners within 1,500-feet of the project location as required by Inyo County Code 18.78.360(F). No comments have been received by staff to date.



## RECOMMENDATION

Planning Department staff recommends the approval of CUP 2019-01/Shade Grown Farms with the following Findings and Conditions of Approval:

## FINDINGS

1. The proposed Conditional Use Permit is Exempt by the General Rule 15061(b)(3) and the provisions of the California Environmental Quality Act have been satisfied.

*[Evidence: The General Rule 15061(b) (3) states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This application for a CUP is for a property that is already developed, denuded of vegetation and is highly disturbed; the proposed activities will result in no change to the impact of uses than are possible without the CUP; or of currently or historically conducted uses and activities on the property; and, Pursuant to the California Environmental Quality Act (CEQA), potential, subsequent, development to this proposal falls into the Categorical Exemption Class 3 New Construction or Conversion of Small Structures (15303)(a) One single-family residence, or a second dwelling unit in a residential zone. . . . may be constructed or converted under this exemption.]*

2. The proposed Conditional Use Permit is consistent with the Inyo County General Plan Land Use designation of Retail Commercial (RC).

*[Evidence: The goal of this project is to allow for a commercial cannabis cultivation operation under 5,000-square-foot retail establishment on a parcel of land with a RE General Plan designation. The project is consistent with the General Plan designation of RE as it applies to areas with large lot residential development, in rural areas where the open characteristic of the area are maintained. The RE General Plan designation is compatible with the existing RR zoning designation that is found on the property. It is also compatible with the General Plan's Conservation and Open Space Element's Goal - Agriculture (AG) 1.0 that states: Provide and maintain a viable and diverse agriculture industry in Inyo County. The applicant is proposing to grow cannabis to sell. This activity is consistent with Goal AG 1.0 as it provides for a more diverse agriculture industry than is currently present in the County. Due to these factors, the project is consistent with goals, policies and objectives of the County's General Plan.]*

3. The proposed Conditional Use Permit is consistent with the Inyo County Zoning Ordinance, which permits "commercial cannabis cultivation activities" as a conditional use in the RR zone.

*[Evidence: The Rural Residential (RR) zoning designation allows for agriculture along with residential as principle permitted uses and also allows for commercial cannabis cultivation with a Conditional Use Permit on lots greater than 2.5-acres in Stewart Valley. The applicant has applied for the conditional use permit to operate Shade Grown Farms in compliance with the County's zoning ordinance.]*

*and upon approval of the CUP will be consistent with the County's Zoning Ordinance.]*

4. The proposed Conditional Use Permit is necessary or desirable.  
*[Evidence: The General Plan's Conservation and Open Space Element's Goal Agriculture (AG) 1.0 states: Provide and maintain a viable and diverse agriculture industry in Inyo County. The applicant is proposing to grow cannabis to sell. This activity is consistent with Goal AG 1.0 as it provides for a more diverse agriculture industry than is currently present in the County, which is desirable as evidenced by the County's General Plan.]*
5. The proposed Conditional Use Permit is properly related to other uses and transportation and service facilities in the vicinity.  
*[Evidence: The proposed conditional use permit is for a commercial cannabis cultivation establishment to operate in a rural area on a location that is already developed and highly disturbed. It is related the to rural, agriculture and open space nature of the area and will not cause impacts on transportation or service facilities in the vicinity as these facilities are already located on and provide access to the property.]*
6. The proposed Conditional Use Permit would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.  
*[Evidence: The proposed conditional use permit is for a commercial cannabis cultivation establishment to operate in a rural area on a location that is already developed and highly disturbed. This establishment will not change or increase the current level or general type of allowed uses in the vicinity, which is very rural and remote. The proposed security plan for Shade Grown Farms was reviewed by the Sheriff's Department as a business license requirement; therefore, CUP 2019-01/Shade Grown Farms will not create impacts on the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.]*
7. Operating requirements necessitate the Conditional Use Permit for the site.  
*[Evidence: A commercial cannabis cultivation operation in the RR zone requires a conditional use permit per Inyo County Code Section 18.21.040(I) and is therefore necessary for the operation of Shade Grown Farms.]*

#### **CONDITIONS OF APPROVAL**

1. The applicant shall provide adequate water and septic systems, public restrooms, and a plan for pesticide and fertilizer use, storage and removal to the satisfaction of the Inyo County Environmental Health Department prior to any Building Permits being granted. Failure to provide shall also cause revocation of CUP 2019-01/Shade Grown Farms.

**2. Hold Harmless**

The applicant/developer shall defend, indemnify and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul an approval of the county, its advisory agencies, its appeals board, or legislative body concerning Conditional Use Permit No. CUP 2019-01/Shade Grown Farms. The County reserves the right to prepare its own defense.

**3. Compliance with County Code**

The applicant/developer shall conform to all applicable provisions of Inyo County Code and State regulations. If the use provided by this conditional use permit is not established within one year of the approval date it will become void.

**ATTACHMENT**

- Shade Grown Farms Business License



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**NOTICE OF DECISION**

March 20, 2019

Lowell Shade  
50 Emery Street, Apt #421  
Pahrump, NV 89048

**SUBJECT: Approval of Conditional Use Permit (CUP) 2019-01/Shade Grown Farms**

On February 27, 2019 the Inyo County Planning Commission considered the above action, which allows for a commercial cannabis cultivation operation located at 140 Agate Street in the community of Stewart Valley.

After deliberation, the Planning Commission voted 5-0 to approve the project with the following Findings and Conditions of Approval:

**FINDINGS**

1. The proposed Conditional Use Permit is Exempt by the General Rule 15061(b)(3) and the provisions of the California Environmental Quality Act have been satisfied.  
*[Evidence: The General Rule 15061(b) (3) states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This application for a CUP is for a property that is already developed, denuded of vegetation and is highly disturbed; the proposed activities will result in no change to the impact of uses than are possible without the CUP; or of currently or historically conducted uses and activities on the property; and, Pursuant to the California Environmental Quality Act (CEQA), potential, subsequent, development to this proposal falls into the Categorical Exemption Class 3 New Construction or Conversion of Small Structures (15303)(a) One single-family residence, or a second dwelling unit in a residential zone. . . . may be constructed or converted under this exemption.]*

2. The proposed Conditional Use Permit is consistent with the Inyo County General Plan Land Use designation of Retail Commercial (RC).  
*[Evidence: The goal of this project is to allow for a commercial cannabis cultivation operation under 5,000-square-foot retail establishment on a parcel of land with a RE General Plan designation. The project is consistent with the General Plan designation of RE as it applies to areas with large lot residential development, in rural areas where the open characteristic of the area are maintained. The RE General Plan designation is compatible with the existing RR zoning designation that is found on the property. It is also compatible with the General Plan's Conservation and Open Space Element's Goal - Agriculture (AG) 1.0 that states: Provide and maintain a viable and diverse agriculture industry in Inyo County. The applicant is proposing to grow cannabis to sell. This activity is consistent with Goal AG 1.0 as it provides for a more diverse agriculture industry than is currently present in the County. Due to these factors, the project is consistent with goals, policies and objectives of the County's General Plan.]*
3. The proposed Conditional Use Permit is consistent with the Inyo County Zoning Ordinance, which permits "commercial cannabis cultivation activities" as a conditional use in the RR zone.  
*[Evidence: The Rural Residential (RR) zoning designation allows for agriculture along with residential as principle permitted uses and also allows for commercial cannabis cultivation with a Conditional Use Permit on lots greater than 2.5-acres in Stewart Valley. The applicant has applied for the conditional use permit to operate Shade Grown Farms in compliance with the County's zoning ordinance. and upon approval of the CUP will be consistent with the County's Zoning Ordinance.]*
4. The proposed Conditional Use Permit is necessary or desirable.  
*[Evidence: The General Plan's Conservation and Open Space Element's Goal Agriculture (AG) 1.0 states: Provide and maintain a viable and diverse agriculture industry in Inyo County. The applicant is proposing to grow cannabis to sell. This activity is consistent with Goal AG 1.0 as it provides for a more diverse agriculture industry than is currently present in the County, which is desirable as evidenced by the County's General Plan.]*
5. The proposed Conditional Use Permit is properly related to other uses and transportation and service facilities in the vicinity.  
*[Evidence: The proposed conditional use permit is for a commercial cannabis cultivation establishment to operate in a rural area on a location that is already developed and highly disturbed. It is related the to rural, agriculture and open space nature of the area and will not cause impacts*

*on transportation or service facilities in the vicinity as these facilities are already located on and provide access to the property.]*

6. The proposed Conditional Use Permit would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.

*[Evidence: The proposed conditional use permit is for a commercial cannabis cultivation establishment to operate in a rural area on a location that is already developed and highly disturbed. This establishment will not change or increase the current level or general type of allowed uses in the vicinity, which is very rural and remote. The proposed security plan for Shade Grown Farms was reviewed by the Sheriff's Department as a business license requirement; therefore, CUP 2019-01/Shade Grown Farms will not create impacts on the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.]*

7. Operating requirements necessitate the Conditional Use Permit for the site.  
*[Evidence: A commercial cannabis cultivation operation in the RR zone requires a conditional use permit per Inyo County Code Section 18.21.040(I) and is therefore necessary for the operation of Shade Grown Farms.]*

### **CONDITIONS OF APPROVAL**

1. The applicant shall provide adequate water and septic systems, public restrooms, and a plan for pesticide and fertilizer use, storage and removal to the satisfaction of the Inyo County Environmental Health Department prior to any Building Permits being granted. Failure to provide shall also cause revocation of CUP 2019-01/Shade Grown Farms.
2. **Hold Harmless**  
The applicant/developer shall defend, indemnify and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul an approval of the county, its advisory agencies, its appeals board, or legislative body concerning Conditional Use Permit No. CUP 2019-01/Shade Grown Farms. The County reserves the right to prepare its own defense.
3. **Compliance with County Code**  
The applicant/developer shall conform to all applicable provisions of Inyo County Code and State regulations. If the use provided by this conditional use permit is not established within one year of the approval date it will become void.

If there are any questions regarding the above information, please contact the Planning office at (760) 878-0263.

Respectfully,

Cathreen Richards



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**168 North Edwards Street**  
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**AGENDA ITEM NO.:** 09 (Action Item – Public Hearing)

**PLANNING COMMISSION MEETING DATE:** September 22, 2021

**SUBJECT:** Violation of Conditional Use Permit 2007-05/Pruett Ballarat Inc.

### **EXECUTIVE SUMMARY**

This hearing is being held pursuant to a Notice of Hearing issued to the operator of the Radcliff Mine (ID 91-14-0064) on September 3, 2021 (**Exhibit 1**). The mine is located on the western flank of the Panamint Range in Pleasant Canyon, approximately 5 miles east of Ballarat. The Conditional Use Permit 2007-05/Pruett Ballarat (“2008 CUP”) was approved on April 23, 2008 (the staff report and Notice of Decision are attached as **Exhibit 2**). The 2008 CUP contained numerous conditions of approval, including:

#### CONDITION OF APPROVAL

III(2) The Conditional Use Permit is for the mining of the Radcliff mine by the applicant, Pruett Ballarat, Inc. This Conditional Use Permit is issued to the applicant. Any change in ownership, revisions, additions or expansions to the project description contained in the application shall comply with SMARA and other applicable State and Federal laws. .

#### CONDITIONS FOR RECLAMATION PLAN

IV(4) Upon the termination of underground mining activities (exceeding 90 days) all adits to the Radcliff Mine shall be physically sealed to the satisfaction of the Inyo County Planning Department. Backfilling or steel doors will be acceptable.

The Planning Department seeks to revoke the 2008 CUP for two reasons. First, the Radcliff Mine’s operator placed adits outside of the 2008 CUP’s permitted boundaries. The Planning Department gave the operator 1.5 years to fix this issue after it was brought to light, but the problem remains unresolved as of the writing of this staff report. Second, the Radcliff Mine has not been operational since December 2016. The 2008 CUP requires that all adits be sealed should underground mining terminate for more than 90 days.



Pursuant to Inyo County Code § 18.81.120 and 18.81.130, a hearing is being held to determine whether the Planning Commission will / will not 1) find that these violations have occurred and 2) issue an order revoke Conditional Use Permit 2007-05/Pruett Ballarat.

**PROJECT INFORMATION**

**Supervisory District:** 5

**Project Applicant:** John Hagestad with Bush Management.

**Property Owner:** Bush Management Company

**Site Address:** Pleasant Canyon

**Community:** Panamint, CA

**A.P.N.:** 039-240-01

**General Plan:** Rural Protection (RP).

**Zoning:** Open Space, 40 acre minimum (OS-40).

**Size of Parcel:** Approximately 137.52 Acres

**Surrounding Land Use:**

| <b>Location:</b> | <b>Use:</b> | <b>Gen. Plan Designation</b>  | <b>Zoning</b>                        |
|------------------|-------------|-------------------------------|--------------------------------------|
| Site             | Vacant      | Rural Protection (RP)         | Open Space – 40 acre minimum (OS-40) |
| North            | Vacant      | State and Federal Land (SFL)  | Open Space – 40 acre minimum (OS-40) |
| East             | Vacant      | State and Federal Land (SFL)  | Open Space – 40 acre minimum (OS-40) |
| South            | Vacant      | State and Federal Land (SFL)  | Open Space – 40 acre minimum (OS-40) |
| West             | Vacant      | State and Federal Land (SFL ) | Open Space – 40 acre minimum (OS-40) |

**Staff Recommended Action:** 1) Find that these violations have occurred and issue an order revoke the Conditional Use Permit.

**Alternatives:** 1) Dismiss the violations.  
2) Continue the public hearing to a future date, and provide specific direction to staff regarding what additional information and analysis is needed.

**Project Planner:** Ryan Standridge, Associate Planner

## STAFF ANALYSIS

### Background and Overview

The Radcliff / World Beater Mine was first permitted for operation in May 1993. In January 2007, the mine changed hands, and the new owners obtained a new CUP. That CUP is the operative 2008 CUP that is at issue in this hearing. As explained above, the operators of the mine are violating two different conditions of the 2008 CUP. Each violation will be dealt with in turn.

### Violation #1 – Installation of Adits Outside Permitted Boundaries

On June 9, 2020, former mine operator Charles McLaughlin emailed the Planning Department to inform them that he believed that two of the mine's adits (#1 and #6) were located outside of the permitted CUP boundary, despite the fact that the map submitted with and attached to the 2008 CUP showed those two adits to be within the permitted boundaries (**Exhibit 2, page 27**). The County requested that Mr. McLaughlin obtain a map from a licensed surveyor to confirm. This map shows that adits #1 and #6 are in fact outside the approved CUP and reclamation boundaries (**Exhibit 3**).

Condition of Approval III(2) of the 2008 CUP requires that any expansion of the mine beyond the permitted boundaries comply with the Surface Mining and Reclamation Act ("SMARA") and all other applicable state and federal laws. SMARA, in turn, requires that all mine operators obtain the proper permits from the lead agency (i.e. Inyo County). Public Resource Code § 2770(a). Adits that are located outside of the boundary approved by the 2008 CUP and/or the reclamation plan are not properly permitted under the 2008 CUP. To use a simple example, if an individual obtains a CUP to operate a store on a certain lot, that does not give the individual permission to operate the store on an adjacent lot, nor does it permit the individual to construct the store in a manner that encroaches beyond the permitted lot.

However, because the mine operator voluntarily raised the issue of adits #1 and #6 being located outside of the CUP boundary, the Planning Department did not take immediate enforcement action, as it seemed unfair to penalize the operator for voluntarily raising this noncompliance. Furthermore, in joint meetings between the mine personnel, the BLM (which manages the land that adits #1 and #6 are located on), and the Planning Department, the mine operator stated he wished to close up and reclaim adits #1 and #6. These meetings occurred on July 7, 2020 and March 10, 2021, as memorialized in post-meeting correspondence from the BLM (see **Exhibit 4**). Reclaiming these adits seemed to be a great solution, as it would bring the mine back into compliance with the CUP without requiring an enforcement action by the Planning Department.

Unfortunately, the mine operator's statements regarding his desire to voluntarily close adits #1 and #6 do not appear to match his actions. Almost 1.5 years have passed since Mr. McLaughlin first raised the issue of the adits located outside of the permitted boundaries, yet as of the writing of this staff report, the adits remain open and unreclaimed. The Planning Department cannot allow this violation to linger forever. There

has been consistent correspondence between BLM and the attorney for the Radcliff Mine (Blair Will) requesting information about the closure plan and progress (**Exhibit 5**). But to date, the only actions taken toward closure have been the completion of an environmental analysis by the BLM and the preparation of a closure memo (**Exhibit 6**). No physical work has been performed on site to close adits #1 and #6.

Violation #2 – Failure to close all adits within 90 days of the cessation of underground mining

Condition IV(4) for the reclamation plan (whose approval is a subpart of the CUP) states: “Upon the termination of underground mining activities (exceeding 90 days) all adits to the Radcliff Mine shall be physically sealed to the satisfaction of the Inyo County Planning Department.” Underground mining has ceased at the Radcliff Mine for far more than 90 days. Pursuant to reports filed with the federal Mine Safety and Health Administration (MSHA), the Radcliff Mine as considered abandoned as of December 20, 2016 and MSHA “has not has [the Radcliff Mine] on [its] books since December of 2016 (**Exhibit 7**).

The County did not seek to enforce this condition sooner because former operator Mr. McLaughlin was constantly proposing a variety of ways that he hoped to expand and reinvigorate the Radcliff Mine. For instance, most recently, on September 15, 2020, Mr. McLaughlin and John Hagestad gave a lengthy presentation to the Inyo County Board of Supervisors detailing their plans for large operational expansions at the Radcliff Mine. The Planning Department would like to see this mine remain open and able to contribute to the economy of Southern Inyo County. However, as with the improperly located adits, the Planning Department cannot continue to ignore the 2008 CUP’s conditions of approval. And, since Mr. McLaughlin ceased to be involved with this mine in approximately March 2021, there have been no new proposals for continued operation brought to the Planning Department.

Accordingly, the Planning Department believes that it is in the best interest of the public to not permit an abandoned, idle mine to remain un-reclaimed. It is particularly concerning that, when Planning Department personnel went to inspect the mine on March 30, 2021, the Planning Department observed at least three adits that were completely unfenced and open (**Exhibit 8**). This is a serious public safety concern that must be remedied via the sealing of unused adits.

## **RECOMMENDATION**

Planning Department staff recommends finding Bush Management in violation of the 2008 CUP and revoking the CUP based on the following Findings:

- 1) Notice of the time and date of this hearing was given as required by law.  
*[Evidence: Notice was provided via US mail and email on September 3, 2021, which exceeds the 10 day notice requirement in Inyo County Code § 18.81.240.]*

- 2) Bush Management has violated Condition of Approval III(2) of the 2008 CUP.  
*[Evidence: Bush Management has provided a surveyed map confirming that adits #1 and #6 are out of the permitted boundary of the 2008 CUP. These adits remain open and un-reclaimed despite Bush's statements regarding the plan to close them.]*
- 3) Bush Management has violated Condition of Approval IV(4) of the 2008 CUP.  
*[Evidence: MSHA records indicate that the Radcliff Mine has been abandoned since December 2016, yet all adits at the mine remain un-reclaimed.]*

## ATTACHMENTS

- Exhibit 1 – Notice of Hearing dated September 3, 2021
- Exhibit 2 – Conditional Use Permit 2007-05/Pruett Ballarat and associated Staff Report and Reclamation Plan
- Exhibit 3 – Map from licensed surveyor dated May 13, 2020
- Exhibit 4 – August 13, 2020 Letter from BLM
- Exhibit 5 – BLM correspondence with Blair Will
- Exhibit 6 – Environmental analysis prepared by BLM
- Exhibit 7 – Correspondence and report from MSHA
- Exhibit 8 – Pictures of unfenced adits

**Exhibit 1**



**Planning Department  
168 North Edwards Street  
Post Office Drawer L  
Independence, California 93526**

Phone: (760) 878-0263  
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**Denial of Financial Assurance Cost Estimate Pursuant to Public Resources  
Code § 2773.4(d)(2)(A)(i)**

**Notice of Hearing re: Revocation of Conditional Use Permit 2007-05 /  
Pruett Ballarat, Inc.**

**September 3, 2021**

John Hagestad  
Bush Management  
PO Box 11179  
Newport Beach, CA 92658  
[JHAGESTAD@Sares-Regis.com](mailto:JHAGESTAD@Sares-Regis.com)

Blair Will  
Kronick Moskovitz Tiedemann & Girard  
1331 Garden Hwy, 2nd Floor  
Sacramento, CA 95833  
[bwill@kmtg.com](mailto:bwill@kmtg.com)

**VIA CERTIFIED MAIL AND EMAIL**

***RE: Mine ID# 91-14-0064 / Radcliff***

Dear Mr. Hagestad and Mr. Will:

As the lead agency under SMARA, the Inyo County Planning Department has received and reviewed the Financial Assurance Cost Estimate (“FACE”) that you submitted for the above-referenced mine on August 23, 2021. As you are aware, Inyo County has been working with Bush Management (“Bush”) to get an adequate FACE submitted since 2019. Pursuant to Cal. Public Resources Code (“PRC”) § 2773.4(d)(2)(A)(i), the Planning Department has denied the August 23 FACE. The specific reasons for the denial are enumerated below. This letter also addresses Bush’s violation of—and the commencement of proceedings to revoke—CUP 2007-05 / Pruett Ballarat, Inc. (“the 2007 CUP”).

**I. VIOLATION OF THE 2007 CUP**

On June 9, 2020, previous mine operator Charles McLaughlin first raised this issue of two adits (#1 and #6) being located outside the CUP boundary. After Mr. McLaughlin raised this issue

## Exhibit 1

and after discussions between the County, BLM, and Bush, it was determined that the best course of action was to simply reclaim these adits, thereby bringing Bush back into compliance with the CUP boundaries. The County informed Bush that it would not treat the installation of adits outside of the CUP boundaries as a violation of the CUP / reclamation plan or require Bush to increase its financial assurance mechanism to account for the cost of closing these two adits as long as Bush expeditiously proceeded with its stated plan of closing the two adits. This was discussed on numerous occasions, including two meetings on July 7, 2020 and March 10, 2021, which were attended by parties representing Bush Management, the BLM, and Inyo County personnel.

However, it has now been approximately 1.5 years since Mr. McLaughlin first raised the issue of adits located outside of the CUP boundaries, and these adits remain in the same state that they were 1.5 years ago. While the County was willing to hold any CUP violations in abeyance given repeated statements that Bush would voluntarily close these two unpermitted adits, the County cannot wait forever for Bush to act. Accordingly, the County will be proceeding with the revocation of the 2007 CUP on the grounds that the installation of adits outside of the CUP boundaries and the failure to rectify the problem over the past 1.5 years constitutes a violation of the conditions of approval of the 2007 CUP and the 2007 Reclamation Plan (the approval of which is a condition of approval of the CUP). Additionally, given that the Radcliff Mine has been idle for far more than 90 days with no reclamation activity conducted, the County will move to revoke the CUP for violation of Condition IV(4). A hearing on the revocation of the 2007 CUP will be held before the Inyo County Planning Commission on September 27, 2021 at 10 am. The Planning Commission is meeting via Zoom, and you will be provided with a Zoom link to join the meeting at a later date.

## II. DENIAL OF THE AUGUST 23, 2021 FACE

Pursuant to PRC § 2773.4(d)(6), the reasons for this denial are as follows:

- **Section II (Description of Current Site Conditions)**

This section is incomplete and inadequate. On March 30, 2021, Inyo County inspected the Radcliff Mine and confirmed the existence of at least five adits (see photographs #4, 12, 13, 18-21, 28, 29, 32-34, and 36-38).<sup>1</sup> This was a notable contradiction to the statements of Andrew Heinemann, who stated during the March 10, 2021 meeting regarding the 2020 FACE that only two adits (#1 and #6) had been developed at the mine. This section fails to describe any adits, even the two whose existence Mr. Heinemann acknowledges.

This section further states that “[t]wo adits [i.e. #1 and #6] have been developed outside of the approved reclamation plan ... and therefore cannot be included in the FACE under SMARA.” This is incorrect. The fact that previous mine operators illegally installed adits outside of the Radcliff Mine’s permitted boundaries does not absolve Bush of its reclamation responsibilities. Inyo County was willing to provide Bush with leniency regarding adits #1 and #6 due to representations that Bush was going to voluntarily seal and reclaim these adits. However, as

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<sup>1</sup> Photographs taken by County personnel during this inspection are included with this letter. When reference is made to a specific numbered photograph, that number corresponds to the numbers on the lower right-hand corner of each photo.

## Exhibit 1

explained above, this has yet to happen in the past 1.5 years. Given Bush's inaction, the County will now require Bush to include the costs to reclaim adits #1 and #6 (along with all other adits shown in the attached photos) in the FACE. Please edit this section accordingly.

This section also incorrectly describes the surface disturbance. Per the 2007 Staff Report accompanying the 2007 CUP and annual SMARA reports submitted to the state, the Radcliff Mine has at least 8.5 acres of surface disturbance, yet this section states that there is only 2.6 acres of disturbance. This error needs to be corrected, and the FACE updated accordingly.

During the County's March 30 inspection, personnel also observed a substantial amount of junk, debris, trailers, structures, and equipment scattered throughout the mine (see, for example, photos #1-12, 14, 15, 22, 25, and 39-61). None of this is described in this section. Please update this section to include a description of these conditions.

- **Section III (Description of Anticipated Site Conditions)**

The information provided is incomplete. By way of example, the 2007 CUP states as Condition IV(4) that "Upon the termination of underground mining activities (exceeding 90 days) all adits to the Radcliff Mine shall be physically sealed to the satisfaction of the Inyo County Planning Department. Backfilling or steel doors will be acceptable." Mining activity has ceased for more than 90 days at the Radcliff Mine. Therefore, pursuant to the 2007 CUP, within the next 90 days, all adits must be sealed. The cost to conduct this activity must be included in this section of the FACE.

- **Section IV (Description/Justification of Cost Increase/Decrease)**

Based on all of the comments that the County has provided you in this letter, the County anticipates that reclamation costs will rise once you have included all the required reclamation in the updated FACE. Therefore, when submitting the updated FACE, please ensure that you also update this section. Provide a brief description/justification for the proposed increase or decrease to existing financial assurance amount.

The County notes that the 2015 FACE submitted by Pruett puts reclamation costs at \$102,242. Per the California Department of General Services Construction Cost Index, in today's dollars, that would set reclamation costs at \$119,188.01. No reclamation has occurred since 2015. Therefore, should your FACE indicate a cost lower than \$119,188.01, please describe in detail why costs have fallen and which aspects of the 2015 FACE are inaccurate.

- **Section V (Plant Structures and Equipment Removal)**

The "Current Site Conditions" section states that the only structure currently on site is a trailer. This is incorrect. During the March 30 inspection of the mine, the County observed numerous other structures equipment on site including, but not limited to, broken heavy machinery along the roadway, a cabin with construction work that appeared to be recent (< 10 years old), a Port-A-Potty, metal storage containers, tools, pipes, hoses, electrical infrastructure, fencing, and storage tanks / barrels. Please consult the attached pictures for additional details. This section must be updated to accurately describe the site conditions, as reflected in the attached photos.

## Exhibit 1

The “Describe tasks” section will also need to be updated to include the additional tasks necessary to remove all of the equipment and structures that were not described in the August 23 FACE.

After you have updated the Current Site Conditions, it is also anticipated that you will need to make substantial edits to the “Methods to be used” section of the FACE. Specifically, this section will need to be updated to reflect the increased cost and complexity of removing all of the structures and equipment shown in the attached photos and present at the mine. When updating this section, you must also take into account the remote and rugged nature of the site. You must ensure that all equipment to be used is capable of rugged, off-road travel. Additionally, none of the trailers observed on-site by County staff during the March inspection are in operable or road-worthy condition. Therefore, the FACE must account for the cost of not simply towing these trailers, but rather hauling them out on a transport vehicle or disassembling them on-site. Please also account for the cost of hauling all trailers, equipment, structures, junk, and debris to the nearest municipal waste facility and the disposal fees that will need to be paid to that facility.

Finally, the FACE states that you must “provide documentation showing that rates, prices, and wages are available locally to all persons, including the lead agency and/or the Department.” This documentation must be provided with the updated FACE and must take into account the fact that the Radcliff Mine is located in an extremely remote area, approximately 2 hours from the nearest city (Ridgecrest). It is likely that, given the remote location and limited equipment options in Ridgecrest, actual quotes will be significantly higher than what is found in the CalTrans Labor Surcharge and Equipment Rental Rates.

- **Section VI (Primary Reclamation Activity)**

For reasons previously outlined, the “Current Site Conditions” and “Quantities” sections within this section are inaccurate. Issues include, but are not limited to, a failure to account for all disturbed acres and a failure to account for the all confirmed adits. With respect to disturbed acres, per Condition IV(8) of the 2007 CUP, you must account for all road disturbance on both patented and BLM land.

The “Methods to be used” section will need to be updated to account for the increased in disturbed acres and for the additional equipment and personnel that will be required to close all of the confirmed adits.

Finally, the FACE states that you must “provide documentation showing that rates, prices, and wages are available locally to all persons, including the lead agency and/or the Department.” This documentation must be provided with the updated FACE and must take into account the fact that the Radcliff Mine is located in an extremely remote area, approximately 2 hours from the nearest city (Ridgecrest). It is likely that, given the remote location and limited equipment options in Ridgecrest, actual quotes will be significantly higher than what is found in the CalTrans Labor Surcharge and Equipment Rental Rates.

- **Section VII (Revegetation)**



## Exhibit 1

The labor hours described within this section need to be increased to account for the full 8.5 acres of disturbance. Additionally, the FACE must account for the fact that the terrain at this mine is steep and rugged (the County measured average gradients of 11.3% and 19.8% from Trona-Wildrose Rd. to Clair Camp and from Clair Camp to Adits #1 and #6, respectively). These steep grades would likely prevent a laborer from carrying a full broadcasting backpack, thereby necessitating additional time to repeatedly refill. The County notes that you have added half an hour a day from the previous FACE that you submitted, but this is not sufficient to complete the seeding.

Pursuant to PRC § 2773.4(d)(6), you have thirty days to either appeal the County's denial of the August 24 FACE or to submit a revised FACE that incorporates the changes suggested by the County. If you have any questions, you may contact the County Planning Department at (760) 878-0405 or email me at [rstandridge@inyocounty.us](mailto:rstandridge@inyocounty.us).

Sincerely,



Ryan Smith-Standridge  
Associate Planner / SMARA Coordinator

cc: Grace Chuchla, Deputy County Counsel  
Cathreen Richards, Inyo County Planning Director

## Exhibit 2



**Planning Department  
168 North Edwards Street  
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(760) 872-2706

FAX: (760) 872-2712

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### NOTICE OF DECISION

April 23, 2008

**Dave Pruett  
443 Upper Colony Road  
Wellington, NV 89444**

**SUBJECT: Conditional Use Permit No. 2007-05/Pruett Ballarat, Inc.; and  
Reclamation Plan No. 2007-05/Pruett Ballarat, Inc.**

On April 23, 2008 the Inyo County Planning Commission conducted a public hearing to consider the above application to mine gold ore from the Radcliff Mine. The site is located within Sections 4, 5, 8, 9, 10, 15, 16, 17, 21 and 22, T. 22S., R. 45E., on the western flank of the Panamint Range in Pleasant Canyon, approximately 5 miles east of Ballarat. After considering the report of staff and all oral and written comments received, the Planning Commission took the following actions:

#### ENVIRONMENTAL

Based on the whole record, the Initial Study, the Draft Negative Declaration, and any written comments received, any responses to those comments contained herein, and pursuant to CEQA Guidelines Section 15074(b), the Inyo County Planning Commission adopts the Final Negative Declaration and finds that the requirements of the California Environmental Quality Act have been satisfied.

*[Evidence: In accordance with the requirements of the California Environmental Quality Act, an Initial Study and Draft Negative Declaration of Environmental Impact was prepared and circulated for this project for public review and comment. Any concerns and issues raised in those comments are adequately addressed in the discussion in the Draft Negative Declaration, Staff Report and Public Hearing testimony.]*

#### II. FINDINGS

- a. Found the proposed conditional use permit and reclamation plan to be consistent with the Inyo County General Plan Designation and Goals and Policies, as well

## Exhibit 2

as the Inyo County Zoning Ordinance sections, which are applicable to the property.

*Evidence: The General Plan Designation is Rural Protection (RP), zoned Open Space, 40 acres minimum (OS-40), both which allow underground mining projects with the approval of a conditional use permit by Inyo County.]*

- b. Found that the proposed conditional use permit and reclamation plan conforms to and meets the requirements of Chapter 7.70 (Mining and Reclamation) of Inyo County Code, and the provisions of the California Surface Mining and Reclamation Act of 1975.

*[Evidence: The proposed conditional use permit and reclamation plan, along with the proposed Conditions of Approval, comply with the requirements of Chapter 7.70 (Mining and Reclamation) of Inyo County Code, and the provisions of the California Surface Mining and Reclamation Act of 1975.]*

### **III. CONDITIONS OF APPROVAL**

1. Pursuant to Section 18.81.140 of the County Code the authorization of this Conditional Use Permit shall lapse and be void unless started within one year of the date of its approval. The Planning Commission may, without a hearing, extend the Conditional Use Permit for additional one-year periods upon application filed prior to the expiration of the Conditional Use Permit.
2. ***The Conditional Use Permit is for the mining of the Radcliff mine by the applicant, Pruett Ballarat, Inc. This Conditional Use Permit is issued to the applicant. Any change in ownership, revisions, additions or expansions to the project description contained in the application shall comply with SMARA and other applicable State and Federal laws.***
3. The applicant shall obtain all necessary permits from MSHA, ATF&E, CAL-OSHA, GBAQCD, Lahontan, Inyo County Sheriff's Department, Building Department and the Environmental Health Department (septic, water and hazardous material storage) prior to any mining operations.
4. The applicant shall pay the Department of Fish and Game the habitat impact fee of \$1,876.75 pursuant to Senate Bill 1535. The applicant may directly contact the Department of Fish and Game to apply for an exemption of this habitat impact fee.
5. Any storm-water from any additional surface disturbance or impervious areas shall be contained on-site and/or directed into existing natural drainage channels.

### **IV. CONDITIONS FOR RECLAMATION PLAN NO. 2007-05**

## Exhibit 2

1. All equipment, office trailer(s), generators, fuel tanks, portable toilets and refuse facilities, garbage and solid waste, surface air and water lines, drill rods and bits, culverts and concrete slabs shall be removed upon completion of the mining activities.
2. All fuel tanks and other containers will be properly emptied through consumption, recycling or transported to a designated waste handling or treatment facility. Containers will be removed for reuse, or disposed of in an approved landfill upon completion of mining activities.
3. Storage of explosives will be removed in accordance with the applicable Federal and State regulations, as administered by the Bureau of Alcohol, Tobacco, and Firearms, and the State Fire Marshall.
4. Upon the termination of underground mining activities (exceeding 90 days) all adits to the Radcliff Mine shall be physically sealed to the satisfaction of the Inyo County Planning Department. Backfilling or steel doors will be acceptable.
5. All adits will be plugged and backfilled or physically sealed to the satisfaction of Inyo County upon completion of mining activities.
6. Upon completion of the mining activities the borrow pit slopes will be re-contoured to conform with the adjacent slopes.
7. Culverts, if used, will be removed, and pre-mining drainage courses will be restored which have been blocked by operations and/or road conditions.
8. Access to the exploration roads on the World Beater side of the operation, shall be closed by ripping and backfilling, to the original contours from the first turnout of the canyon to the east (chain and post gate) to the property line. Re-seeding shall occur on this stretch of reclaimed road to establish the vegetation and plant cover approved by Inyo County and BLM.
9. All disturbed areas shall be scarified and re-seeded (broadcasting method). The mixture and hand broadcasting seeding will be as per the State Office of Mining Reclamation, BLM and Inyo County requirements.
10. Reclamation will not be considered complete until vegetative cover is 20 percent of the surrounding undisturbed land with a 50 percent diversity of the perennial species on surrounding undisturbed land. This shall be verified based upon visual calculations and substantiated by past photograph of the site including off site photographs of the surrounding undisturbed lands.
11. Each year, the applicant shall file an annual mining report with the State of California. These reports shall be filed in a timely manner. Monitoring activities will continue until the County is satisfied that performance standards have been

## Exhibit 2

met. In accordance with SMARA Section 2774(b), Inyo County as the Lead Agency shall inspect the site and file annual inspection reports with the State of California.

12. Prior to any mining activity, Pruett Ballarat, Inc. shall submit a notarized statement to the Inyo County Planning Department accepting responsibility for reclaiming land as per the conditions as specified herein.
13. Financial assurances in the sum of \$85,295.00 are required in the form of a surety bond, irrevocable letter of credit or certificate of deposit. Financial assurances shall be posted with the Inyo County Planning Department prior to mining activities, which creates any new surface disturbance. Any existing financial assurances in conjunction with RP #93-1 can then be released by the County.
14. Financial assurances shall be recalculated each year in accordance with Section 2773.1(a)(3) of SMARA and Inyo County Code. This shall occur at the time of annual inspection.

### V. HOLD HARMLESS

- I. The applicant, landowner, and operator shall defend, indemnify and hold harmless Inyo County, its agents, officers and employees from any claim, action, or proceedings against the County, its advisory agencies, appeal boards, or its legislative body concerning Conditional use Permit No. 2007-5 and Reclamation Plan No. 2007-05/Pruett Ballarat, Inc.

Section 16.56.020 of the Inyo County Subdivision Ordinance provides that any interested party may, within ten (10) days after the Planning commission's action, appeal the determination made by the Planning Commission to the Inyo County Board of Supervisors after compiling evidence of an alleged error and making an appeal fee payment of three-hundred dollars (\$300) to the Clerk of the Board. If you have any question regarding the Planning Commission's action, please contact this office at (760) 872-2706.

Thank you,

Pat Cecil  
Planning Director

cc: Richard Cervantes, Fifth District Supervisor  
Paul Payne, Fifth District Commissioner  
Marvin Moskowitz, Environmental Health

## Exhibit 2



**Planning Department  
168 North Edwards Street  
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Independence, California 93526**

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### STAFF REPORT

**AGENDA ITEM NO.** 7 (Action Item – Public Hearing)

**DATE OF MEETING:** April 23, 2008

**SUBJECT:** Conditional Use Permit No. 2007-05/Pruett Ballarat, Inc. (formally CUP #93-10); and Reclamation Plan No. 2007-05/Pruett Ballarat, Inc. (formally RP # 93-1).

### EXECUTIVE SUMMARY

The proposed project involves the mining of gold ore from the project site located on patented mining claims, by underground methods. The property consists of steep, rocky hillsides covered with sparse vegetation

Pruett Ballarat, Inc. (PBI) is proposing to submit a new conditional use permit and reclamation plan, which will supercede the previously approved Conditional Use Permit and associated Reclamation Plan (CUP #93-10 and RP #93-1/Kerr McGee/Echo Bay Exploration Radcliff Project), which was approved by Inyo County on January 26, 1994.

In reviewing the 1994 conditional use permit and reclamation plan in conjunction with the present proposal there are significant differences between the two conditional use permits and reclamation plans as well as the financial assurance requirements. Therefore, it was determined that a new rather than a revised conditional use permit and reclamation plan should be processed.

The project involves the issuance of a Conditional Use Permit (CUP) and Reclamation Plan (RP) by the County of Inyo. The project site is located on privately owned land (patented mining claims) and is zoned Open Space, 40 acre minimum (OS-40). Under the provisions of the OS-40 zone "mining" is a conditional use per County Code Section 18.12.040(l).

The mining activity is almost entirely underground and the majority of the underground activities are regulated by the Federal (MSHA and ATF&E) and State (CAL-OSHA) agencies. Therefore, any conditions placed on the CUP will primarily be restricted to the above ground activities.

## Exhibit 2

### PROJECT INFORMATION

**Application:** Conditional Use Permit No. 2007-05/Pruett Ballarat, Inc. (formally CUP #93-10); and Reclamation Plan No. 2007-05/Pruett Ballarat, Inc. (formally RP #93-1).

**Supervisory District:** Fifth.

**Applicant:** Pruett Ballarat, Inc.

**Address:** 443 Upper Colony Road.  
Wellington, NV. 89444.

**Landowners:** WB & Radcliff, Inc. and Bureau of Land Management (access roads).

**Zoning:** Open Space, 40 acre minimum (OS-40).

**General Plan:** Rural Protection (RP).

**Location:** Located within Sections 4, 5, 8, 9, 10, 15, 16, 17, 21 and 22, T. 22 S., R. 45 E., on the western flank of the Panamint Range in Pleasant Canyon, approximately 5 miles east of Ballarat. The Canyon Resource Briggs Mine is located approximately 8 miles southwest of the Radcliff property.

**Recommended Action:** Approve the Conditional Use Permit and Reclamation Plan with the recommended conditions.

**Alternative:** Deny the Conditional Use Permit and Reclamation Plan; therefore, not allowing Pruett Ballarat, Inc. to mine the Radcliff property.

**Project Planner:** Adena Fansler, Associate Planner.

### HISTORY

The Radcliff, and nearby World Beater mines, were discovered between 1896 and 1897. Production came largely from the Radcliff mine between 1898 and 1903, reportedly on the order of 14,500 ounces of gold (Au) from 14,000 tons of ore (slightly over one ounce per ton of ore mined). The property was opened as seven (7) underground levels, totaling about 2,400 feet of workings; over 500 vertical feet and 700 lateral feet. Owing to the steep topography, aerial tramways were used to get ore from the mine mouth to the mill at Clair Camp and below through Pleasant Canyon.

In 1989, Kerr-McGee leased the claims from landowner, Charles Mott. Echo Bay Exploration (EBX) then entered into a joint venture agreement with Kerr-McGee in May of 1992. EBX was the operating partner of the joint venture. Currently, PBI has purchased a lease and option on the claims, defined as the Radcliff project, from Mr. Mott.

Pruett Ballarat, Inc. currently controls 10 patented lode (mineral) claims, 1 patented mill site claim, and 94 unpatented lode claims for a total of approximately 1,754 acres. The

## Exhibit 2

patented claims and certain unpatented claims, are held under a Exploration Agreement and Option to Purchase from Mr. Charles Mott.

### PROJECT DESCRIPTION

The proposed project involves the mining of gold ore from the project located on patented mining claims, by underground methods. The property consists of steep, rocky hillsides covered with sparse vegetation

Pruett Ballarat, Inc. (PBI) is proposing to submit a new conditional use permit and reclamation plan, which will supercede the Conditional Use Permit and associated Reclamation Plan (CUP #93-10 and RP #93-1/Kerr McGee/Echo Bay Exploration Radcliff Project), which was approved by Inyo County on January 26, 1994.

In reviewing the 1994 conditional use permit and reclamation plan in conjunction with the present proposal there are significant differences between the two conditional use permits and reclamation plans as well as the financial assurance requirements. Therefore, it was determined that a new, rather than a revised conditional use permit and reclamation plan, should be processed.

The project involves the issuance of a Conditional Use Permit (CUP) and Reclamation Plan (RP) by the County of Inyo. The project site is located on privately owned land (patented mining claims) and is zoned Open Space, 40 acre minimum (OS-40). Under the provisions of the OS-40 zone "mining" is a conditional use per County Code Section 18.12.040(I).

The mining activity is almost entirely underground; the majority of the underground activities are regulated by Federal (MSHA and ATF&E) and State (CAL-OSHA) agencies. Therefore, any conditions place on the CUP will primarily be restricted to the above ground activities.

The project is an underground mine and exploration operation that anticipates removing 100,000 tons of gold ore. This ore will be crushed on site then transported to Elko, Nevada for assaying and processing over the course of fifteen years.

The current surface disturbance for the existing portions of the Radcliff Project is 6.65 acres. As part of the continued exploration and development of the project, an additional surface disturbance of 4.36 acres (private land) is proposed. This would include the new adits to access the ore body, laydown yards for equipment storage and crushing unit, and a small development rock pile (rock dump). This proposed activity would bring total surface disturbance at the Radcliff project (subject to reclamation) to 8.56 acres.

Removal of pinyon trees will be kept to minimum. Trees will be limbed rather than removed whenever possible.



## Exhibit 2

Operation or road improvements and construction equipment will be confined to the existing and proposed road sections.

A site for a borrow pit has been selected at the west end of the Jackpot Extension patented mining claim where road base will be extracted from this site and crushed/screened to a size suitable for road base.

The crushing plant will consist of 2 portable units on semi trailers set on a 50' x 100' concrete slab. Transfer trailer type road trucks will haul the road base and ore.

As practicable, topsoil from all future road construction will be salvaged and stockpiled.

New road construction will not exceed a total disturbance width of thirty feet (30'), with a 15-foot running width.

Inslope, full bench construction will be required for new road construction.

Water bars will be placed, as deemed necessary by the operator, with concurrence by the Bureau of Land Management and/or Inyo County as portions of the access roads cross BLM property.

Storm water diversions for the access road will be formed with side draining to deal with normal water runoff. Due to the unpredictability of severe storms it is not proposed to implement any unusual controls; runoff damage to roads will be repaired when it occurs.

Pruett Ballarat, Inc. intends to construct and operate a small (30' x 50') maintenance shop at Clair Camp (existing) in accordance with County Building and Health Codes. In addition, a Man Camp with six parking sites with septic and water will be set up at Clair Camp.

Fuel, mining supplies, and explosives in permitted containment will be stored on site. Water will be provided by a developed underground adit at an area called Stone Corral located approximately two miles east of Clair Camp.

A new haul road from Pleasant Canyon to Hope Canyon will be used to access the underground adit. This road will be on public lands and authorized by a Bureau of Land Management (BLM) easement permit.

Ore will be transported by truck to Elko, Nevada via Trona, Ridgecrest, U.S. Highway 395-North, and State Route 6 to Nevada for milling.

MSHA emergency and safety rules and guidelines for safety training and/or site mine rescue crews will be followed. Contacts with local hospitals, ambulance and medevac service will be established. On site safety and health equipment will be maintained. MSHA safety training and certification will be provided for all employees. Onsite visitors will be required to follow safety guidelines and MSHA procedures.

## Exhibit 2

Air quality permits may be necessary from Great Basin Air Quality Control District. Air compressors will be used on site as needed. They will be diesel powered. Underground loaders and surface haul trucks and electrical generators will also be diesel powered. Fans will provide mine ventilation.

Reclamation will consist of removal of all equipment from the site, including, but not limited to the portable crushers, office trailer(s), generators, fuel tanks, etc.; removal of any portable toilets and refuse facilities; clean up of any garbage or other solid waste inadvertently left at the site; removal of air and water lines on the surface; removal of all drill rods and bits; culverts, if used, will be removed, and pre-mining drainage course will be restored which have been blocked by operator and/or road conditions; removal of concrete foundations and slabs.

All fuel tanks and other containers will be properly emptied through consumption, recycling or transport to a designated waste handling or treatment facility. Containers will be removed for reuse or disposed of in an approved landfill.

Explosive storage will be removed in accordance with the applicable Federal and State regulations, as administered by the Bureau of Alcohol, Tobacco, and Firearms, and the State Fire Marshall.

The mine adits will be closed to prevent access by the public and colonized by bats. The entrances will be plugged by backfilling.

Scarification of compacted or disturbed areas, as practicable, to promote re-vegetation will be accomplished. Compacted or disturbed areas include, but not limited to post-1989 roads, drill pads, helicopter drill pads and the new laydown yard. All disturbances, which are non-accessible by heavy equipment, i.e., helicopter drill pads, will be seeded but not scarified. Re-seeding of compacted or disturbed areas, as practicable, with a native species seed mix will be accomplished.

Access to the exploration roads on the World Beater side of the operation, shall be closed by ripping and backfilling, to the original contours from the first turnout of the canyon to the east (chain and post gate) to the property line. Re-seeding shall occur on this stretch of reclaimed road to establish the vegetation and plant cover approved by Inyo County and BLM.

Broadcast seeding will occur during the spring season after mining is complete. No watering or irrigation of the site will occur. Due to the sparse nature of the existing habitat, and dry climate, natural weather cycles will be relied upon to water the seeds so that the seeds establish under natural conditions. Utilities needed for the post-mining land uses such as berms, fencing or signage will be removed and reclaimed.

## Exhibit 2

### SURROUNDING LAND USES

All of the surrounding lands are vacant Bureau of Land Management lands with a General Plan Designation of State and Federal Lands (SFL) and zoned Open Space, 40 acre minimum (OS-40).

### STAFF ANALYSIS

The Staff, the State Office of Mining Reclamation and the Bureau of Land Management (Ridgecrest) have reviewed the proposed project and conducted an on-site inspection of the project site.

The proposal is consistent with the requirements of the OS-40 zone (CUP required) and conforms with the Inyo County General Plan Designation of Rural Protection (RP) and the Goals and Policies for mining activities.

The proposal meets the requirements of Chapter 7.70 (Mining and Reclamation) of the Inyo County Code and the provisions of the California Surface Mining and Reclamation Act (SMARA).

The CUP is conditioned with the standard one (1) year approval date in which to initiate the mining activity. It has also been restricted to the applicant only so the operation cannot be sold to another entity without County notice and approval.

Since much of the mining activities occur underground and are under permit by Federal and State agencies, Inyo County's concerns are primarily in regards to the surface activities and reclamation.

County permits such as building, electrical, plumbing (domestic water) and septic permits shall be obtained. The Great Basin Air Pollution Control District shall be notified of the use of air compressors and ore crushing equipment prior to their use.

Staff is recommending a number of reclamation conditions, which are listed in the Recommended Conditions of Approval for the reclamation plan.

These conditions include the general clean-up and removal of the surface facilities from the site; scarifying and reseeding of disturbed areas with subsequent monitoring; grading of the borrow pit; closing of some mining access roads; sealing of all adits; and the posting of \$85,295.00 in financial assurances.

***As of January 1, 2007 all projects, which requires a Negative Declaration or Mitigated Negative Declaration shall be required to pay the Department of Fish and Game habitat impact fee of \$1,876.75 (Senate Bill 1535) prior to the recording of the Notice of Determination. Inyo County will no longer determine if a project has a "de minimus" impact on vegetation or wildlife habitat. The applicant must directly contact the Department of Fish and Game for an exemption of this habitat impact fee.***

## Exhibit 2

### ENVIRONMENTAL REVIEW

A Draft Negative Declaration was prepared for the project and was submitted for public review and comment on March 14, 2008 with comment period ending on April 14, 2008.

### PUBLIC NOTICE

A Notice of Public Hearing was published in the local newspaper and mailed to the surrounding property owners within 300 feet of the subject property (in this case, only to BLM).

### RECOMMENDATIONS

Staff recommends approval of the applicant's proposed conditional use permit and reclamation plan with conditions. The Planning Department therefore recommends the Planning Commission take the following actions:

- “1. Move to adopt the Final Negative Declaration of Environmental Impact and certify that the provisions of CEQA have been met;**
- 2. Make the following findings with respect to and approve Conditional Use Permit No. 2007-05/Pruett Ballarat, Inc. and Reclamation Plan No. 2007-05/Pruett Ballarat, Inc. with the recommended conditions of approval.”**

#### I. ENVIRONMENTAL

Based on the whole record, the Initial Study, the Draft Negative Declaration, and any written comments received, any responses to those comments contained herein, and pursuant to CEQA Guidelines Section 15074(b), the Inyo County Planning Commission adopts the Final Negative Declaration and finds that the requirements of the California Environmental Quality Act have been satisfied.

*[Evidence: In accordance with the requirements of the California Environmental Quality Act, an Initial Study and Draft Negative Declaration of Environmental Impact was prepared and circulated for this project for public review and comment. Any concerns and issues raised in those comments are adequately addressed in the discussion in the Draft Negative Declaration, Staff Report and Public Hearing testimony.]*

#### II. FINDINGS

- a. Find that the proposed conditional use permit and reclamation plan are consistent with the Inyo County General Plan Designation and Goals and Policies, as well as the Inyo County Zoning Ordinance sections, which are applicable to the property.**

## Exhibit 2

*[Evidence: The General Plan Designation is Rural Protection (RP), zoned Open Space, 40 acres minimum (OS-40), both which allow underground mining projects with the approval of a conditional use permit by Inyo County.]*

- b. Find that the proposed conditional use permit and reclamation plan conforms to and meets the requirements of Chapter 7.70 (Mining and Reclamation) of Inyo County Code, and the provisions of the California Surface Mining and Reclamation Act of 1975.

*[Evidence: The proposed conditional use permit and reclamation plan, along with the proposed Conditions of Approval, comply with the requirements of Chapter 7.70 (Mining and Reclamation) of Inyo County Code, and the provisions of the California Surface Mining and Reclamation Act of 1975.]*

### III. CONDITIONS OF APPROVAL

1. Pursuant to Section 18.81.140 of the County Code the authorization of this Conditional Use Permit shall lapse and be void unless started within one year of the date of its approval. The Planning Commission may, without a hearing, extend the Conditional Use Permit for additional one-year periods upon application filed prior to the expiration of the Conditional Use Permit.
2. The Conditional Use Permit is for the mining of the Radcliff Mine by the applicant, Pruett Ballarat, Inc.. This CUP is issued solely to this applicant. Any change in ownership, revisions, additions or expansions in the project description contained in the application shall require an amendment to this CUP.
3. The applicant shall obtain all necessary permits from MSHA, ATF&E, CAL-OSHA, GBAQCD, Lahontan, Inyo County Sheriff's Department, Building Department and the Environmental Health Department (septic, water and hazardous material storage) prior to any mining operations.
4. The applicant shall pay the Department of Fish and Game the habitat impact fee of \$1,876.75 pursuant to Senate Bill 1535. The applicant may directly contact the Department of Fish and Game to apply for an exemption of this habitat impact fee.
5. Any storm-water from any additional surface disturbance or impervious areas shall be contained on-site and/or directed into existing natural drainage channels.

### IV. CONDITIONS FOR RECLAMATION PLAN NO. 2007-05

1. All equipment, office trailer(s), generators, fuel tanks, portable toilets and refuse facilities, garbage and solid waste, surface air and water lines, drill rods and bits, culverts and concrete slabs shall be removed upon completion of the mining activities.

## Exhibit 2

2. All fuel tanks and other containers will be properly emptied through consumption, recycling or transported to a designated waste handling or treatment facility. Containers will be removed for reuse, or disposed of in an approved landfill upon completion of mining activities.
3. Storage of explosives will be removed in accordance with the applicable Federal and State regulations, as administered by the Bureau of Alcohol, Tobacco, and Firearms, and the State Fire Marshall.
4. Upon the termination of underground mining activities (exceeding 90 days) all adits to the Radcliff Mine shall be physically sealed to the satisfaction of the Inyo County Planning Department. Backfilling or steel doors will be acceptable.
5. All adits will be plugged and backfilled or physically sealed to the satisfaction of Inyo County upon completion of mining activities.
6. Upon completion of the mining activities the borrow pit slopes will be re-contoured to conform with the adjacent slopes.
7. Culverts, if used, will be removed, and pre-mining drainage courses will be restored which have been blocked by operations and/or road conditions.
8. Access to the exploration roads on the World Beater side of the operation, shall be closed by ripping and backfilling, to the original contours from the first turnout of the canyon to the east (chain and post gate) to the property line. Re-seeding shall occur on this stretch of reclaimed road to establish the vegetation and plant cover approved by Inyo County and BLM.
9. All disturbed areas shall be scarified and re-seeded (broadcasting method). The mixture and hand broadcasting seeding will be as per the State Office of Mining Reclamation, BLM and Inyo County requirements.
10. Reclamation will not be considered complete until vegetative cover is 20 percent of the surrounding undisturbed land with a 50 percent diversity of the perennial species on surrounding undisturbed land. This shall be verified based upon visual calculations and substantiated by past photograph of the site including off site photographs of the surrounding undisturbed lands.
11. Each year, the applicant shall file an annual mining report with the State of California. These reports shall be filed in a timely manner. Monitoring activities will continue until the County is satisfied that performance standards have been met. In accordance with SMARA Section 2774(b), Inyo County as the Lead Agency shall inspect the site and file annual inspection reports with the State of California.

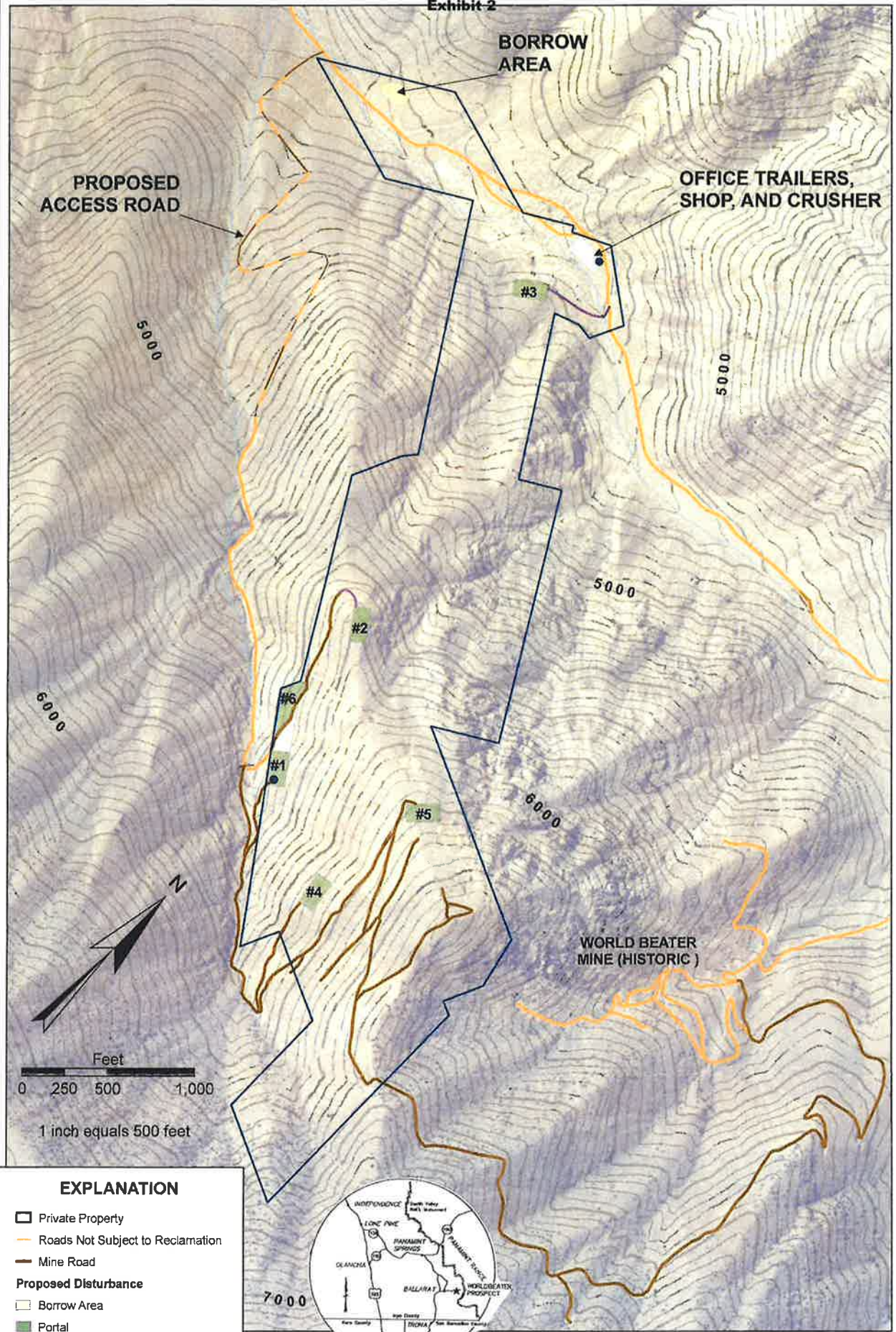
## Exhibit 2

12. Prior to any mining activity, Pruett Ballarat, Inc. shall submit a notarized statement to the Inyo County Planning Department accepting responsibility for reclaiming land as per the conditions as specified herein.
13. Financial assurances in the sum of \$85,295.00 are required in the form of a surety bond, irrevocable letter of credit or certificate of deposit. Financial assurances shall be posted with the Inyo County Planning Department prior to mining activities, which creates any new surface disturbance. Any existing financial assurances in conjunction with RP #93-1 can then be released by the County.
14. Financial assurances shall be recalculated each year in accordance with Section 2773.1(a)(3) of SMARA and Inyo County Code. This shall occur at the time of annual inspection.

### V. HOLD HARMLESS

1. The applicant, landowner, and operator shall defend, indemnify and hold harmless Inyo County, its agents, officers and employees from any claim, action, or proceedings against the County, its advisory agencies, appeal boards, or its legislative body concerning Conditional use Permit No. 2007-5 and Reclamation Plan No. 2007-05/Pruett Ballarat, Inc.

Attachments: Vicinity Map/Location Map  
Negative Declaration  
Application



PROPOSED ACCESS ROAD

BORROW AREA

OFFICE TRAILERS, SHOP, AND CRUSHER

5000

5000

6000

5000

6000



Feet  
0 250 500 1,000

1 inch equals 500 feet

**EXPLANATION**

- Private Property
- Roads Not Subject to Reclamation
- Mine Road
- Proposed Disturbance**
- Borrow Area
- Portal
- Waste Rock Dump
- Yard
- Proposed Mine Road
- Water Well



**RADCLIFF MINE**  
**PRUETT BALLARAT INC**

|                  |          |              |
|------------------|----------|--------------|
| DRAWING TITLE:   |          |              |
| <b>SITE PLAN</b> |          |              |
| DRAWING NO.      | SHEET    | REVISION NO. |
| FIGURE 3         | 3 OF 3   |              |
| DRAWING NO.      | Page 015 |              |
| 147602           | B        |              |



**Exhibit 2**

**RADCLIFF PROJECT  
AMENDED RECLAMATION PLAN  
FOR CONDITIONAL USE PERMIT  
(2007-05/Pruett Ballarat, Inc.)**



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*inyoplanning@inyocounty.us*

February 15, 2008

**Exhibit 2**

**Exhibit 2**

**RADCLIFF PROJECT**  
**AMENDED RECLAMATION PLAN**  
(2007-05/Pruett Ballarat, Inc. formerly RP#93-1)  
**FOR CONDITIONAL USE PERMIT**  
(2007-05/Pruett Ballarat, Inc. formerly CP#93-10)

**Table of Contents**

**1 Introduction..... 1**

**2 Access to Existing Site..... 1**

**3 Project History ..... 4**

**4 Project Environment ..... 5**

**5 Name and Address of Operator/Agent..... 5**

5.1 Lessee/Operator ..... 7

5.2 Designated Agent ..... 7

**6 Anticipated Quantity & Type of Mineral to be Mined ..... 7**

6.1 Ore..... 7

6.2 Waste..... 7

6.3 Product ..... 7

**7 Initiation and Termination Dates for Surface Mining Operations..... 8**

7.1 Initiation Date..... 8

7.2 Termination Date ..... 8

**8 Maximum Depth of Surface Mining ..... 8**

**9 Size, Legal Description of Land Effected by Surface Mining ..... 8**

9.1 Map with Boundary and Topography ..... 8

9.2 General Geology Description ..... 8

9.3 Detail Geology Description for Surface Mining Area ..... 8

9.4 Location of All Streams, Roads, Railroads and Utility Facilities Adjacent to Mine Facility or Access Roads..... 9

9.5 Disturbance Not Subject to Reclamation ..... 9

9.6 Name and Address of Owners of all Surface Interest and Mineral Interest in the Lands..... 9

**10 Surface Mining Plan and Schedule..... 10**

**11 Proposed Potential Use of Land after Reclamation ..... 10**

**12 Description of How Reclamation for Proposed Potential Use will be accomplished..... 10**

12.1 Pre-Operational Requirements..... 10

12.2 Operational Requirements ..... 12

12.3 Final Closure Requirements ..... 13

12.4 Post-Reclamation Requirements..... 14

12.5 Contaminants Control and Mining Waste Disposal..... 15

12.6 Affected Streambed, Channel and Streambank ..... 15

**13 Reclamation Plan Effect on Future Mining..... 15**

**14 Responsibility for Reclaiming the Disturbed Lands ..... 15**

**15 Public Health and Safety ..... 15**

**16 Disposition of Old Equipment..... 16**

## Exhibit 2

|    |   |    |
|----|---|----|
| 17 | Designated Areas for Equipment and Waste..... | 16 |
| 18 | References.....                               | 16 |

### TABLES

|                                       |    |
|---------------------------------------|----|
| Table 1: Disturbance Summary .....    | 4  |
| Table 2: Waste Rock ABA Results ..... | 14 |

### FIGURES

|   |   |
|---|---|
| Figure 1: Site Location Map.....            | 2 |
| Figure 2: Site Location and Access Map..... | 3 |
| Figure 3: Topographic Site Plan.....        | 6 |

### APPENDICES

- Appendix A: Description of Mining Claims
- Appendix B: Notification of Proposed Post-Reclamation Land Use
- Appendix C: Statement of Responsibility for Reclaiming the Disturbed Lands
- Appendix D: Botanical Report (Bagley, 2008)
- Appendix E: Financial Assurance Cost Estimate

## **1 Introduction**

The Radcliff Project site is located in all, or parts of, Sections 4, 5, 8, 9, 10, 15, 16, 17, 21 and 22, Township 22 South, Range 45 East, Mt. Diablo Base and Meridian. The property is on the western flank of the Panamint Range in Pleasant Canyon, approximately five (5) miles east of the town of Ballarat, in Inyo County, California (Figure 1). The Canyon Resources' Briggs deposit is located approximately eight miles southwest of the Radcliff property.

The Radcliff Project currently falls under the jurisdiction of both the U.S. Department of the Interior, Bureau of Land Management (BLM) and the Inyo County Planning Department (County) for mine permitting.

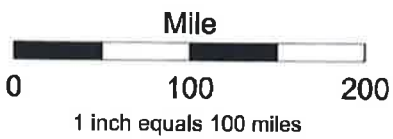
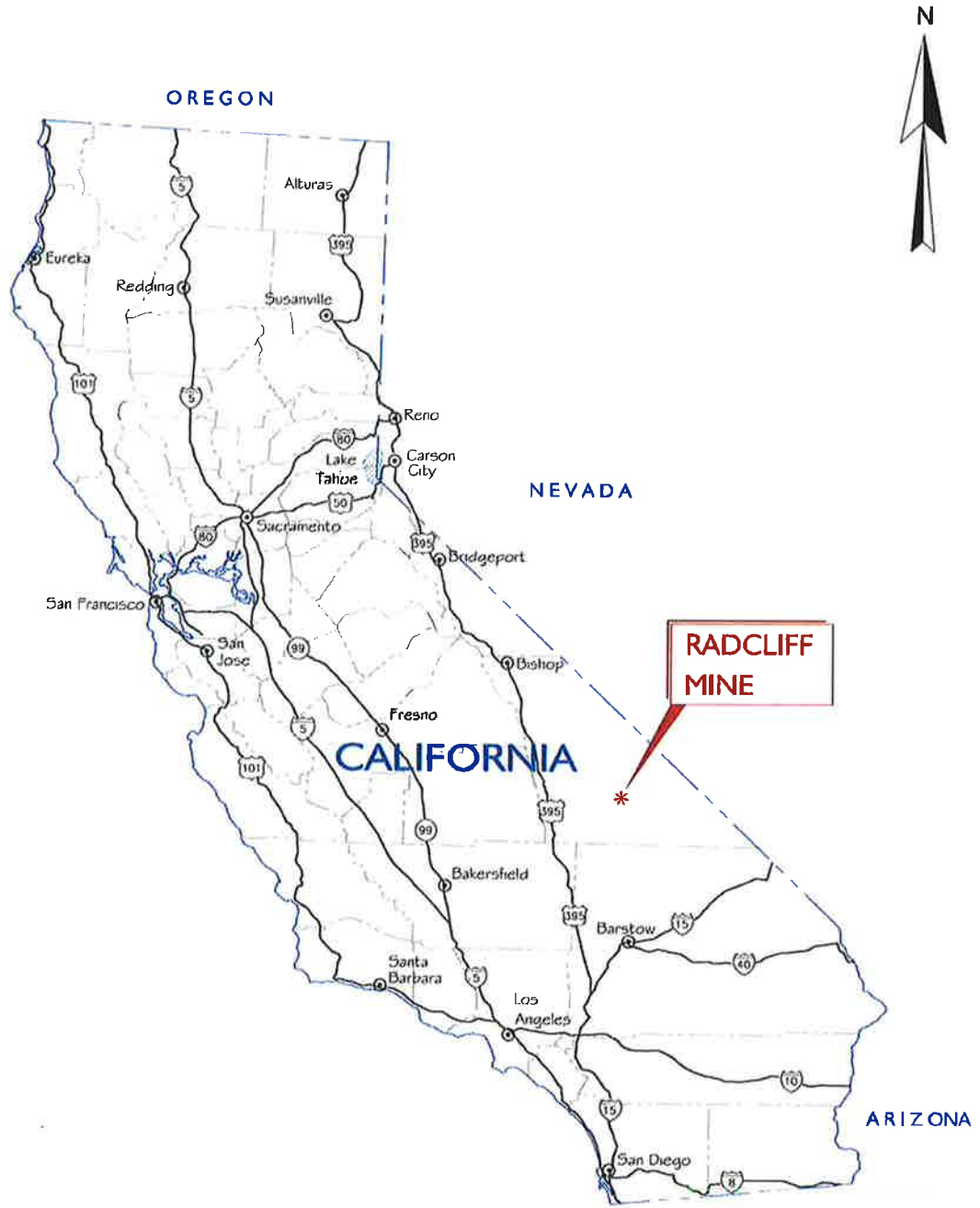
## **2 Access to Existing Site**

Current, and historic access to the Radcliff property from Ballarat is via P-81, an unmaintained dirt road eastward for six (6) miles up Pleasant Canyon. P-81 is a BLM designated public access road. Once past the historic structures at Clair Camp, traditional access to the Radcliff is through the Worldbeater Project property; southward up the Kerr-McGee access/exploration road for a distance of approximately 1.7 miles, to the saddle at the top of the hill. From the saddle, existing exploration roads can be used to traverse down into Hope Canyon and the Radcliff site.

However, Pruett Ballarat Inc. (PBI) is proposing to access the Radcliff site through a new, by-pass road into Pleasant Canyon, and new Right-of-Way (ROW) from the main road (P-81) at Clair Camp directly up into Hope Canyon, eliminating the need to travel through the Worldbeater Project. PBI is currently coordinating with the BLM in creating the nearly three miles of new by-pass road of P-81 in an effort to protect what is deemed to be a sensitive riparian habitat. The upper 2 miles of wet willow riparian zone, which will remain part of the primary access route, will be modified by redirecting the creek from the uphill side of the road into its natural drainage on the downhill side of the road. This should protect the road from future washouts. This road will remain designated P-81, and will continue as a BLM public route. As such, no reclamation of this road is anticipated or proposed in this reclamation plan.

In addition, a new ROW application has been submitted to the BLM for access from P-81 directly into Hope Canyon, and the patented claims and existing exploration disturbance of the Radcliff Project (Figure 2). This will be created as an easement to the private land on which the Radcliff Project lies, but not as part of a Mining Plan under CFR 3809. Available surface material will be used as fill for the proposed road. Stockpiling growth media from this road is not currently deemed possible due to the steepness of surrounding terrain.

**Exhibit 2**

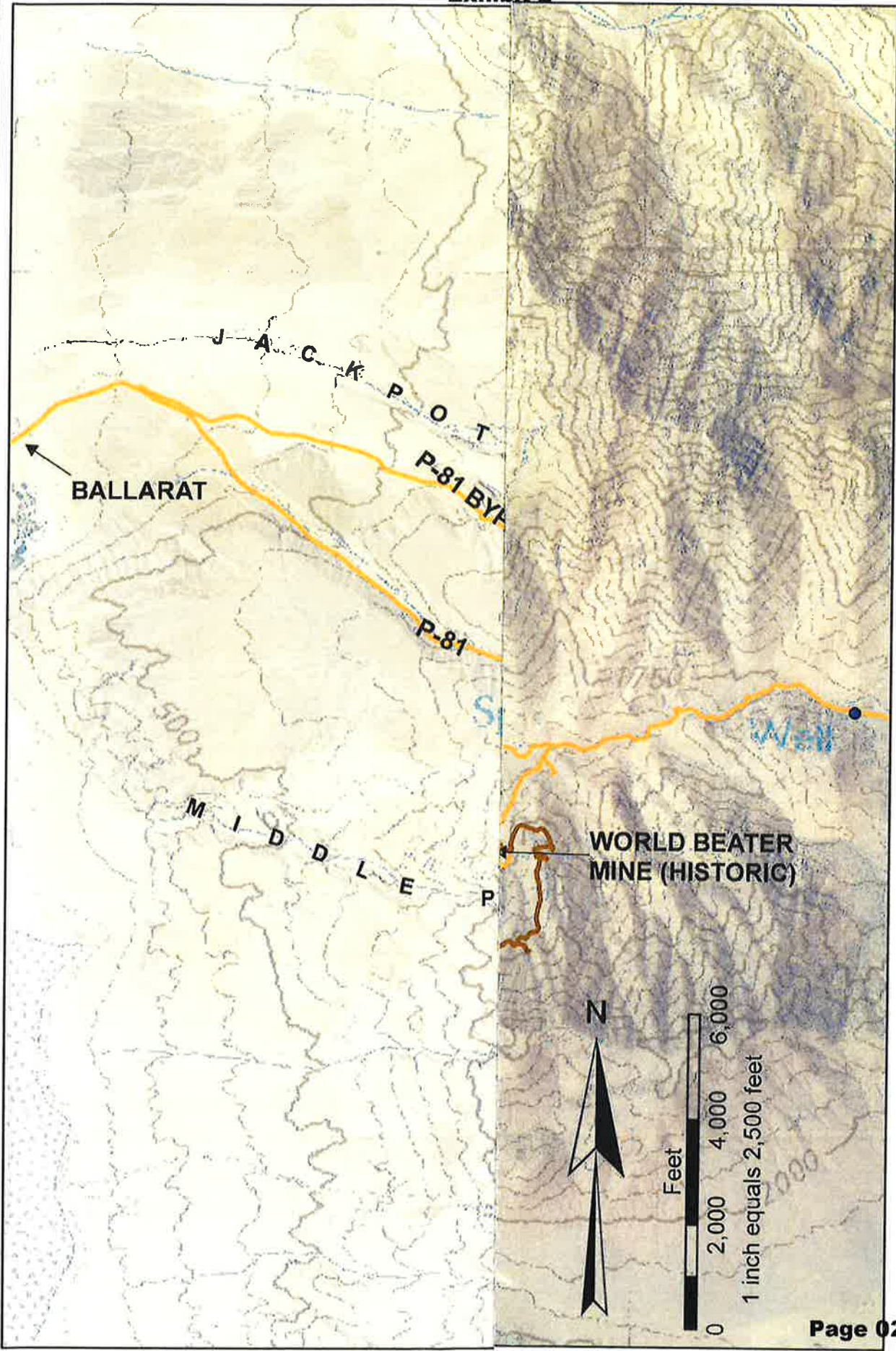


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|  <b>SRK Consulting</b><br><i>Engineers and Scientists</i> |                              |           |    |
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| PREPARED FOR: | <b>RADCLIFF MINE</b>       |
|               | <b>PRUETT BALLARAT INC</b> |

|                |                     |              |
|----------------|---------------------|--------------|
| DRAWING TITLE: | <b>LOCATION MAP</b> |              |
| DRAWING NO.    | <b>FIGURE 1</b>     | REVISION NO. |
| SRK JOB NO.    | <b>147602</b>       | <b>A</b>     |

**Exhibit 2**

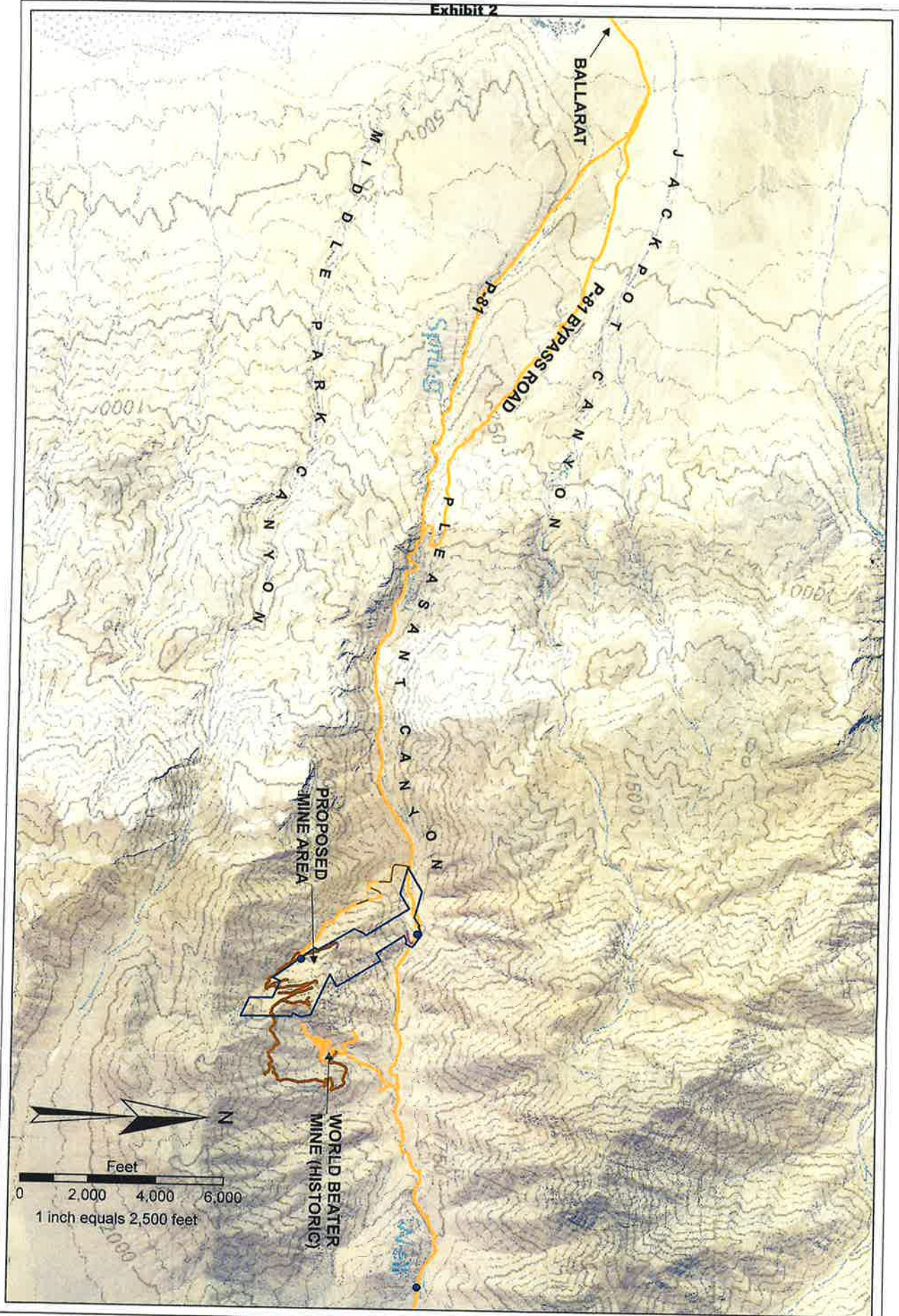


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| DRAWING TITLE |          | <b>SITE LOCATION AND ACCESS ROADS</b> |          |
| DRAWING NO.   | FIGURE 2 | SHEET                                 | 2 OF 3   |
| SRK JOB NO.   | 147602   | REVISION NO.                          | <b>B</b> |

**RADCLIFF MINE**  
**PRUETT BALLARAT INC**

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| <b>SRK Consulting</b><br>Engineers and Scientists |                           | DESIGN:   | MW         |
| DRAWN:  | JQG                       | REVIEWED: | MW         |
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| FILE NAME:  | Rec_Fig2_JQG_20080122.mxd |           |            |

|                    |                  |
|--------------------|------------------|
| <b>EXPLANATION</b> |                  |
|                    | Private Property |
|                    | Water Well       |



**EXPLANATION**

- Private Property
- Water Well

**SRK Consulting**  
Engineers and Scientists

|                                      |            |                  |
|--------------------------------------|------------|------------------|
| DESIGN: MW                           | DRAWN: JQG | REVIEWED: MW     |
| CHECKED:                             | APPROVED:  | DATE: 02/14/2008 |
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**RADCLIFF MINE**  
**PRUETT BALLARAT INC**

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|---|
| DRAWING TITLE:<br><b>SITE LOCATION AND ACCESS ROADS</b> |
| DRAWING NO:<br><b>FIGURE # Page 023</b>                 |
| SRK JOB NO:<br><b>147602</b>                            |

**B**



### 3 Project History

The Radcliff Project, and nearby Worldbeater mines, were discovered between 1896 and 1897. Production came largely from the Radcliff mine between 1898 and 1903, reportedly on the order of 14,500 ounces of gold (Au) from 14,000 tons of ore (slightly over one ounce per ton of ore mined). The property was opened as seven (7) underground levels, totaling about 2,400 feet of workings; over 500 vertical feet and 700 lateral feet. Owing to the steep topography, aerial tramways were used to get ore from the mine mouth to the mill at Clair Camp and below through Pleasant Canyon.

In 1989, Kerr-McGee leased the claims from land owner, Charles Mott. Echo Bay Exploration (EBX) then entered into a joint venture agreement with Kerr-McGee in May of 1992. EBX was the operating partner of the joint venture. Currently, PBI has purchased a lease and option on the claims, defined as the Radcliff Project, from Mr. Mott.

**Table 1: Disturbance Summary**

| Date   | Status              | Operator        | Description   | Disturbance (Acres) |             |
|--|---------------------|-----------------|---|---------------------|-------------|
|  |                     |                 |   | Public              | Private     |
| 1896 – 1989  | Historic            | Unknown         | Worldbeater Mine (disturbance <b>NOT</b> subject to reclamation by PBI)   | 1.91                | -           |
| 1989 – 1994  | Existing/ Permitted | Kerr-McGee/ EBX | Exploration road and drill pad construction in Hope Canyon (disturbance <b>NOT</b> subject to reclamation by PBI – included in new BLM ROW) | 0.54                | -           |
| 1989 – 1994  | Existing/ Permitted | Kerr-McGee/ EBX | Exploration road and drill pad construction (disturbance subject to reclamation by PBI)   | 2.47                | 1.73        |
| <b>Subtotal Historic Disturbance</b>                                 |                     |                 |   | <b>4.92</b>         | <b>1.73</b> |
| <b>Subtotal Historic Disturbance (subject to reclamation by PBI)</b> |                     |                 |   | <b>2.47</b>         | <b>1.73</b> |
| 2008   | Proposed            | PBI             | Six (6) Portal Locations  | -                   | 3.00        |
|  |                     |                 | Two (2) Yards   | -                   | 0.80        |
|  |                     |                 | New Roads (subject to reclamation)  | -                   | 0.20        |
|  |                     |                 | Borrow Area   | -                   | 0.36        |
| <b>Subtotal Proposed Disturbance (subject to reclamation by PBI)</b> |                     |                 |   | <b>0.0</b>          | <b>4.36</b> |
| <b>Total Disturbance (subject to reclamation by PBI)</b>             |                     |                 |   | <b>2.47</b>         | <b>6.09</b> |

The current surface disturbance for the existing portions of the Radcliff Project is 6.65 acres. As part of the continued exploration and development of the project, an additional surface disturbance of 4.36 acres (entirely on private land) is proposed. This would include the new adits to access the ore body, laydown yards for

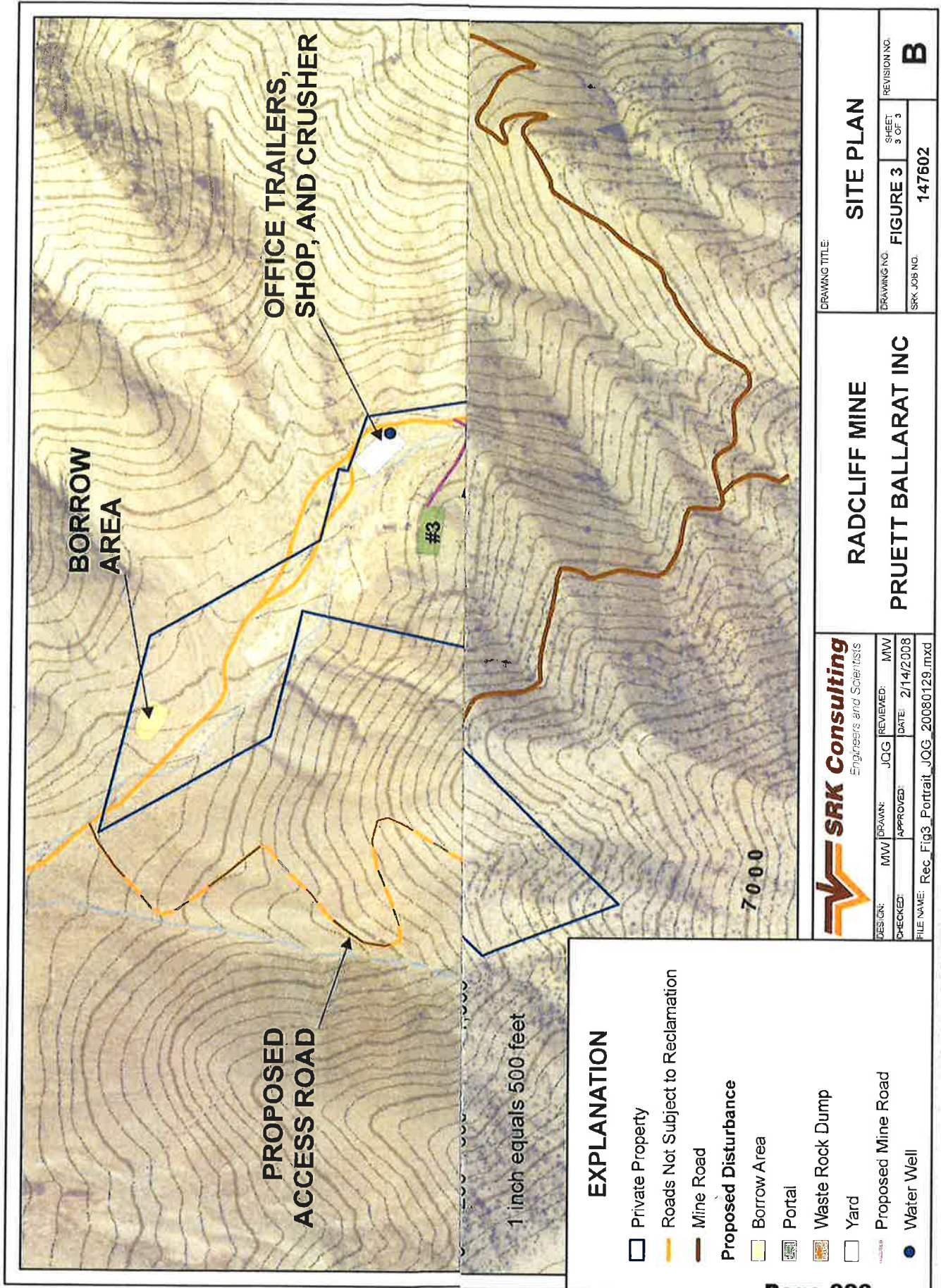
equipment storage and crushing unit, and a small development rock pile (rock dump). This proposed activity would bring total surface disturbance at the Radcliff Project (which is subject to reclamation by Pruett Ballarat Inc. under this plan) to 8.56 acres (Figure 3).

## **4 Project Environment**

The principal area of mineralization is a steep, rocky hillside with sparse desert scrub vegetation consisting of sparse pinyon pine and juniper trees (below 6500' elevation and more abundant at higher elevation), desert holly salt brush, creosote, burr sage, galleta grass, Indian ricegrass, red brome grass, very sparse barrel cactus, burro brush and four wing salt brush. Access to the area is also by way of steep, rocky hillsides with poorly developed "B" and "C" soil horizons supporting sparse sagebrush dominant desert vegetation on lower slopes and sparse pinyon, juniper and sagebrush vegetation on higher slopes. Wild Burros frequent the lower slopes. Annual rainfall is less than 7 inches. The California Natural Diversity Database identifies only one (1) threatened or endangered species (the Inyo California towhee) on the Ballarat 7.5 minute quadrangle and no endangered species on the Panamint quadrangle; though five species are in the database for Ballarat and seven are listed for Panamint.

## **5 Name and Address of Operator/Agent**

Pruett Ballarat Inc. currently controls 10 patented lode (mineral) claims, 1 patented mill site claim, and 94 unpatented lode claims for a total of approximately 1,754 acres (Appendix A). The patented claims (137.5 acres), and certain unpatented claims, are held under an Exploration Agreement and Option to Purchase from Mr. Charles Mott of Little Rock, Arkansas.

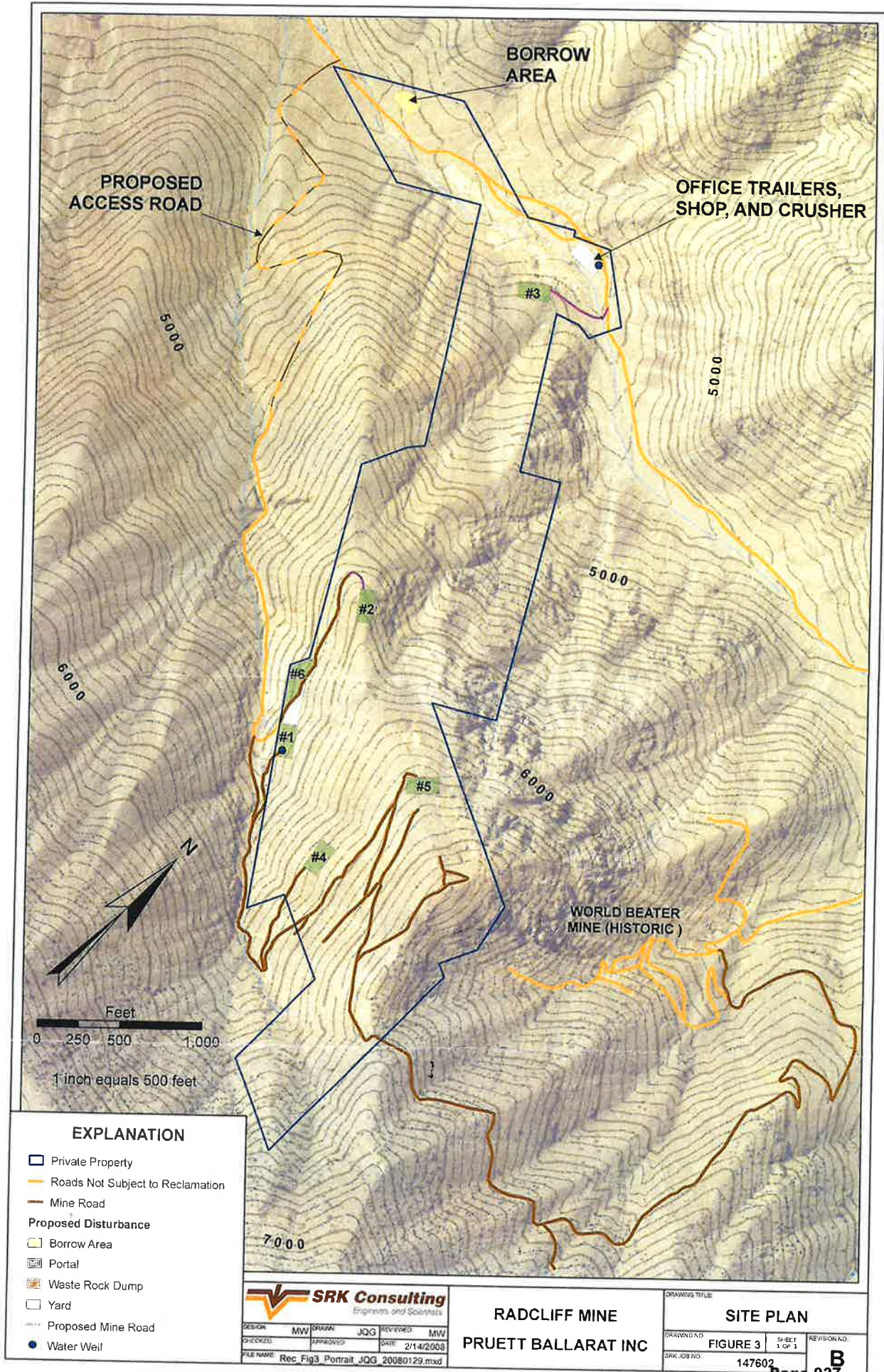


| EXPLANATION |                                  |
|-------------|----------------------------------|
|             | Private Property                 |
|             | Roads Not Subject to Reclamation |
|             | Mine Road                        |
|             | Proposed Disturbance             |
|             | Borrow Area                      |
|             | Portal                           |
|             | Waste Rock Dump                  |
|             | Yard                             |
|             | Proposed Mine Road               |
|             | Water Well                       |

**SRK Consulting**  
Engineers and Scientists

|   |    |           |     |           |           |
|---|----|-----------|-----|-----------|-----------|
| DESIGN:                                       | MW | DRAWN:    | JQG | REVIEWED: | MW        |
| CHECKED:                                      |    | APPROVED: |     | DATE:     | 2/14/2008 |
| FILE NAME: Rec_Fig3_Portrait_JQG_20080129.mxd |    |           |     |           |           |

|                      |          |                            |          |
|----------------------|----------|----------------------------|----------|
| DRAWING TITLE:       |          | <b>SITE PLAN</b>           |          |
| DRAWING NO.          | FIGURE 3 | SHEET                      | 3 OF 3   |
| SRK JOB NO.          | 147602   | REVISION NO.               | <b>B</b> |
| <b>RADCLIFF MINE</b> |          | <b>PRUETT BALLARAT INC</b> |          |



PROPOSED ACCESS ROAD

BORROW AREA

OFFICE TRAILERS, SHOP, AND CRUSHER

5000

5000

5000

6000

6000

N

0 250 500 1,000  
Feet

1 inch equals 500 feet

WORLD BEATER MINE (HISTORIC)

7000

**EXPLANATION**

- Private Property
- Roads Not Subject to Reclamation
- Mine Road
- Proposed Disturbance**
- Borrow Area
- Portal
- Waste Rock Dump
- Yard
- Proposed Mine Road
- Water Well

**SRK Consulting**  
Engineers and Scientists

|   |    |          |     |          |           |
|---|----|----------|-----|----------|-----------|
| DESIGN  | MW | DRAWN    | JQG | REVIEWED | MW        |
| CHECKED                                       |    | APPROVED |     | DATE     | 2/14/2008 |
| FILE NAME: Rec Fig3 Portrait JQG 20080129.mxd |    |          |     |          |           |

**RADCLIFF MINE**  
**PRUETT BALLARAT INC**

|               |          |                  |          |
|---------------|----------|------------------|----------|
| DRAWING TITLE |          | <b>SITE PLAN</b> |          |
| DRAWING NO.   | FIGURE 3 | SHEET            | 1 OF 1   |
| SRK JOB NO.   | 147602   | REVISION NO.     | <b>B</b> |

**5.1 Lessee/Operator**

Pruett Ballarat Inc. (PBI)  
443 Upper Colony Rd.  
Wellington, NV 89444  
Phone: (775) 465-2652  
Operator: David L. Pruett, President

**5.2 Designated Agent**

Site Contact Person: David L. Pruett, President (PBI)  
Designated Agent: Douglas Buchanan, Attorney at Law  
363 Academy Avenue  
Bishop, CA 93514  
Phone: (760) 873-4211  
Fax: (760) 873-4007

**6 Anticipated Quantity & Type of Mineral to be Mined**

The Radcliff Project is a pilot scale underground mine exploration operation. PBI intends to remove bulk ore for both metallurgical testing and processing.

**6.1 Ore**

PBI anticipates removing 100,000 tons of gold ore from the Radcliff underground workings. This ore will be crushed and transported offsite for testing and processing over the course of 15 years.

**6.2 Waste**

Initial underground mine development will require the storage of a small amount of development rock (waste) composed of non-mineralized rock. The development rock dump will be relatively small, less than 1,000 tons and down hill from portal disturbance. This disturbance will not be visible from Pleasant Canyon main public access road. Once ore stopes are available for backfill within the workings, some of the waste development rock will be returned underground. The volume of development rock disturbance anticipated is on the order of 1,500 yd<sup>3</sup>.

**6.3 Product**

As gold ore will be crushed and transported offsite for testing and processing. No product will be produced at the site, at this time.

## **7 Initiation and Termination Dates for Surface Mining Operations**

### **7.1 Initiation Date**

The anticipated initiation date of activities at the site is February 20, 2008.

### **7.2 Termination Date**

Based on current projections, the termination date of the Radcliff Project is February 20, 2018.

## **8 Maximum Depth of Surface Mining**

The Radcliff Project is an underground mine exploration project; no surface mining is currently proposed, though some minor surface disturbance will be required.

## **9 Size, Legal Description of Land Effected by Surface Mining**

### **9.1 Map with Boundary and Topography**

Figure 3 shows the boundaries of the Radcliff Project with contour lines.

### **9.2 General Geology Description**

Topography is extremely rugged, with slope angles ranging from 35° to 40°. Elevations vary from 6,580 ft at the top of the hill above the Radcliff glory hole, to 4,530 ft at the Clair Camp in Pleasant Canyon, a difference of 2,050 vertical feet. Vegetation is sparse due to lack of rain in this arid region and the rocky terrain.

Mineralization occurs within quartz-sulfide veins, disseminated sulfides and locally massive sulfides which were emplaced along zones of shearing and dilatency within argillite and amphibolite units of the Limekiln Spring Member of the Kingston Peak Formation. These units structurally and unconformably overlie quartzofelspathic gneisses and granites of the Worldbeater complex. Quartz veins and shesar zones within the gneiss complex may also be mineralized. The argillites and amphibolites are conformably overlain by quartzite and diamictite units which are upper members of the Kingston Peak Formation.

### **9.3 Detail Geology Description for Surface Mining Area**

Not applicable as no surface mining is proposed.

**9.4 Location of All Streams, Roads, Railroads and Utility Facilities Adjacent to Mine Facility or Access Roads**

No streams, railroads or utility facilities are adjacent to the Radcliff Project site. An existing riparian corridor exists along the lower reaches of Pleasant Canyon (along P-81). The historic structures of Clair Camp are located at the ROW access road into Hope Canyon.

**9.5 Disturbance Not Subject to Reclamation**

As indicated on Figure 3, the disturbance associated with the historic Worldbeater Project area, from Pleasant Canyon access road up to the entrance to the Kerr-McGee/Echo Bay Exploration (EBX) roads, predates the SMARA regulations (Pre-1976), and is therefore not subject to reclamation. It is not covered, nor included as part of this amended reclamation plan or financial assurance cost estimate for the proposed Radcliff Project.

In addition, approximately 2,150 ft of former Kerr-McGee/EBX road (ca. 1994) is being converted to a permanent easement to access the public land in Hope Canyon, and is therefore not subject to future reclamation requirements; nor is the new road that links this segment to the Pleasant Canyon access road.

**9.6 Name and Address of Owners of all Surface Interest and Mineral Interest in the Lands**

## a) Land Owner

Charles B. Mott, Jr.  
1501 North University Street  
Prospect Building, Suite 966  
Little Rock, Arkansas 72207  
Phone: (501) 664-4808

## b) The unpatented claims are administered by the U.S. Department of the Interior, Bureau of Land Management, Ridgecrest Field Office. PBI does not currently propose any activity on the unpatented portions of the Radcliff or Worldbeater projects.

## c) Mineral Interest

Pruett Ballarat Inc.  
443 Upper Colony Road  
Wellington, Nevada 89444  
Phone: (775) 465-2652

## **10 Surface Mining Plan and Schedule**

This underground mining operation will have limited surface disturbance. This surface disturbance will be reclaimed at the close of operations. See Section 7 for initiation and termination dates.

## **11 Proposed Potential Use of Land after Reclamation**

If the pilot scale/exploration portion of the operation is successful, the land will be used for full-scale underground mining. If program is unsuccessful, the land will be returned to Multiple Use Category, the prior status to exploration activity.

Evidence that all owners have been notified of proposed land use post-reclamation is offered by way of copy of the recorded memorandum of agreement between WB & Radcliff Inc. (Charles Mott) and Pruett Ballarat Inc. (David Pruett) (Appendix B).

## **12 Description of How Reclamation for Proposed Potential Use will be accomplished**

This Reclamation Plan, and all proposed activities, will comply with California Surface Mining and Reclamation Act (SMARA) policies and procedures. Activities are currently only proposed for private land. In addition, PBI will comply with the standards described in 43 CFR 2809.1-3d and that all reasonable measures will be taken to prevent unnecessary or undue degradation of the federal lands surrounding the Radcliff Project.

Reclamation activities proposed for the Radcliff Project will include:

### **12.1 Pre-Operational Requirements**

- 1 Secure financial assurances in the sum of \$85,295 in the form of a surety bond, irrevocable letter of credit or trust fund, shall be posted with the Inyo County Planning Department. Said financial assurance shall be payable to both the County of Inyo and the California Director of Conservation. A copy of the financial assurance cost estimate is provided in Appendix E.
- 2 PBI shall submit a notarized statement to the Planning Department accepting responsibility for reclaiming the lands, as per the conditions specified herein prior to any additional mining or exploration activities commencing.
- 3 Potential loss of native vegetation and wildlife habitat is considered to be in accord with the standards set by the Fish and Game Code for potential habitat loss. Because of the potential loss of native vegetation and wildlife habitat loss, however sparse, Section 711.4 of Fish and Game code requires the payment of a fee before this project becomes "operative, vested or final". The



## Exhibit 2

potential impact is greater than the *de minimus* standard of section 711.4. Said fee and a document handling charge shall be paid by PBI at the time the Notice of Determination is filed by the Planning Department (10 days after the Reclamation Plan approval).

#### 4 Mitigation recommendations:

- a) **Vegetation** – PBI conducted a botanical survey of the site (Appendix D), specifically in the proposed areas of surface disturbance. A total of 78 plant taxa, occurring in 30 families were recorded. Eighteen special status plant species were identified as having some potential for occurring in the region, though none are expected to occur at the project site. Additional information regarding biological resources and environmental studies in the project area is provided in the Inyo County Conditional Use Permit (C.U.P.) application.
- b) **Archeology** – A cultural resource inventory was performed for the P81 bypass road switchback leading in to Pleasant Canyon and approximately 10 acres of land adjacent to Ballarat (Pacific Legacy, Inc., 2008). The inventory identified and recorded one archeological site and four isolated artifacts deemed to contain limited data potential and do not appear to meet the criteria for National Register of Historic Places (NRHP) eligibility. Additional information regarding cultural and archeological resources in the project area is provided in the Inyo County C.U.P. application.
- c) **Soil** – The soils are susceptible to accelerated erosion from wind and water especially when the surface has been disturbed due to poor developed and low vegetation coverage. Drainage control shall be ensured over the roads.
- d) **Air** – PBI will curtail activities when wind speeds exceed 30 miles per hour (mph) to avoid carrying excessive dust into the nearby class II airsheds.
- e) **Animal** – There are no known threatened or endangered species in the proposed action area. The project is outside the range of the desert tortoise and the Mohave ground squirrel.

**Pale (Townsend) Bigeared Bats** – The Townsend's bigeared bat is a Federal Category II Candidate species and a California Species of Special Concern. Even though the Radcliff Project is within the Worldbeater historic mining district, the risk is low of intercepting historic underground workings with the current exploration and pilot-scale mining plan. If existing underground workings are encountered, a bat study, potentially focused on the Pale (Townsend) Bigeared Bats, will be conducted prior to further activity.

## Exhibit 2

### 12.2 Operational Requirements

1. Removal of pinyon trees will be kept to minimum while still allowing completion of the project. Trees will be limbed rather than removed whenever possible. PBI does not anticipate encountering any pinyon pines during this phase of the project.
2. Operations or road improvements and construction equipment will be confined to the existing and proposed road sections.
3. As practicable, topsoil from all future roads construction will be salvaged and stockpiled.
4. New Road construction will not exceed a total disturbed width of thirty feet (30'), with a 15-ft running width.
5. Inslope, full bench construction will be required for new road sections.
6. Water bars will be placed, as deemed necessary by the operator, for concurrence by the BLM and/or the Inyo County Planning Department.

PBI intends to construct and operate a small (30ft × 50ft) maintenance shop at Claire Camp in accordance with County codes. In addition, a Man Camp with six parking sites with septic and water will be set up at Claire Camp. The area is currently disturbed.

Upon abandonment, all drill holes will be plugged as outlined in the April 4, 1989 (BLM) Plan of Operations and the procedures used to plug the drill holes shall conform with BLM Manual Handbook H-3042-1, Section V. NOTE: All holes drilled to date have been plugged with the exception of the two holes which are proposed for re-entry to deepening with core drilling. Holes were plugged by method specified by BLM personnel in Ridgecrest Field Office.

7. The water source for the Radcliff Project comes from a very old, developed underground adit at an area called Stone Corral located approximately two miles east of Clair Camp. The water was developed by the Radcliff Mining Company on water right millsite(s) at Stone Corral around the late 1800's. BLM has indicated (verbally) that water rights are viable. Additionally, in 1989 the California State Water Resource Control Board Division of Water Rights acknowledged that the rights of Stone Corral Spring belong to a group represented by Mr. Charles Mott. Further, there is a 1932 decree by the District Court of the U.S. Southern District of California Central Division in Decree T-71-H that indicates these water rights belong to the claim holders. The above information indicates that all water rights to stone Corral belong to the claim owners. The water diversion site is on Federal Lands. Spring water rights will be used by diverting only to fill the 3,000 gallon water tank. Once

## Exhibit 2

the tank is full, water will be allowed to flow back into the alluvial gravels. No well is proposed.

8. Any explosives used during operations will be stored in two powder magazines furnished by the supplier. One magazine will contain blasting caps and primers, while the other will store the explosive. The magazines will be located on fee land. Explosives are to be transported to the site via pickup truck, with blasting caps transported in a separate vehicle. Approval for these activities was granted by the Inyo County Sheriff on June 21, 2007 (Permit No. EP-98-007).
9. Sonic booms created by aircraft at supersonic speeds have the characteristics of explosives detonations. Please ensure that explosive handlers are made aware of this phenomenon. If any electric blasting is to occur, due to the potential of low-flying aircraft in the area, the operator shall schedule blasting activities with the Air Force Flight Test Center and the Naval Air Weapons Center, China Lake.
10. This Reclamation Plan shall be reviewed and PBI's compliance with the conditions listed above shall be evaluated every year, as required by Section 2774(b) of SMARA, after the date of approval. The amount of the financial assurances shall also be reviewed and adjusted as deemed appropriate, at that time.
11. PBI shall notify the Inyo County Planning Department and the BLM Ridgecrest Office prior to closure of the operation in order to coordinate reclamation of the site.

### 12.3 Final Closure Requirements

Final closure of the project will include the following.

1. Removal of all equipment from the site, including, but not limited to the portable crushers, office trailer(s), generators, fuel tanks, etc..
2. Removal of any portable toilets and refuse facilities.
3. Clean-up of any garbage or other solid waste inadvertently left at the site.
4. Removal of air and water lines on the surface.
5. Removal of all drill rods and bits.
6. Culverts, if used, will be removed, and pre-mining drainage courses will be restored which have been blocked by operations and/or road conditions.
7. Concrete foundations and slabs

## Exhibit 2

8. Scarification of compacted or disturbed areas, as practicable, to promote revegetation. Compacted or disturbed areas include, but are not limited to post-1989 roads, drill pads, helicopter drill pads and the new laydown yard. All disturbances non-accessible by heavy equipment, i.e., helicopter drill pads, will be seeded but not scarified. Re-seeding of compacted or disturbed areas, as practicable, with a native species seed mix approved by both the BLM and Inyo County Planning Department.
9. PBI shall follow the guidelines presented in the Solid Minerals Reclamation Handbook (BLM Manual Handbook H- 3042 -1) in regards to reclamation of drilling pads, drill hole plugging and road beds.
10. Access to the exploration roads on the Worldbeater side of the operation (the Kerr-McGee/Echo Bay exploration roads) shall be denied by ripping and backfilling to the original contours from the first turnout of the canyon to the east (where the chain & post gate is located) to the property line (Figure 3). Reseeding shall occur on this stretch of reclaimed road to establish the vegetation and plant cover approved by the Inyo County Planning Department and BLM (Ridgecrest).
11. The mine adit will be closed to prevent unauthorized access by people and colonization by bats. The entrances will be plugged by rock backfill.
12. No special handling is proposed for the developmental rock pile, as studies indicate that the material is neither acid forming nor does it contain elevated levels of any deleterious elements. Part of the developmental rock pile will be used to plug the adit entrance. It is not proposed to cover or revegetate developmental rock pile.

**Table 2: Waste Rock ABA Results**

| Quartzite Waste Rock       | 10.4  | 0.4  | 10.0  |
|----------------------------|-------|------|-------|
| Chlorite/Schist Waste Rock | 268.0 | 50.2 | 217.8 |

Sited from Table 10.1 Neutralization Potential Analyses from the Worldbeater Project Proposed Plan of Operation submitted August 1996.

13. PBI will develop a monitoring plan to assess revegetation to determine when reclamation is a success.

### 12.4 Post-Reclamation Requirements

Successful revegetation will be defined as 25% of the original plant cover with 80% of the native species growing on the reclaimed area.

## Exhibit 2

The Inyo County Planning Department, in compliance with the requirements of SMARA, will monitor revegetation. Once revegetation is deemed a success, as per above criteria, the applicable mining reclamation financial assurances will be released.

### 12.5 Contaminants Control and Mining Waste Disposal

All fuel tanks and other containers will be properly emptied through consumption, recycling or transport to a designated waste handling or treatment facility. Containers will be removed for reuse, or disposed of in an approved landfill.

Explosives storage will be removed in accordance with the applicable Federal and State regulations, as administered by the Bureau of Alcohol, Tobacco, and Firearms, and the State Fire Marshall.

### 12.6 Affected Streambed, Channel and Streambank

The proposed project is not expected to have an adverse impact on water resources, and no 401 certification would be needed as long as normal mitigation is used.

## 13 Reclamation Plan Effect on Future Mining

The Reclamation Plan does not preclude future mining.

## 14 Responsibility for Reclaiming the Disturbed Lands

PBI hereby agrees to accept responsibility for the reclamation of any surface area affected by the exploration or mining operations at the Radcliff Project in accordance with the Reclamation Plan. See Appendix C for notarized Statement of Responsibility for Reclaiming the Disturbed Lands.

The applicant, PBI, shall defend, indemnify and hold harmless Inyo County, or its agents, officers and employees from any claim, action or proceeding against the county or its agents, officers, or employees to attack, set aside, void or annul an approval of the County, its advisory agencies, its appeals board, or its legislative body concerning Conditional Use Permit (2007-05/Pruett Ballarat, Inc.). The County reserves the right to prepare its own defense.

## 15 Public Health and Safety

The activities outlined herein have been designed to “avoid unnecessary or undue degradation” (43CFR§3809.5) as defined in the general and specific performance standards listed in §3809.420. The proposed activities are also designed to be

## Exhibit 2

consistent with Nevada reclamation laws that govern private and public lands in the state of Nevada (NRS 519A.100). These laws define reclamation as actions that will:

*“ . . . shape, stabilize, revegetate or otherwise treat the land in order to return it to a safe, stable condition consistent with the establishment of a productive post-mining use of the land and the safe abandonment of a facility in a manner which ensures the public safety, as well as the encouragement of techniques which minimize the adverse visual effects.”*

### 16 Disposition of Old Equipment

All equipment on site is mobile and will be removed during closure.

### 17 Designated Areas for Equipment and Waste

Private land will be leased in or near the town of Ballarat for an administration building, equipment and storage yard and fuel and lube storage facility.

### 18 References

- Bagley, M. 2008. *Botanical Report for the Pruett Ballarat Inc. Right of Way Application for P-81 BLM Route, Pleasant Canyon, Panamint Mountains, Inyo County, California.* February 5, 2008.
- Colorado Mineral Research Institute. 1996. *Compass Minerals, Limited, Worldbeater Project, Inyo County, California, Proposed Plan of Operations.* August 1996.
- County of Inyo Planning Department. 1994. *Planning Department Staff Report, Agenda Item No. 6, Reclamation Plan #93-1 and Conditional Use Permit #93-10.* Kerr-McGee Corporation/Echo Bay Exploration (Radcliff). January 1994.
- Pacific Legacy, Inc. 2008. *A Cultural Resource Inventory for the Pruett Ballarat Inc., P81 – Ballarat thru Switchback to Pleasant Canyon.* February 2008.

**APPENDIX A**

---

**Description of Mining Claims**

Property Description and Location

Exhibit 2

Exhibit A  
The Claims

Q&A  
DM

The property consists of 10 patented mineral claims, 1 patented mill site claim and 94 unpatented claims aggregating approximately 710 hectares as follow:

Patented Claims (11)

The ten (10) patented mining claims (MS 3713A) and one (1) patented mill site (MS 3713B) known as the Radcliff Consolidated Quartz mining and mill site claim consist of the the following: Sun Rise, Grover Cleveland, John G. Carlisle, Kentucky, Texas, Joker Extension, Never Give Up, Treasure Vault and W.G. Quartz claims and the Cleveland mill site claim, designated by the Surveyor General as Lot Nos. 3713A and 3713B containing a total of 137.487 acres, more or less and are located in all or portions of unsurveyed and protracted Sections 8, 9 and 16, Township 22 South, Range 45 East, Mount Diablo Meridian, County of Inyo, State of California.

Unpatented Claims

The following described 94 unpatented, lode mining claims and mill sites located in Sections 2, 3, 4, 5, 8, 9, 10, 11, 15, 16, 17, 20, 21 and 22, of T.22 S, R 45 E, Mount Diablo Meridian, South Park Mining District, Inyo County, California, described as follows:

| Name of Claim | Date of Location | Recording Data<br>Doc. Number | BLM Serial No. |
|---------------|------------------|-------------------------------|----------------|
| WB 52         | 1-12-1989        | 89 1368                       | CA MC 221764   |
| WB 53         | 1-12-1989        | 89 1369                       | CA MC 221765   |
| WB 54         | 1-12-1989        | 89 1370                       | CA MC 221766   |
| WB 55         | 1-12-1989        | 89 1371                       | CA MC 221767   |
|               |                  |                               |                |
| WB 59         | 1-26-1989        | 89 1372                       | CA MC 221768   |
| WB 60         | 1-26-1989        | 89 1373                       | CA MC 221769   |
| WB 61         | 1-26-1989        | 89 1374                       | CA MC 221770   |
| WB 62         | 1-26-1989        | 89 1375                       | CA MC 221771   |
|               |                  |                               |                |
| WB 64         | 1-15-1989        | 89 1376                       | CA MC 221772   |
| WB 65         | 1-15-1989        | 89 1377                       | CA MC 221773   |
| WB 66         | 1-12-1989        | 89 1378                       | CA MC 221774   |
| WB 67         | 1-12-1989        | 89 1379                       | CA MC 221775   |
| WB 68         | 1-12-1989        | 89 1380                       | CA MC 221776   |
| WB 69         | 1-12-1989        | 89 1381                       | CA MC 221777   |
|               |                  |                               |                |
| WB 72         | 1-20-1989        | 89 1384                       | CA MC 221780   |
| WB 73         | 1-20-1989        | 89 1385                       | CA MC 221781   |

| Name of Claim | Date of Location | Recording Data<br>Doc. Number | BLM Serial No. |
|---------------|------------------|-------------------------------|----------------|
| WB 79         | 1-16-1989        | 89 1391                       | CA MC 221787   |
| WB 80         | 1-16-1989        | 89 1392                       | CA MC 221788   |
| WB 81         | 1-15-1989        | 89 1393                       | CA MC 221789   |
| WB 82         | 1-15-1989        | 89 1394                       | CA MC 221790   |
| WB 83         | 1-15-1989        | 89 1395                       | CA MC 221791   |
| WB 84         | 1-15-1989        | 89 1396                       | CA MC 221792   |



|       |           |                  |         |              |
|-------|-----------|------------------|---------|--------------|
| WB 85 | 1-15-1989 | <b>Exhibit 2</b> | 89 1397 | CA MC 221793 |
| WB 86 | 1-15-1989 |                  | 89 1398 | CA MC 221794 |
| WB 87 | 1-15-1989 |                  | 89 1399 | CA MC 221795 |
| WB 88 | 1-23-1989 |                  | 89 1400 | CA MC 221796 |

|        |           |         |              |
|--------|-----------|---------|--------------|
| WB 94  | 1-16-1989 | 89 1406 | CA MC 221802 |
| WB 95  | 1-16-1989 | 89 1407 | CA MC 221803 |
| WB 96  | 1-16-1989 | 89 1408 | CA MC 221804 |
| WB 97  | 1-15-1989 | 89 1409 | CA MC 221805 |
| WB 98  | 1-15-1989 | 89 1410 | CA MC 221806 |
| WB 99  | 1-15-1989 | 89 1411 | CA MC 221807 |
| WB 100 | 1-15-1989 | 89 1412 | CA MC 221808 |
| WB 101 | 1-15-1989 | 89 1413 | CA MC 221809 |
| WB 102 | 1-15-1989 | 89 1414 | CA MC 221810 |
| WB 103 | 1-15-1989 | 89 1415 | CA MC 221811 |

|        |           |         |              |
|--------|-----------|---------|--------------|
| WB 109 | 1-17-1989 | 89 1421 | CA MC 221817 |
| WB 110 | 1-17-1989 | 89 1422 | CA MC 221818 |
| WB 111 | 1-17-1989 | 89 1423 | CA MC 221819 |
| WB 112 | 1-17-1989 | 89 1424 | CA MC 221820 |
| WB 113 | 1-17-1989 | 89 1425 | CA MC 221821 |
| WB 114 | 1-17-1989 | 89 1426 | CA MC 221822 |
| WB 115 | 1-17-1989 | 89 1427 | CA MC 221823 |

|        |           |         |              |
|--------|-----------|---------|--------------|
| WB 116 | 1-18-1989 | 89 1428 | CA MC 221824 |
| WB 117 | 1-18-1989 | 89 1429 | CA MC 221825 |
| WB 118 | 1-18-1989 | 89 1430 | CA MC 221826 |
| WB 119 | 1-18-1989 | 89 1431 | CA MC 221827 |
| WB 120 | 1-18-1989 | 89 1432 | CA MC 221828 |
| WB 121 | 1-18-1989 | 89 1433 | CA MC 221829 |
| WB 122 | 1-18-1989 | 89 1434 | CA MC 221830 |

| Name of Claim | Date of Location | Recording Data<br>Doc. Number | BLM Serial No. |
|---------------|------------------|-------------------------------|----------------|
| WB 131        | 1-17-1989        | 89 1443                       | CA MC 221839   |
| WB 132        | 1-17-1989        | 89 1444                       | CA MC 221840   |
| WB 133        | 1-17-1989        | 89 1445                       | CA MC 221841   |
| WB 134        | 1-17-1989        | 89 1446                       | CA MC 221842   |
| WB 135        | 1-17-1989        | 89 1447                       | CA MC 221843   |
| WB 136        | 1-17-1989        | 89 1448                       | CA MC 221844   |
| WB 137        | 1-18-1989        | 89 1449                       | CA MC 221845   |
| WB 138        | 1-18-1989        | 89 1450                       | CA MC 221846   |
| WB 139        | 1-18-1989        | 89 1451                       | CA MC 221847   |
| WB 140        | 1-18-1989        | 89 1452                       | CA MC 221848   |
| WB 141        | 1-18-1989        | 89 1453                       | CA MC 221849   |

**Exhibit 2**

|        |           |         |              |
|--------|-----------|---------|--------------|
| WB 147 | 3-17-1989 | 89 2117 | CA MC 223448 |
| WB 148 | 3-18-1989 | 89 2118 | CA MC 223449 |
| WB 149 | 3-18-1989 | 89 2119 | CA MC 223450 |
| WB 150 | 3-17-1989 | 89 2120 | CA MC 223451 |
| WB 151 | 3-17-1989 | 89 2121 | CA MC 223452 |
| WB 152 | 3-17-1989 | 89 2122 | CA MC 223453 |
| WB 153 | 3-17-1989 | 89 2123 | CA MC 223454 |
| WB 154 | 9-16-1993 | 93 5159 | CA MC 223457 |
| WB 155 | 9-16-1993 | 93 5160 | CA MC 261458 |
| WB 156 | 9-16-1993 | 93 5161 | CA MC 261459 |
| WB 157 | 9-10-1996 | 96 3652 | CA MC 269957 |
| WB 158 | 9-10-1996 | 96 3653 | CA MC 269958 |

Unpatented lode mining claims located in portions of all or protracted Sections 9, 10, 15 and 16, Township 22 South, Range 45 East, Mount Diablo Meridian, South Park Mining District, Inyo County, State of California, the location notices of which are recorded in the Office of the County Recorder of Inyo County and filed in the California State Office of the United States Department of the Interior, Bureau of Land Management and are more particularly described as follows:

| Name of Claim | Date of Location | Date of Recording | Recording Data Doc. Number | BLM Serial No. |
|---------------|------------------|-------------------|----------------------------|----------------|
| Margaret 1    | 03-16-1989       | 04-18-1989        | 89 2101                    | CA MC 223432   |
| Margaret 2    | 03-16-1989       | 04-18-1989        | 89 2102                    | CA MC 223433   |
| Margaret 3    | 03-16-1989       | 04-18-1989        | 89 2103                    | CA MC 223434   |
| Margaret 4    | 03-16-1989       | 04-18-1989        | 89 2104                    | CA MC 223435   |
| Margaret 5    | 03-16-1989       | 04-18-1989        | 89 2105                    | CA MC 223436   |
| Margaret 6    | 03-16-1989       | 04-18-1989        | 89 2106                    | CA MC 223437   |
| Margaret 7    | 03-16-1989       | 04-18-1989        | 89 2107                    | CA MC 223438   |
| Margaret 8    | 03-16-1989       | 04-18-1989        | 89 2108                    | CA MC 223439   |
| Margaret 9    | 03-16-1989       | 04-18-1989        | 89 2109                    | CA MC 223440   |
| Margaret 10   | 03-16-1989       | 04-18-1989        | 89 2110                    | CA MC 223441   |
| Margaret 11   | 03-16-1989       | 04-18-1989        | 89 2111                    | CA MC 223442   |
| Margaret 12   | 03-16-1989       | 04-18-1989        | 89 2112                    | CA MC 223443   |
| Margaret 13   | 03-16-1989       | 04-18-1989        | 89 2113                    | CA MC 223444   |
| Margaret 14   | 03-16-1989       | 04-18-1989        | 89 2114                    | CA MC 223445   |
| Margaret 15   | 03-16-1989       | 04-18-1989        | 89 2115                    | CA MC 223446   |
| Margaret 16   | 03-16-1989       | 04-18-1989        | 89 2116                    | CA MC 223447   |

Unpatented Mill Sites, Water Claims and/or Water Rights known as STONE CORRAL WATER CLAIMS as described in deed recorded March 4, 1962 in Book 149, Page 593 of the Records of Inyo County, California which are located in all or a portion of unsurveyed and protracted Section 11, Township 22 South, Range 45 East, Mount Diablo Meridian, County of Inyo, State of California, the location notices of which are recorded in the Office of the County Recorder of Inyo County and filed in the California State Office of the United States Department of the Interior, Bureau of Land Management and are more particularly described as follows:

| Name of Claim | Legal Description | Location Notice/Record Date | Recording Data Book/Page | BLM Serial No. |
|---------------|-------------------|-----------------------------|--------------------------|----------------|
|               |                   |                             |                          |                |

**Exhibit 2**

|                           |                               |                          |  |            |
|---------------------------|-------------------------------|--------------------------|--|------------|
| Dover                     | Sec. 11<br>T. 22S.,<br>R. 45E | 08-24-1898<br>01-03-1899 | L&W BK.A, Pg.8(LN)<br>Vol.B-1, Pg.<br>456(Deed)                                      | CA MC 6856 |
| Wingfield and<br>Harrison | Sec. 11<br>T. 22S.,<br>R. 45E | 08-24-1898<br>09-07-1898 | L&W Vol.I, Pg.650 (LN)<br>Vol.D-1 Pg.64 (Deed)                                       | CA MC 6856 |
| Sales-J.F.<br>Cooper      | Sec. 11,<br>T. 22S<br>R.45E   | 04-22-1897<br>04-23-1897 | So. Park Mining<br>District<br>Records Page 226<br>(LN)<br>Vol.C-1, Pg.<br>132(Deed) | CA MC 6856 |
| McNulty                   | Sec. 11,<br>T.22S<br>R. 45E.  | 12-17-1898<br>12-28-1898 | L&W BK.A, Pg 7 (LN)<br>Vol.C-1 Pg. 178<br>(Deed)                                     | CA MC 6856 |
| James<br>Wingfield        |                               | 01-12-1899<br>02-20-1899 | L&W BK.A, Pg 13(LN)<br>Vol.C-1 Pg.182<br>(Deed)                                      | CA MC 6856 |

See Figure (Figure@local.geo.) for disposition of the claims.

*RLP*  
*OM*

**APPENDIX B**

---

**Notification of Proposed Post-Reclamation Land Use**

## Exhibit 2

### MEMORANDUM OF AGREEMENT

#### AND OPTION

An Agreement effective as of the 20<sup>th</sup> day of January, 2007 (Effective Date)  
is between

- (i)  
WB and Radcliff Inc, a Nevada corporation, whose mailing address is 14300  
Chenal Parkway, Unit 7038, Little Rock, Arkansas 72211, herein after referred to  
as "WB" and
- (ii)  
Pruett Ballarat Inc. a Nevada corporation, whose mailing address is 443  
Upper Colony Rd. Wellington, Nevada 89444 hereinafter referred to as "Pruett"

#### RECITALS

##### Lease and Option

WB gives exclusive Mining Lease and Option To Purchase to Pruett for all  
those properties more particularly described in Exhibit "A" attached hereto

##### Term

The initial term begins on the Effective Date and continues thru December 11, 2011.  
The term may be extended for additional periods of five(5) years.

##### Possession

Pruett shall have exclusive possession of the claims (Exhibit "A")  
WB designates Pruett as the "Operator" under BLM, Inyo County, California Regulations  
Pruett shall assume the position as Operator under any  
Plans Of Operation, United States Dept of Interior, Bureau of Land Management  
Permits from Lahanton Water Pollution Control District  
Conditional Use Permits Inyo County, California  
Any additional permits require by governmental agencies

##### Taxes

Pruett shall pay all taxes levied against the claims (Exhibit A") including state  
Mineral production taxes.

##### Bonding

Pruett shall provide any and all bonding for operational permits

##### Option to Purchase

WB grants to Pruett the sole and exclusive option to purchase the claims (Exhibit A")

##### Liability and Responsibility

Pruett shall have sole liability and responsibility for the activity upon the claims  
(Exhibit (A) and shall provide insurance as required by the Agreement

##### Recording

This Memorandum of Agreement will be notarized and then recorded  
with Inyo County California

In witness whereof the parties have executed this Memorandum of Agreement

WB and Radcliff Inc  
*Charles Mott*  
Charles B. Mott  
President

Pruett Ballarat Inc  
*David L. Pruett*  
David L. Pruett

This Document Prepared By:  
David L. Pruett, President  
Pruett Ballarat Inc.

**Property Description and Location****Exhibit 2***"Exhibit A  
The Claims"**DEP*

The property consists of 10 patented mineral claims, 1 patented mill site claim and 94 unpatented claims aggregating approximately 710 hectares as follow:

Patented Claims (11)

The ten (10) patented mining claims (MS 3713A) and one (1) patented mill site (MS 3713B) known as the Radcliff Consolidated Quartz mining and mill site claim consist of the the following: Sun Rise, Grover Cleveland, John G. Carlisle, Kentucky, Texas, Joker Extension, Never Give Up, Treasure Vault and W.G. Quartz claims and the Cleveland mill site claim, designated by the Surveyor General as Lot Nos. 3713A and 3713B containing a total of 137.487 acres, more or less and are located in all or portions of unsurveyed and protracted Sections 8, 9 and 16, Township 22 South, Range 45 East, Mount Diablo Meridian, County of Inyo, State of California.

Unpatented Claims

The following described 94 unpatented, lode mining claims and mill sites located in Sections 2, 3, 4, 5, 8, 9, 10, 11, 15, 16, 17, 20, 21 and 22, of T.22 S, R 45 E, Mount Diablo Meridian, South Park Mining District, Inyo County, California, described as follows:

| Name of Claim | Date of Location | Recording Data<br>Doc. Number | BLM Serial No. |
|---------------|------------------|-------------------------------|----------------|
| WB 52         | 1-12-1989        | 89 1368                       | CA MC 221764   |
| WB 53         | 1-12-1989        | 89 1369                       | CA MC 221765   |
| WB 54         | 1-12-1989        | 89 1370                       | CA MC 221766   |
| WB 55         | 1-12-1989        | 89 1371                       | CA MC 221767   |
|               |                  |                               |                |
| WB 59         | 1-26-1989        | 89 1372                       | CA MC 221768   |
| WB 60         | 1-26-1989        | 89 1373                       | CA MC 221769   |
| WB 61         | 1-26-1989        | 89 1374                       | CA MC 221770   |
| WB 62         | 1-26-1989        | 89 1375                       | CA MC 221771   |
|               |                  |                               |                |
| WB 64         | 1-15-1989        | 89 1376                       | CA MC 221772   |
| WB 65         | 1-15-1989        | 89 1377                       | CA MC 221773   |
| WB 66         | 1-12-1989        | 89 1378                       | CA MC 221774   |
| WB 67         | 1-12-1989        | 89 1379                       | CA MC 221775   |
| WB 68         | 1-12-1989        | 89 1380                       | CA MC 221776   |
| WB 69         | 1-12-1989        | 89 1381                       | CA MC 221777   |
|               |                  |                               |                |
| WB 72         | 1-20-1989        | 89 1384                       | CA MC 221780   |
| WB 73         | 1-20-1989        | 89 1385                       | CA MC 221781   |

| Name of Claim | Date of Location | Recording Data<br>Doc. Number | BLM Serial No. |
|---------------|------------------|-------------------------------|----------------|
| WB 79         | 1-16-1989        | 89 1391                       | CA MC 221787   |
| WB 80         | 1-16-1989        | 89 1392                       | CA MC 221788   |
| WB 81         | 1-15-1989        | 89 1393                       | CA MC 221789   |
| WB 82         | 1-15-1989        | 89 1394                       | CA MC 221790   |
| WB 83         | 1-15-1989        | 89 1395                       | CA MC 221791   |
| WB 84         | 1-15-1989        | 89 1396                       | CA MC 221792   |

|       |           |  | Exhibit 2 |              |
|-------|-----------|--|-----------|--------------|
| WB 85 | 1-15-1989 |  | 89 1397   | CA MC 221793 |
| WB 86 | 1-15-1989 |  | 89 1398   | CA MC 221794 |
| WB 87 | 1-15-1989 |  | 89 1399   | CA MC 221795 |
| WB 88 | 1-23-1989 |  | 89 1400   | CA MC 221796 |

|        |           |  |         |              |
|--------|-----------|--|---------|--------------|
| WB 94  | 1-16-1989 |  | 89 1406 | CA MC 221802 |
| WB 95  | 1-16-1989 |  | 89 1407 | CA MC 221803 |
| WB 96  | 1-16-1989 |  | 89 1408 | CA MC 221804 |
| WB 97  | 1-15-1989 |  | 89 1409 | CA MC 221805 |
| WB 98  | 1-15-1989 |  | 89 1410 | CA MC 221806 |
| WB 99  | 1-15-1989 |  | 89 1411 | CA MC 221807 |
| WB 100 | 1-15-1989 |  | 89 1412 | CA MC 221808 |
| WB 101 | 1-15-1989 |  | 89 1413 | CA MC 221809 |
| WB 102 | 1-15-1989 |  | 89 1414 | CA MC 221810 |
| WB 103 | 1-15-1989 |  | 89 1415 | CA MC 221811 |

|        |           |  |         |              |
|--------|-----------|--|---------|--------------|
| WB 109 | 1-17-1989 |  | 89 1421 | CA MC 221817 |
| WB 110 | 1-17-1989 |  | 89 1422 | CA MC 221818 |
| WB 111 | 1-17-1989 |  | 89 1423 | CA MC 221819 |
| WB 112 | 1-17-1989 |  | 89 1424 | CA MC 221820 |
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| Name of Claim | Date of Location | Recording Data<br>Doc. Number | BLM Serial No. |
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| WB 134        | 1-17-1989        | 89 1446                       | CA MC 221842   |
| WB 135        | 1-17-1989        | 89 1447                       | CA MC 221843   |
| WB 136        | 1-17-1989        | 89 1448                       | CA MC 221844   |
| WB 137        | 1-18-1989        | 89 1449                       | CA MC 221845   |
| WB 138        | 1-18-1989        | 89 1450                       | CA MC 221846   |
| WB 139        | 1-18-1989        | 89 1451                       | CA MC 221847   |
| WB 140        | 1-18-1989        | 89 1452                       | CA MC 221848   |
| WB 141        | 1-18-1989        | 89 1453                       | CA MC 221849   |

**Exhibit 2**

|        |           |         |              |
|--------|-----------|---------|--------------|
| WB 147 | 3-17-1989 | 89 2117 | CA MC 223448 |
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| WB 151 | 3-17-1989 | 89 2121 | CA MC 223452 |
| WB 152 | 3-17-1989 | 89 2122 | CA MC 223453 |
| WB 153 | 3-17-1989 | 89 2123 | CA MC 223454 |
| WB 154 | 9-16-1993 | 93 5159 | CA MC 223457 |
| WB 155 | 9-16-1993 | 93 5160 | CA MC 261458 |
| WB 156 | 9-16-1993 | 93 5161 | CA MC 261459 |
| WB 157 | 9-10-1996 | 96 3652 | CA MC 269957 |
| WB 158 | 9-10-1996 | 96 3653 | CA MC 269958 |

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| Margaret 4    | 03-16-1989       | 04-18-1989        | 89 2104                    | CA MC 223435   |
| Margaret 5    | 03-16-1989       | 04-18-1989        | 89 2105                    | CA MC 223436   |
| Margaret 6    | 03-16-1989       | 04-18-1989        | 89 2106                    | CA MC 223437   |
| Margaret 7    | 03-16-1989       | 04-18-1989        | 89 2107                    | CA MC 223438   |
| Margaret 8    | 03-16-1989       | 04-18-1989        | 89 2108                    | CA MC 223439   |
| Margaret 9    | 03-16-1989       | 04-18-1989        | 89 2109                    | CA MC 223440   |
| Margaret 10   | 03-16-1989       | 04-18-1989        | 89 2110                    | CA MC 223441   |
| Margaret 11   | 03-16-1989       | 04-18-1989        | 89 2111                    | CA MC 223442   |
| Margaret 12   | 03-16-1989       | 04-18-1989        | 89 2112                    | CA MC 223443   |
| Margaret 13   | 03-16-1989       | 04-18-1989        | 89 2113                    | CA MC 223444   |
| Margaret 14   | 03-16-1989       | 04-18-1989        | 89 2114                    | CA MC 223445   |
| Margaret 15   | 03-16-1989       | 04-18-1989        | 89 2115                    | CA MC 223446   |
| Margaret 16   | 03-16-1989       | 04-18-1989        | 89 2116                    | CA MC 223447   |

Unpatented Mill Sites, Water Claims and/or Water Rights known as STONE CORRAL WATER CLAIMS as described in deed recorded March 4, 1962 in Book 149, Page 593 of the Records of Inyo County, California which are located in all or a portion of unsurveyed and protracted Section 11, Township 22 South, Range 45 East, Mount Diablo Meridian, County of Inyo, State of California, the location notices of which are recorded in the Office of the County Recorder of Inyo County and filed in the California State Office of the United States Department of the Interior, Bureau of Land Management and are more particularly described as follows:

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|               |                   |                             |                          |                |



**Exhibit 2**

|                           |                               |                          |  |            |
|---------------------------|-------------------------------|--------------------------|--|------------|
| Dover                     | Sec. 11<br>T. 22S.,<br>R. 45E | 08-24-1898<br>01-03-1899 | L&W BKA., Pg.8(LN)<br>Vol.B-1, Pg.<br>456(Deed)                                      | CA MC 6856 |
| Wingfield and<br>Harrison | Sec. 11<br>T. 22S.,<br>R. 45E | 08-24-1898<br>09-07-1898 | L&W Vol.I, Pg.650 (LN)<br>Vol.D-1 Pg.64 (Deed)                                       | CA MC 6856 |
| Sales-J.F.<br>Cooper      | Sec. 11,<br>T. 22S<br>R.45E   | 04-22-1897<br>04-23-1897 | So. Park Mining<br>District<br>Records Page 226<br>(LN)<br>Vol.C-1, Pg.<br>132(Deed) | CA MC 6856 |
| McNulty                   | Sec. 11,<br>T.22S<br>R. 45E.  | 12-17-1898<br>12-28-1898 | L&W BKA, Pg 7 (LN)<br>Vol.C-1 Pg. 178<br>(Deed)                                      | CA MC 6856 |
| James<br>Wingfield        |                               | 01-12-1899<br>02-20-1899 | L&W BKA, Pg 13(LN)<br>Vol.C-1 Pg.182<br>(Deed)                                       | CA MC 6856 |

See Figure (Figure@local.geo.) for disposition of the claims.

*REP*  
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**APPENDIX C**

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**Statement of Responsibility for Reclaiming the Disturbed Lands**



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**APPENDIX D**

**Botanical Report**

**Exhibit 2**

---

**Botanical Report  
for the Pruett Ballarat Inc. Right of Way Application for  
P81-BLM Route, Pleasant Canyon,  
Panamint Mountains, Inyo County, California**

---

***Prepared for:***

Mr. David L. Pruett  
Pruett Ballarat Inc.  
443 Upper Colony Road  
Wellington, NV 89444

***For submittal to:***

Bureau of Land Management  
Ridgecrest Field Office  
Ridgecrest, CA  
(P81. Pleasant Canyon Rd. CACA 049401)

and

Inyo County Planning Department  
P.O. Drawer L  
Independence, CA 93526  
(Hope Canyon Rd. CACA 49401)

***Prepared by:***

Mark Bagley  
Consulting Biologist  
P.O. Box 1431  
Bishop, CA 93515

February 5, 2008

## Exhibit 2

### Botanical Report for the Pruett Ballarat Inc. Right of Way Application for P81-BLM Route, Pleasant Canyon, Panamint Mountains, Inyo County, California

#### INTRODUCTION AND PROJECT DESCRIPTION

Pruett Ballarat Inc. is planning to modify the historic right of way into Pleasant Canyon, BLM route P81, used to access the Radcliff Mine site, located on private lands (D.L. Pruett 2007). The project area is located in the Mojave Desert, on the west side of the Panamint Mountains, east and east-southeast of Ballarat.

The proposal is to provide a new right of way for a portion of BLM route P81 to replace the lower portion of the current P81 route. Most of the new right of way will use an existing dirt road from Ballarat to the north rim of Pleasant Canyon (Figure 1). However, there are two areas where the new right of way will diverge from the existing road in order to make the grade more gentle (Figure 1, numbers 2 and 3). Near the center of Section 12, on the north rim of Pleasant Canyon, the new right of way diverges southeastward from the existing road, traversing around a small ridge and then descending to the canyon bottom with a set of new switch backs (Figure 1, number 4). At the end of the switch backs the new route will connect with the old route P81 (Figure 1, number 5). This new route has been selected because it avoids much of the sensitive riparian habitat along and in the creek bed in Pleasant Canyon that the old P81 route passes through. Elevations in these areas are approximately 2050 to 2900 feet.

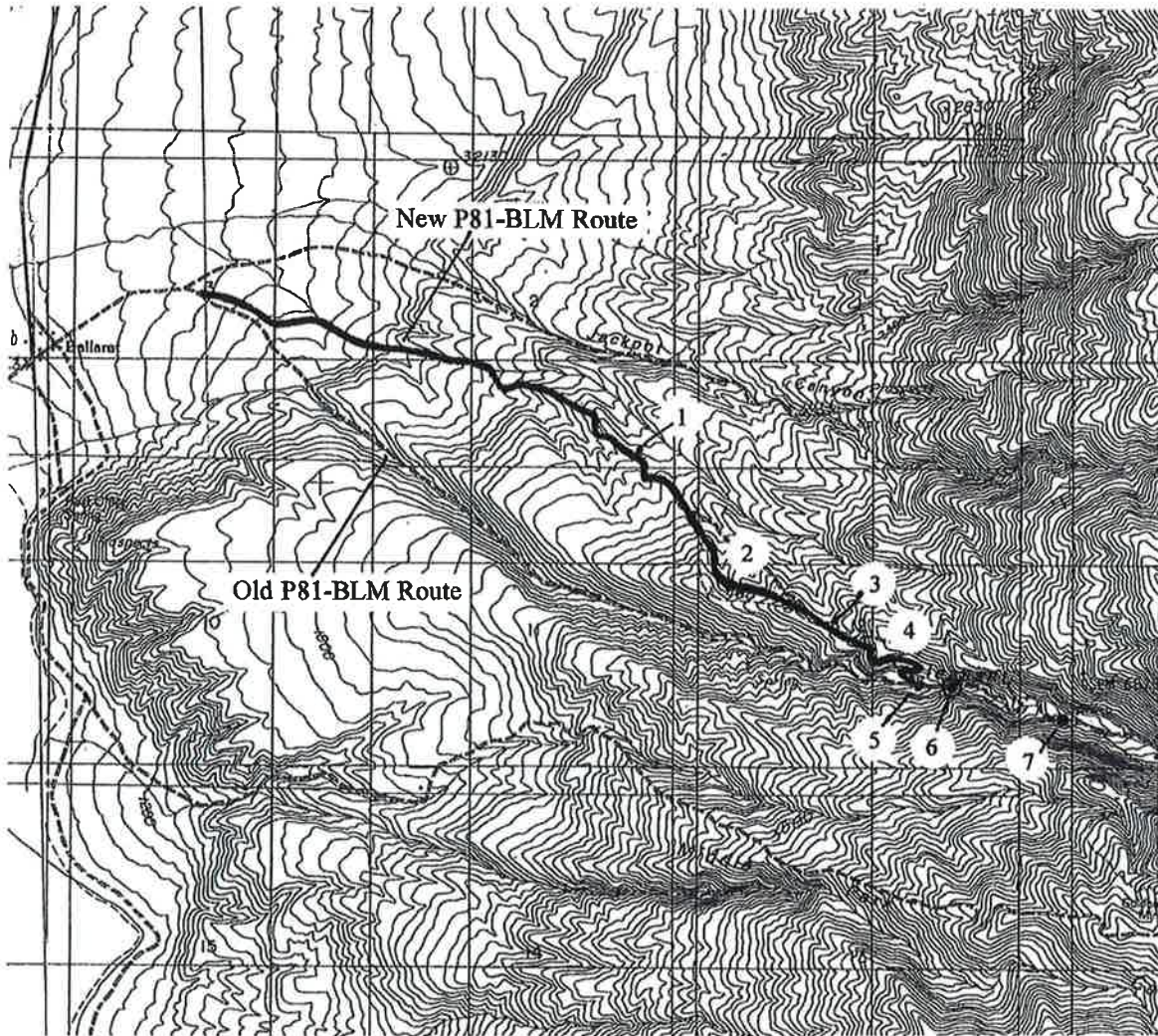
However, where the the new route joins the old P81 BLM route the existing road in the canyon bottom will be rebuilt or repaired in an area extending eastward about 900 meters through a portion of the canyon with flowing water and riparian habitat (Figure 1, between numbers 5 and 7). Elevations along this portion of the route are approximately 2720 and 3160 feet. Above this section the canyon bottom is dry and any road work will be within the existing road bed. Within the riparian area where the road with be rebuilt or repaired, roadwork will occur within a 30' right of way centered on the existing road. There is one location in the riparian area where a sharp curve in the road will be straightened by blasting away the end of a bedrock ridge on the south side of the existing road (Figure 1, number 6). Where this rock will be removed to realign the road, some road work will extend south of the existing road beyond the usual 30' right of way centered on the existing road bed.

Two additional project elements are borrow pits for gravel to be used for road bed material. The lower borrow pit is located on the north side of the new right of way in the southeast quarter of Section 2 (Figure 1, number 1). The upper borrow pit is located on the north side of the current P81 route in the vicinity of Hope Canyon, west of Clair Camp.

The objectives of the current study are to conduct a floristically based botanical field survey to determine if any special status plant species occur in the project areas and to

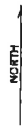
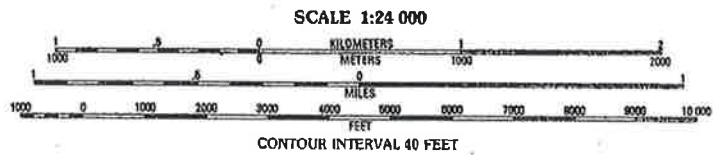
## Exhibit 2

Figure 1. Location of botanical survey areas within the Pleasant Canyon P81 BLM route right of way project area. (One survey area, the upper borrow pit in the vicinity of Hope Canyon, is not shown.)



**LEGEND**

- 1 – lower borrow pit
- 2 – lower road realignment
- 3 – upper road realignment
- 4 – north rim switch backs
- 5 – resume old P81-BLM route eastward through wetted riparian habitat
- 6 – site where bedrock will be blasted to straighten road
- 7 – end of wetted riparian habitat, dry to east



Basemap: USGS Ballarat Quadrangle, California, 7.5 Minute Series (Topographic), Provisional Edition 1988

## Exhibit 2

provide a plant species list and description of the vegetation for the project survey areas. All work in this study was conducted by Mark Bagley. It is anticipated that this information will be used by the Bureau of Land Management and the County of Inyo in preparing their environmental reviews for this project.

## METHODS

A review of special status species that occur in the vicinity of the project area was prepared using information from the California Natural Diversity Data Base (CNDDB), a Department of Fish and Game (CDFG) inventory of sensitive plants, animals and natural communities (CDFG 2008); the California Native Plant Society inventory of rare and endangered plants of California (CNPS 2008), consultation with Glenn Harris, BLM Ridgecrest Field Office; and previous environmental reports from the region (Bagley 1989, 1993, 1996; BLM 1982; Tierra Madre Consultants, Inc. 1995). A plant was considered a special status species if it is federally or state listed or proposed as a rare, threatened, or endangered species (CDFG 2008); or a CNDDB special plant (CDFG 2008); or listed by the California Native Plant Society inventory (CNPS 2008).

No special status plant species have previously been reported within the project area. However, 18 special status plant species are known to occur in the region at elevations similar to those in the project area and in habitats that were thought to have some potential in the area (Table 1). For each of these species, information was gathered on status, flowering period, habitat preferences, and general distribution. In addition to the sources listed above, this information and additional information on identification of these species was gathered from Abrams and Ferris (1923-1960), Bagley (1986), CalFlora (2008), DeDecker (1977, 1984), Hickman (1993), Munz (1974), Munz and Keck (1959), Thorne et al. (1981), and information in my own files.

Of the 18 special status plant species on Table 1, none are state or federally listed as threatened or endangered. Plants on Table 1 are separated into two sections, first are those plants listed by CNPS on Lists 1B and 2, plants considered by CNPS to be rare, threatened or endangered in California, then second are the plants listed by CNPS on List 4, considered by CNPS as plants of limited distribution, a watch list.

From discussions with Glenn Harris of BLM and my previous work in the area, it appears that the special status plants with the highest potential to occur in the project area are Panamint dudleya (*Dudleya saxosa* ssp. *saxosa*), Panamint daisy (*Enceliopsis covillei*), Hoffmann's buckwheat (*Eriogonum hoffmannii* var. *hoffmannii*), and Panamint Mts. lupine (*Lupinus magnificus* var. *magnificus*). However, because the project areas are mainly at fairly low elevations and, except for the bottom of the canyon, most of the slopes are very dry, the potential for occurrence of these species was considered to be fairly low.

Botanical surveys, with a special focus on special status plant species, were conducted over the project site on January 11 and 12, 2008. Botanical surveys were conducted in areas along the new right of way north of Pleasant Canyon where construction activities will occur



Table 1. Status, distribution and habitat data for special status plant species known in the region of the Pleasant Canyon P81 BLM route right of way project area and with known elevational ranges and habitats with some potential to occur in the project area.

| Scientific/Common Name<br>(Plant Family)/Life Form/<br>Flowering Period   | Rank or Status <sup>1</sup> |           | Distribution <sup>2</sup>  | Habitat<br>Types<br>In Calif. <sup>3</sup> | Elevational Range and<br>Habitat Preferences   |
|---|-----------------------------|-----------|--|--|--|
|   | FWS                         | DFG NDDDB |  |  |  |
| <b>PLANTS RARE, THREATENED, OR ENDANGERED IN CALIFORNIA (CNPS LISTS 1B AND 2)</b>   |                             |           |  |  |  |
| <i>Alicia ripleyi</i><br>Ripley's alicia<br>(Polemoniaceae)<br>herbaceous perennial/ May-July                               | --                          | S1.3 2.3  | Inyo, Last Chance, Panamint, Grapevine,<br>and Funeral mts., Kingston Range; INY,<br>SBD, sw NV.   | MCBS,<br>MMWS,<br>DCS                      | 1000-6400 ft (305-1950 m)<br>Crevices on steep limestone or dolomite<br>cliffs, sometimes in loose talus or gravelly<br>slopes below.  |
| <i>Arabis dispar</i><br>pinyon rock cress<br>(Brassicaceae)<br>herbaceous perennial/ Mar.-June                              | --                          | S2.3 2.3  | Wide ranging, but infrequent. Little San<br>Bernardino and San Bernardino mts. to<br>southern Sierra Nevada and Coso, Argus,<br>Panamint and White-Inyo mts.; INY, MNO,<br>TUL, SBD, to sw NV. | MDSer,<br>JTWld,<br>GBScr,<br>PJWdl        | 4000-8000 ft (1200-2450 m)<br>Loose gravelly, stony or rocky slopes and<br>mesas, coarse alluvium, and compact talus;<br>gentle to steep slopes; on granitic rock,<br>sandstone and basalt.              |
| <i>Arctomecon merriamii</i><br>white bear poppy<br>(Papaveraceae)<br>herbaceous perennial/ Apr.-May                         | --                          | S2.2 2.2  | Death V. region (Dry Mtn., Panamint,<br>Amargosa and Nopah ranges), Sierran<br>Hills, and Clark Mts.; INY, SBD, to sw NV.  | MCBS,<br>MMWS,<br>ChScr                    | 1600-6250 ft (490-1900 m)<br>Slopes and ridges, bajadas, washes, flats, old<br>lake beds; shallow gravelly-rocky soils,<br>outcrops, talus, sand or clay; on limestone,<br>dolomite or gypsum rich soil. |
| <i>Dudleya saxosa</i> ssp. <i>saxosa</i><br>Panamint dudleya<br>(Crassulaceae)/leaf succulent<br>perennial/ (Apr.) May-Sept | --                          | S3.3 1B.3 | Endemic to Panamint Mts.; INY.   | MCBS,<br>MMWS,<br>PJWld                    | 3000-7220 ft (900-2200 m)<br>Dry rocky or stoney slopes and in bedrock<br>cracks; on granitic rock, limestone or<br>dolomite.  |
| <i>Enceltopsis covillei</i><br>Panamint daisy<br>(Asteraceae)<br>herbaceous perennial/ Mar.-June                            | --                          | S3.3 1B.2 | Endemic to west side of Panamint Mts.,<br>from Wildrose Cyn. south to just south of<br>Happy Cyn.; INY.  | MCBS                                       | 1200-6000 ft (375-1850 m)<br>Dry canyon walls, slopes, and washes;<br>clayey, gravelly and rocky soils, talus; on<br>sedimentary and metamorphic rocks.  |
| <i>Eriogonum hoffmannii</i> var.<br><i>hoffmannii</i> /Hoffmann's<br>buckwheat/(Polygonaceae)<br>annual/ June-Sept.         | --                          | S2.3 1B.3 | Panamint Mts. and Amargosa Range; INY.   | MDSer<br>(MCBS,<br>MMWS)                   | 1500-5580 ft (450-1700 m)<br>Washes and along roadsides, occasionally on<br>dry talus slopes.  |
| <i>Eriogonum intrafractum</i><br>jointed buckwheat<br>(Polygonaceae)/herbaceous<br>perennial/ May-Oct.                      | --                          | S2.3 1B.3 | Panamint Range, Grapevine Mts, one site in<br>Funeral Mts.; INY.   | MDSer<br>(DCS)                             | 2000-6400 ft (600-1950 m)<br>Rock crevices in carbonate cliffs and canyon<br>walls; less common on steep gravelly or<br>rocky talus.   |

Table 1. (Cont.) Status, distribution and habitat data for special status plant species known in the region of the Pleasant Canyon P81 BLM route right of way project area and with known elevational ranges and habitats with some potential to occur in the project area.

| Scientific/Common Name<br>(Plant Family/Life Form/<br>Flowering Period)  | Rank or Status <sup>1</sup> |     |           | Distribution <sup>2</sup>   | Habitat<br>Types<br>In Calif. <sup>3</sup>  | Elevational Range and<br>Habitat Preferences   |
|--|-----------------------------|-----|-----------|---|---|--|
|  | FWS                         | DFG | NDDB CNPS |   |   |  |
| <b>PLANTS RARE, THREATENED, OR ENDANGERED IN CALIFORNIA (continued)</b>  |                             |     |           |   |   |  |
| <i>Juncus nodosus</i><br>knotted rush<br>(Juncaceae)/herbaceous perennial<br>July-Sept.  | --                          | --  | S2.3 2.3  | So. and central Sierra Nevada; White, Panamint, Funeral, and Clark mts.; INY, SBD, TUL, STA, + scattered across US and s Canada   | Medw,<br>MshSw,<br>desert oasis<br>woodland | below 5600 ft (1700 m) in Calif.<br>Wet places near springs, ponds, streams and seepage areas.   |
| <i>Lupinus magnificus</i> var.<br><i>magnificus</i><br>Panamint Mts. lupine<br>(Fabaceae)/herbaceous perennial<br>Apr.-June                            | --                          | --  | S1.2 1B.2 | Endemic to the Panamint Range, only known from the east side of Hunter Mtn., Wildrose, Surprise, Johnson, Pleasant, and South Park cyns, and east slope of Rogers Pk.; INY. | MDSer,<br>GBSer,<br>PJWdl,<br>UCFRs (?)     | 2380-8500 ft (1000-2600 m)<br>Dry gravelly or sandy slopes and washes, at higher elevations on rocky or talus slopes.  |
| <i>Penstemon fruticosiformis</i> var.<br><i>amargosae</i> /Death Valley<br>beardtongue/(Scrophulariaceae)<br>herbaceous perennial<br>Apr.-July (Sept.) | --                          | --  | S2.3 1B.3 | Amargosa and Panamint ranges, Argus, Kingston and Awawatz mts.; INY, SBD, NV.   | MCBS  | 2780-4600 ft (850-1400 m)<br>Gravelly washes, rocky scree slopes, canyons.   |
| <i>Petalonyx thurberi</i> ssp. <i>gilmanii</i><br>Death Valley sandpaper plant<br>(Loasaceae)<br>shrub/ May-Sept.                                      | --                          | --  | S2.3 1B.3 | Death V., Panamint V., and one report in Argus Mts. near Darwin; INY.   | DeDns,<br>MCBS,<br>wash scrub               | 200-3500 ft (60-1050. m)<br>Darwin site at 5000 ft (1525 m)<br>Loose sandy-gravelly alluvium, sand; bajada washes, canyon bottoms, dunes; also on cinder slopes at Ubehebe Crater.   |
| <i>Phacelia mustelina</i><br>Death Valley round-leaved<br>phacelia<br>(Hydrophyllaceae)<br>annual/ May-July  | --                          | --  | S1.3 1B.3 | Mainly Panamint and Amargosa ranges to sw NV, two sites in Pilot Knob area on China Lake NAWs, one site in Inyo Mts.; INY, SBD, NV.   | MCBS,<br>MMWS,<br>BBS, GBSer,<br>PJWdl      | 2400-8600 ft (730-2620 m)<br>Only 2 sites >7300 ft, one <3000ft.<br>Rock crevices and ledges, cliffs, talus, gravelly or rocky slopes, few in sandy soils, one in gravelly wash; on limestone, volcanic, and granitic rocks. |

Table 1. (Cont.) Status, distribution and habitat data for special status plant species known in the region of the Pleasant Canyon P81 BLM route right of way project area and with known elevational ranges and habitats with some potential to occur in the project area.

| Scientific/Common Name<br>(Plant Family/Life Form/<br>Flowering Period)  | Rank or Status <sup>1</sup> |           | Distribution <sup>2</sup>   | Habitat<br>Types<br>In Calif. <sup>3</sup> | Elevational Range and<br>Habitat Preferences  |
|--|-----------------------------|-----------|---|--|---|
|  | FWS                         | DFG NDDDB |   |  |   |
| <b>PLANTS OF LIMITED DISTRIBUTION - A WATCH LIST (CNPS LIST 4)</b>   |                             |           |   |  |   |
| <i>Cryptantha holoptera</i><br>winged cryptantha<br>(Boraginaceae)/annual,<br>sometimes a perennial/ Mar.-Apr.                       | -                           | S?        | Panamint Mts., Amargosa Range, and very<br>scatteredly in the eastern Mojave and<br>Colorado deserts of CA; IMP, INY, RIV,<br>SBD, SDG, to w AZ, NV.    | SDScr,<br>MDScr<br>(MCBS)                  | 330-5550 ft (100-1690 m)<br>Moist washes and gravelly or rocky slopes<br>and ridges.  |
| <i>Enceltopsis nudicaulis</i> var.<br><i>nudicaulis</i> /naked-stemmed daisy<br>(Asteraceae)<br>herbaceous perennial/ Apr.-May       | -                           | S3.3      | 4.3 Inyo, Saline, Last Chance, Panamint, and<br>Clark Mtn. ranges; INY, MNO, SBD, AZ, NV,<br>UT, ID.  | MDScr<br>(BBS),<br>GBScr,<br>PJWld         | 2875-6560 ft (875-2000 m)<br>In clayey soil, or sand and gravel, on slopes,<br>cliffs and ridges; in volcanic, carbonate or<br>gypsicolous soils. |
| <i>Mimulus rupicola</i><br>rock-midget<br>(Scrophulariaceae)<br>annual/ Feb.-June  | -                           | S3.3      | 4.3 Last Chance Mts., Amargosa, Panamint and<br>Argus ranges; INY.  | MDScr<br>(MCBS,<br>DCS)                    | 1000-6000 ft (300-1830 m)<br>Crevice in carbonate rocks.  |
| <i>Oenothera caespitosa</i><br>ssp. <i>crinita</i> /caespitose evening-<br>primrose/(Onagraceae)<br>herbaceous perennial/ June-Sept. | -                           | S3.3      | 4.2 White-Inyo and Argus ranges, Coso,<br>Panamint, Last Chance, Grapevine, and<br>Clark mts., INY, SBD, to UT.   | MDScr,<br>PJWld,<br>SCFr                   | 3800-11,080 ft (1150-3370 m)<br>Carbonate soils, dry rock-crevices and<br>outcrops.   |
| <i>Sclerocactus polyancistrus</i><br>Mojave fish-hook cactus<br>(Cactaceae)/stem succulent<br>perennial/ Apr.-July                   | -                           | S3.2      | 4.2 Wide ranging, but infrequent. From near<br>Victorville, north through the w Mojave<br>and Great Basin deserts of CA, to w NV;<br>INY, KRN, SBD, NV. | MDScr,<br>JTWld,<br>GBScr,<br>PJWld        | 2000-7610 ft (600-2320 m)<br>Well-drained soils, rocky gravelly mesas,<br>slopes, and outcrops, occasionally on flats<br>below.                   |
| <i>Selaginella leucobryoides</i><br>Mojave spike-moss<br>(Selaginellaceae)<br>herbaceous perennial/ June                             | -                           | S3.2      | 4.3 Panamint and Providence mts., Kingston<br>Range; INY, SBD and Spring Mts., NV, AZ.  | MDScr,<br>GBScr,<br>PJWld,<br>LCFr         | 2000-10,350 ft (600-3150 m)<br>Carbonate rock crevices and in shade among<br>boulders.  |

<sup>1</sup> Rank or status abbreviations:

FWS (U.S. Fish and Wildlife Service) listings under the Endangered Species Act (CDFG 2008, CNPS 2008): FE= federally-listed, endangered; FT= federally-listed, threatened; PE= federally-proposed, endangered; PT= federally-proposed, threatened, - = not listed

DFG (California Department of Fish and Game) listings under the California Native Plant Protection Act and California Endangered Species Act (CDFG 2008, CNPS 2008): CE= state-listed, endangered; CT= state-listed, threatened; CR= state-listed, rare, - = not listed.

Table 1. (Cont.) Status, distribution and habitat data for special status plant species known in the region of the Pleasant Canyon P81 BLM route right of way project area and with known elevational ranges and habitats with some potential to occur in the project area.

NDDDB (California Natural Diversity Data Base, a section within CDFG) Heritage state ranks are (CDFG 2008):  
 The state rank (S-rank) is a reflection of the overall condition of an element in California, it often also contains a threat designation attached to the S-rank  
 S1 = Less than 6 Eos (element occurrences) OR less than 1,000 individuals OR less than 2,000 acres  
     S1.1 = very threatened; S1.2 = threatened; S1.3 = no current threats known  
 S2 = 6-20 EOs OR 1,000-3,000 individuals OR 2,000-10,000 acres  
     S2.1 = very threatened; S2.2 = threatened; S2.3 = no current threats known  
 S3 = 21-80 EOs or 3,000-10,000 individuals OR 10,000-50,000 acres  
     S3.1 = very threatened; S3.2 = threatened; S3.3 = no current threats known  
 S4 = Apparently secure within California; this rank is clearly lower than S3 but factors exist to cause some concern; i.e. there is some threat, or somewhat narrow habitat. No threat rank.  
 S5 = Demonstrably secure to intractable in California. No threat rank.  
 Note that more factors are reviewed than just numbers of EOs. Other considerations used in ranking include the pattern of distribution on the landscape, fragmentation of the population/starfs, condition of individual populations, and historical extent as compared to the plant's modern range. It is important to take a bird's eye or aerial view when ranking sensitive elements rather than simply counting EOs.  
 Uncertainty about the rank of an element is expressed in two major ways: 1) by expressing the rank as a range of values: e.g., S2S3 means the rank is somewhere between S2 and S3, and 2) by adding a ? to the rank: e.g., S2? This represents more certainty than S2S3, but less than S2.

CNPS (California Native Plant Society) ranks are (CNPS 2008):  
 1A = List 1A, plants presumed extinct in Calif.; 1B = List 1B, rare, threatened, or endangered in Calif. and elsewhere  
 2 = List 2, rare, threatened, or endangered in Calif., but more common elsewhere; 3 = List 3, plants about which we need more information - a review list  
 4 = List 4, plants of limited distribution - a watch list

A Threat Code extension follows the CNPS List (e.g. 1B.1). These extensions and their meanings are:  
 .1 = Seriously endangered in Calif.; .2 = Fairly endangered in California; .3 = Not very endangered in California

2 Note that the Panamint Range consists of the Panamint Mountains in the south half of the range and the Cottonwood Mountains in the north. Abbreviations used are: AZ = Arizona; CA = California; ID = Idaho; IMP = Imperial Co., CA; INY = Inyo Co., CA; KRN = Kern Co., CA; MNO = Mono Co., CA; NAW = Naval Air Weapons Station, China Lake, CA; NV = Nevada; RIV = Riverside Co., CA; SBD = San Bernardino Co., CA; SDG = San Diego Co., CA; STA = Stanislaus Co., CA; TUL = Tulare Co., CA; UT = Utah.

3 Habitat type designations largely follow the nomenclature developed by the California Natural Diversity Data Base (Holland, 1986) and abbreviations used in Skinner and Pavlik (1994). They include: BBS = blackbush scrub, ChSer = chenopod scrub; DeDus = desert dunes, GBSer = Great Basin scrub; JTWid = Joshua tree woodland; LcFrs = lower montane coniferous forest; MDSer = Mojave creosote bush scrub, wash scrub = Mojave creosote bush scrub, wash scrub = Mojave wash scrub, MMWS = Mojave mixed woody scrub, and DCS = desert calcicolous scrub are elements); Medws = meadows and seeps; MshSw = marshes and swamps; PJWid = pinyon-juniper woodland; SCFrs = subalpine conifer forest (includes bristlecone and limber pine forests in desert mountains); SDSer = Sonoran desert scrub, and UCFrs = upper montane coniferous forest.

Additional references: Abrams and Ferris 1923-1960; Bagley 1986, 1989, 1993, 1996; BLM 1982; CalFlora 2008; DeDecker 1977, 1984; Hickman 1993; Munz 1974; Munz and Keck 1959; Thorne et al. 1981; Tierra Madre Consultants, Inc. 1995.

## Exhibit 2

outside of the existing dirt road. These areas include the lower borrow pit (Figure 1, number 1), the lower road realignment (Figure 1, number 2), the upper road realignment (Figure 1, number 3), and the new road and switch backs from the north rim down to the canyon bottom (Figure 1, number 4). Elevations in these areas are approximately 2050 to 2900 feet.

Along the old P81 BLM route, botanical surveys were conducted east in the bottom of Pleasant Canyon about 900 meters from the north rim switch backs where the road will be rebuilt or repaired within an existing flowing creek and riparian habitat (Figure 1, between numbers 5 and 7). This included the area that will be realigned by blasting away some bedrock on the south side of the existing road (Figure 1, number 6). Elevations along this portion of the route are approximately 2720 and 3160 feet.

Surveys were also conducted at the upper borrow pit in the vicinity of Hope Canyon at an elevation of approximately 4360 feet.

David Pruett, the project proponent, showed me where each of these sites was located. Each of the road realignments and the new road and switch backs down the north rim were staked and flagged as were the borrow pits. The location and how the survey was conducted in each area is as follows (all coordinates are in UTM Zone 11, NAD 83, taken with a Garmin GPSmap 60cxs):

- **Lower borrow pit:** Located just north of the existing dirt road, the survey area extended 300-400 feet along the road and northward approximately 100-125 feet. The existing road is cut into the side of a ridge and the borrow pit is the ridge above and north of the road. Stakes were located at the SE corner: E 482766, N 3988727, and SW corner: E 482654, N 3988766. The top of the ridge was surveyed by walking two east-west transects about 50 feet apart. The south-facing road cut along the south side of the pit area was surveyed by walking the length of the road between the stakes.
- **Lower road realignment:** The east end of the route diverges from the existing road at E 483475, N 3988062 and the west end at E 482980, N 3988459. The route lies south of the existing road. A portion of the western part of the route was bladed in the past, but will need much new work. The staked route was surveyed by a meandering transect within a corridor about 25 feet above the staked route and 50 feet below.
- **Upper road realignment:** Located on the east end at the point where the new road to the north rim switch backs takes off. The route lies north and down slope of the existing road. The staked route was surveyed by a meandering transect within a corridor about 25 feet above the staked route and 50 feet below.
- **New road and north rim switch backs:** The new road diverges from the existing road at E 483807, N 3987823. The route traverses eastward around a ridge line to the point where the switch backs cross a very steep south facing slope. The switch backs start at about E 483927, N 3987712. The stake at the far east end of the switch back area was located at E 484139, N 3987722. The stake at the west end of the lower switchback was at E 484065, N 3987680. The route out to the

## Exhibit 2

start of the switch backs was walked down and back surveying a corridor approximately 50-80 feet below the staked route and 50 feet above the staked route. The switch back area was surveyed by walking across the steep slope, observing the area from approximately 50 feet above the staked route out to the far east stake, then walking back below as far west as the west switch back stake, and then walking back east below to the canyon bottom. In the switch back area the survey route meandered as needed for safety reasons on the very steep slope and to view the very sparsely distributed plants on the slope.

- Road rebuild in riparian habitat: Located on the old P81 route in the bottom of Pleasant Canyon from where the north rim switch backs join the old route, at approximately E 484127, N 3987614. The survey area extended up canyon until the wet riparian habitat ended and the canyon bottom only had upland plant species. The east end of the survey area was at E 484859, N 3987463. The lower part of the area, from the west end to the rock removal site was walked using the existing road and looking approximately 25 feet on either side of the road way. This more than covered the 30 foot right of way. East of the rock, the riparian area was surveyed from the vehicle, looking at one side as drove up and the other as drove down.
- Rock removal for realignment on old route: Located on the south side of the existing road at approximately E 484322, N 3987605. The bedrock is a small ridge off of the south canyon wall in a very narrow part of the canyon. The rock that will be blasted away is about 20 feet high. The rock was surveyed by climbing up the west side to the top and by walking on the existing road around the rock.
- Upper borrow pit: Located just north of the existing dirt road, the survey area extended 200-300 feet along the road and northward approximately 100 feet. This is on an alluvial terrace above the road in the bottom portion of the canyon. Hope Canyon is south and a bit west of the site and Clair Camp lies to the east. The corners of the site were staked and located at:  
SW corner – E 487565, N 3987572, SE corner – E 487616, N 3987549,  
NW corner – E 487575, N 3987597, NE corner – E 487626, N 3987572.  
The site was covered by walking four east-west transects across the site, each transect about 20-40 feet apart.

Walking surveys were not conducted in the other portions of the new P81 BLM route and on the old route eastward from the north rim switchbacks. This is because road construction activities in these areas will be conducted within the existing disturbed road bed. However, all of the existing roads were driven and the habitats in and adjacent to the road were observed while driving slowly

Field surveys were floristically based, that is all plant species encountered in the survey areas were identified to at least genus and to the level necessary to ensure that they were not plant species of concern. A list was made of all plant species encountered. Plants that were not readily identifiable in the field were collected for later determination by Mark Bagley.

## Exhibit 2

### RESULTS AND DISCUSSION

#### Vegetation

The vegetation in each of the project survey areas is described below:

- **Lower borrow pit:** This area is gravelly alluvium. Vegetation is very sparse Mojave creosote bush scrub with widely scattered creosote bush (*Larrea tridentata*) and few other shrubs and some scattered annuals. Associated species include desert holly (*Atriplex hymenelytra*), white bursage (*Ambrosia dumosa*), brittlebush (*Encelia farinosa*), Mojave indigo bush (*Psoralethamnus arborescens* var. *minutifolius*), pebble pincushion (*Chaenactis carphoclinia*), rigid spineflower (*Chorizanthe rigida*), plantain (*Plantago* sp.), and Mediterranean grass (*Schismus* sp.).
- **Lower road realignment:** This route traverses moderate to steep north and east-facing slopes. The substrate is unsorted, fairly rocky, alluvium. Vegetation is sparse Mojave creosote bush scrub, dominated by creosote bush and white bursage, with scattered brittlebush. Some areas are very strongly dominated by creosote bush. Other associated species include beavertail cactus (*Opuntia basilaris* var. *basilaris*), desert trumpet (*Eriogonum inflatum* var. *inflatum*), and scattered annuals, including little desert trumpet (*Eriogonum trichopes*), pebble pincushion, rigid spineflower, brittle spineflower (*Chorizanthe brevicornu*), plantain, red brome (*Bromus madritensis* ssp. *rubens*), and devil's lettuce (*Amsinckia tessellata*).
- **Upper road realignment:** The route traverses a steep north-facing rocky slope. The substrate is composed of volcanic tuff and carbonate (limestone or dolomite) rock. The vegetation is sparse Mojave creosote bush scrub. The most common shrubs are creosote bush, shadscale (*Atriplex confertifolia*), and chaff-bush (*Amphipappus fremontii*). Other associated species include scattered desert holly, white bursage, brittlebush, plantain, and red brome.
- **New road and north rim switch backs:** On the west end where the route diverges from the existing road there is a mixture of tan and brown limestone or dolomite rock and welded volcanic tuff. Eastward on the point of the ridge, before the start of the switch backs the rock becomes all tuff. The steep south-facing slope with the switch backs is primarily volcanic tuff, but with some outcrops of carbonate rocks just up slope. Much of the slope is covered in alluvium and some carbonate rocks are in the alluvium. The vegetation in this area is very, very sparse. There are a few creosote bush and brittlebush, with occasional desert holly and white bursage. Other associated species include chaff-bush, sticky snakeweed (*Gutierrezia microcephala*), shadscale, Nevada ephedra (*Ephedra nevadensis*), arrow-leaf (*Pleurocoronis pluriseta*), desert trumpet, and a few small cacti, including beavertail cactus, hedgehog cactus (*Echinocereus engelmannii*), and clustered barrel cactus (*Echinocactus polycephalus* var. *polycephalus*). Creosote bush is more common on the bedrock of the western part of the route and brittlebush is by far the most common plant on the steeper alluvium covered slopes where the switch backs are located. On the lower switch back slope

## Exhibit 2

allscale (*Atriplex polycarpa*) becomes more abundant. One little fishhook cactus (*Mammillaria tetrancistra*) occurred in the switch back area and two small (less than 1 foot tall) California barrel cactus (*Ferocactus cylindraceus*) occurred just upslope from the upper switch back route.

- **Road rebuild in riparian habitat:** This area is in the bottom of the canyon. The existing road is adjacent to a flowing creek and crosses the creek. Parts of the road will be realigned within the 30 foot right of way in order to reduce the impacts on the creek and place the road on higher ground so the creek has less potential to run down the road. Most of the vegetation is very dense riparian scrub dominated by desert baccharis (*Baccharis sergiloides*). Associated species in the riparian scrub include mulefat (*Baccharis salicifolia*), Inyo brickellbush (*Brickellia multiflora*), narrowleaf willow (*Salix exigua*), red willow (*Salix laevigata*), virgin's bower (*Clematis ligusticifolia*), desert wild grape (*Vitis girdiana*), common reed (*Phragmites australis*), and a few screw bean mesquite (*Prosopis pubescens*). In the wetter areas and creek crossings other species include cutleaf water-parsnip (*Berula erecta*), water cress (*Rorippa nasturtium-aquaticum*), bluegrass (*Poa* sp.), cattail (*Typha* sp.), spikerush (*Eleocharis* sp.), and iris-leaved rush (*Juncus xiphioides*). In some of the narrow parts of the canyon, on higher ground or on the canyon sides, there is desert saltbush scrub adjacent to the road. This is dominated by dense growth of allscale, with brittlebush sometimes common. Other species in the saltbush scrub include sweetbush (*Bebbia juncea* var. *aspera*), sticky snakeweed, arrow-leaf, and rock nettle (*Eucnide urens*).
- **Rock removal for realignment on old route:** Riparian scrub vegetation occurs along the base of the rock. The rock is schist that has some cracks and small ledges where a few plants are growing. The most common species include red brome, brittlebush, sticky snakeweed, and Emory rock daisy (*Perityle emoryi*). One small little fishhook cactus occurs on the top and a few hedgehog cactus occur in rock crevices.
- **Upper borrow pit:** This area is on rocky, gravelly alluvium derived primarily from metasedimentary rock. It has gentle to moderate slopes with rolling terrain. The vegetation is Mojave creosote bush scrub with fairly low shrub density. Creosote bush is the dominant shrub. Associated species are primarily the annual species red brome and devil's lettuce, with an occasional small shrub. Associated shrubs include white bursage, Anderson box-thorn (*Lycium andersonii*), Death Valley goldeneye (*Viguiera reticulata*), chaff-bush, bladder-sage (*Salazaria mexicana*), and Acton encelia (*Encelia actoni*).

The riparian scrub vegetation is the only sensitive vegetation type. It is sensitive because it is a wetland vegetation type and is not abundant in the desert mountains. However, the road improvements are intended to improve the impact of the existing road in the canyon bottom. In fact, by rerouting the P81 BLM route south of the canyon and then bringing the new route down into the canyon via the north rim switch backs, the new route will avoid impacts to most of the riparian scrub that is currently affected by the existing P81 route downstream of the switch backs.



## Exhibit 2

### Flora

A total of 78 plant taxa, occurring in 30 plant families, were recorded in the botanical survey of the project areas (Table 2). Because the survey was done in the winter, most annuals and herbaceous perennials were dormant, with the remains of the previous season's growth dry, brittle and in many cases broken off. Additional annual and herbaceous perennial species would be expected in the spring of a year with adequate precipitation. The 2007 winter and spring rainy season, preceeding the survey, was very dry and few annuals grew.

### Special Status Plant Species

Eighteen special status plant species were identified as having some potential for occurring in the project area (Table 1). None of these species have previously been reported from the project area, none were observed in the January field survey, nor were any other sensitive plant species found or expected to occur in the project area. The January field survey was conducted when most of the annual and herbaceous perennial plants on site, except many of those adjacent to and in the creek, were dormant and only potentially identifiable from dry remains of the previous season's growth.

After evaluating the habitats on the study site, many of the plants on the sensitive plant species search list (Table 1), known to occur in the region, are not expected to occur on the site. This is mainly due to a lack of limestone and loose sandy habitats, and the relatively low elevations of most of the site.

Seven of the 18 taxa on Table 1 occur exclusively or mainly on carbonate (limestone, marble or dolomite) soils and bedrock. Carbonate soils and bedrock occur in the study area only in small outcrops and thin exposed layers on the north rim switch back area. The limestone areas in the project area were carefully checked and very little was growing on them. Some sign of the old growth of the seven carbonate special status plants would be expected to have been observable if they occurred in the study area. The seven carbonate special status plants include: Ripley's aliciella (*Aliciella ripleyi*), white bear poppy (*Arctomecon merriamii*), Panamint dudleya (*Dudleya saxosa* ssp. *saxosa*), jointed buckwheat (*Eriogonum intrafractum*), rock-midget (*Mimulus rupicola*), caespitose evening-primrose (*Oenothera caespitosa* ssp. *crinita*), and Mojave spike-moss (*Selaginella leucobryoides*).

One of the Table 1 species, Death Valley sandpaper plant (*Petalonyx thurberi* ssp. *gilmanii*), occurs in loose sandy or sandy-gravelly alluvium. This taxa is known within a few miles of the lower portions of the new P81 route. However, this shrubby species is easily observable and identifiable in the winter. It was not observed in the project area.

Mojave fish-hook cactus (*Sclerocactus polyancistrus*) is a CNPS watch list species (list 4) on Table 1. It is a small barrel type cactus that would be readily observable and identifiable in the winter. It was not observed in the project area.

Six of the remaining Table 1 species are herbaceous perennials. Four of these, Panamint daisy (*Enceliopsis covillei*), naked-stemmed daisy (*Enceliopsis nudicaulis* var.

## Exhibit 2

*nudicaulis*), Panamint Mts. lupine (*Lupinus magnificus* var. *magnificus*), and Death Valley beardtongue (*Penstemon fruticiformis* var. *amargosae*), have persistent and distinctive stems and/or leaves that make them observable and identifiable in the winter. None of these four perennials were observed in the project area.

The other two herbaceous perennials on Table 1 are pinyon rock cress (*Arabis dispar*) and knotted rush (*Juncus nodosus*). The stems and fruits of these species may or may not persist and be observable and identifiable in the winter. The absence of an observation in the winter is inconclusive for these species.

Pinyon rock cress has a known elevational range of 4000-8000 feet. The upper borrow pit, at 4360 feet, is the only project survey area within that range. That area has a low density and low diversity Mojave creosote bush scrub and appears to be rather dry for pinyon rock cress. In the Radcliff Mine survey, pinyon rock cress was found up canyon from the current project area, "infrequently in pinyon pine woodlands at the project site's highest elevations" (Tierra Madre Consultants, Inc. 1995). The highest elevation in that project site was approximately 6500 feet. Tierra Madre concluded that due to pinyon rock cress' widespread distribution outside the Panamint Mountains, the large area of suitable habitat upslope of the Radcliff Mine project area, and the fact that it has no status with the US Fish and Wildlife Service, "project-specific and cumulative impacts to this species will not be significant" (Tierra Madre Consultants, Inc. 1995). It appears the the current project, with its impacts limited to relatively small areas, mostly located well below the known elevational limit of pinyon rock cress, does not have the potential for significant impacts to this species.

Knotted rush is a grass-like herb, 15-60 cm tall, that occurs only in wet areas, such as springs, ponds, streams and seeps. It is known in California from only nine quads (USGS 7.5 minute series) in the Sierra Nevada and several desert mountain ranges (CNPS 2008). There is one known population in the Panamint Mountains, located at Wildrose Spring approximately 16 miles north of the project area at an elevation of approximately 3600 feet. However, this is a very widespread species outside of California. It occurs in the northern and central United States and southern Canada; from Nova Scotia and Virginia westward to British Columbia and the Pacific northwest, then south and east of the Cascade Mountains in widely scattered sites in the Great Basin, to Arizona, New Mexico and Texas. The only potential habitat in the project area for this species is the riparian area in Pleasant Canyon (Figure 1, between numbers 5 and 7). Much of the habitat in that area, within the right of way, is very dense riparian scrub where this species is unlikely to occur. There are some areas, as at the creek crossing and a few other areas, where there is some dense herbaceous growth that is more likely to be able to support knotted rush. The project impacts to the riparian habitat in this area will be in a relatively small area directly adjacent to the existing road. The rerouting of most of P81 to the new route north of the canyon will have beneficial impacts to the riparian habitat west of the north rim switch backs, which represents the majority of this habitat type in Pleasant Canyon. Given the beneficial impacts of the project, the relatively small portion of riparian habitat in Pleasant Canyon negatively impacted by road construction, the very widespread distribution of knotted rush, and the lack of status with the US Fish and Wildlife Service, it appears that the current project will not have significant project or cumulative impacts on this species.

## Exhibit 2

Four annual taxa occur on Table 1. These taxa are Hoffmann's buckwheat (*Eriogonum hoffmannii* var. *hoffmannii*), Death Valley round-leaved phacelia (*Phacelia mustelina*), winged cryptantha (*Cryptantha holoptera*), and rock-midget (*Mimulus rupicola*). The latter is also a carbonate endemic and given the limited habitat in the project area, the low quality of the carbonate habitat for this species in the area, and the probability that remnants of the plant would have been observable if it occurred, it is very unlikely this species occurs in the project area (see above). Rock-midget and winged cryptantha are both CNPS watch list species (list 4). Winged cryptantha has a very widespread distribution in the Mojave and Colorado deserts in California, but it is known to occur in only a relatively few widely scattered populations. The nearest known population occurs in Surprise Canyon, about 5-6 miles north of Pleasant Canyon. It is a bristly, erect annual that sometimes is a perennial. It is likely that remains from the previous year's growth of winged cryptantha would still be observable in January, but because of the dry year in 2007 it cannot be ruled out with any certainty. However, given the status of winged cryptantha as a CNPS List 4 taxa, any potential project impacts to this taxa would not likely be considered significant.

The other two annuals, Hoffmann's buckwheat and Death Valley round-leaved phacelia, are both CNPS List 1B.3 species. The nearest known populations of both species occur in Surprise Canyon, about 5-6 miles north of Pleasant Canyon. Hoffmann's buckwheat is a large annual with distinctive and persistent stems that would have been observable and identifiable if it occurred in the project survey areas. This taxa was not observed in the project area.

Death Valley round-leaved phacelia occurs in a variety of rocky, gravelly and sandy soils with a known elevational range of approximately 2400-8600 feet. However, only one known population occurs below 3000 feet. The project areas lie in the lower portion of the known elevational range for Death Valley round-leaved phacelia. Except for the upper borrow pit and the upper portion of the road rebuild in the canyon bottom above the north rim switch backs, both of which do not appear to be very suitable habitat for Death Valley round-leaved phacelia, the project areas are below 3000 feet. The nearest known population in Surprise Canyon occurs at an elevation of approximately 4800 feet (BLM 1982). Death Valley round-leaved phacelia is a relatively small branching annual, usually 1-3 dm high. It is not very likely that dry remains from previous year's growth would be observable or identifiable in January. Lack of observation in January is therefore not conclusive for this species. Nonetheless, the habitats in the project area are relatively low and dry for this species and its occurrence in the project area appears to be unlikely.

In conclusion, the project is not expected to have significant potential project-specific or cumulative impacts on plant species of special concern.

Exhibit 2

Table 2. Plant species observed in portions of the Pruett Ballarat Inc. Pleasant Canyon P81 BLM route right of way project area, January 11-12, 2008 (nomenclature from Hickman 1993).

| FAMILY                                      | Species <sup>1</sup>                    | Common Name           | Project Location <sup>2</sup> |                    |                    |                        |                          |                              |                  |   | Habit <sup>3</sup> |
|---|---|-----------------------|-------------------------------|--------------------|--------------------|------------------------|--------------------------|------------------------------|------------------|---|--------------------|
|   |   |                       | Lower Borrow Pit              | Lower Realign-ment | Upper Realign-ment | North Rim Switch-backs | Road Rebuild in Riparian | Rock Removal for Realignment | Upper Borrow Pit |   |                    |
| <b>GYMNOSPERMS (CONIFERS)</b>               |   |                       |                               |                    |                    |                        |                          |                              |                  |   |                    |
| <b>EPHEDRACEAE</b>                          |   |                       |                               |                    |                    |                        |                          |                              |                  |   |                    |
|   | <i>Ephedra nevadensis</i>               | Nevada ephedra        |                               | x                  |                    |                        |                          |                              |                  |   | s                  |
| <b>DICOT ANGIOSPERMS (FLOWERING PLANTS)</b> |   |                       |                               |                    |                    |                        |                          |                              |                  |   |                    |
| <b>AMARANTHACEAE</b>                        |   |                       |                               |                    |                    |                        |                          |                              |                  |   |                    |
|   | <i>Amaranthus</i> sp.                   | pigweed, amaranth     |                               |                    |                    |                        |                          |                              | rs               |   | a                  |
|   | <i>Tidestromia oblongifolia</i>         | honeysweet            | x                             |                    |                    |                        |                          |                              |                  |   | p                  |
| <b>APIACEAE</b>                             |   |                       |                               |                    |                    |                        |                          |                              |                  |   |                    |
|   | <i>Berula erecta</i>                    | cutleaf water-parsnip |                               |                    |                    |                        |                          |                              | rs               |   | p                  |
| <b>ASTERACEAE</b>                           |   |                       |                               |                    |                    |                        |                          |                              |                  |   |                    |
|   | <i>Ambrosia dumosa</i>                  | white bursage         | x                             | x                  | x                  | x                      |                          |                              |                  | x | s                  |
|   | <i>Amphipappus fremontii</i>            | chaff-bush            |                               | x                  | x                  |                        |                          |                              |                  | x | s                  |
|   | <i>Baccharis salicifolia</i>            | mulefat               |                               |                    |                    |                        |                          | rs                           |                  |   | s                  |
|   | <i>Baccharis sergiioides</i>            | desert baccharis      |                               |                    |                    |                        |                          | rs                           |                  |   | s                  |
|   | <i>Bebbia juncea</i> var. <i>aspera</i> | sweetbush             | x                             |                    | x                  |                        |                          | mds                          |                  |   | s                  |
|   | <i>Brickellia multiflora</i>            | lavo brickellbush     |                               |                    |                    |                        |                          | rs                           |                  | x | s                  |
|   | <i>Chaenactis carphoclinia</i>          | pebble pincushion     | x                             | x                  |                    |                        |                          |                              |                  |   | a                  |
|   | <i>Chaenactis</i> sp.                   | pincushion            |                               | x                  |                    |                        |                          |                              |                  |   | a                  |
|   | * <i>Cirsium vulgare</i>                | bull thistle          |                               |                    |                    |                        |                          | rs                           |                  |   | p                  |
|   | <i>Encelia acroni</i>                   | Acton encelia         |                               |                    |                    |                        |                          |                              |                  | x | s                  |
|   | <i>Encelia farinosa</i>                 | brittlebush           | x                             | x                  | x                  | x                      |                          | rs, mds                      |                  | x | s                  |

1 \* = exotic (non-native) species

2 x = present; rs = present in riparian scrub; mds = present in Mojave desert scrub

3 Habit: a = annual; b = biennial; p = perennial; ss = subshrub; s = shrub; t = tree; ww = woody vine; ph = parasitic herb

Exhibit 2

Table 2. (Cont.) Plant species observed in portions of the Pruet Ballarat Inc. Pleasant Canyon P81 BLM route right of way project area, January 11-12, 2008 (nomenclature from Hickman 1993).

| FAMILY<br>Species <sup>1</sup>                            | Common Name               | Project Location <sup>2</sup> |                           |                           |                               |                                |                                    |                        | Habit <sup>3</sup> |  |
|---|---------------------------|-------------------------------|---------------------------|---------------------------|-------------------------------|--------------------------------|------------------------------------|------------------------|--------------------|--|
|   |                           | Lower<br>Borrow<br>Pit        | Lower<br>Realign-<br>ment | Upper<br>Realign-<br>ment | North Rim<br>Switch<br>-backs | Road<br>Rebuild in<br>Riparian | Rock<br>Removal for<br>Realignment | Upper<br>Borrow<br>Pit |                    |  |
| <i>Gutierrezia microcephala</i>                           | sticky snakeweed          |                               |                           |                           | x                             | mds                            | x                                  |                        | s                  |  |
| <i>Perilyle emoryi</i>                                    | Emory rock daisy          |                               |                           |                           |                               |                                | x                                  |                        | a                  |  |
| <i>Peucephyllum schottii</i>                              | pigmy-cedar               |                               |                           |                           | x                             |                                |                                    |                        | s                  |  |
| <i>Pleurocoronis pluriseta</i>                            | arrow-leaf                |                               |                           |                           | x                             | mds                            |                                    |                        | s                  |  |
| <i>Prenantheella exigua</i>                               | annual lygodesmia         |                               | x                         |                           |                               |                                |                                    |                        | a                  |  |
| <i>Psathyrotes</i> sp.                                    | turtleback                | x                             |                           |                           |                               |                                |                                    |                        | a                  |  |
| <i>Viguiera reticulata</i>                                | Death Valley goldeneye    |                               |                           |                           |                               |                                |                                    | x                      | p                  |  |
| <i>Xylorhiza tortifolia</i> var. <i>tortifolia</i>        | Mojave aster              |                               |                           |                           |                               |                                |                                    | x                      | ss                 |  |
| BORAGINACEAE  |                           |                               |                           |                           |                               |                                |                                    |                        |                    |  |
| <i>Amsinckia tessellata</i>                               | devil's lettuce           |                               | x                         |                           |                               |                                |                                    | x                      | a                  |  |
| <i>Cryptantha</i> sp.                                     | forget-me-not, cryptantha | x                             |                           |                           |                               |                                |                                    | x                      | a                  |  |
| BRASSICACEAE  |                           |                               |                           |                           |                               |                                |                                    |                        |                    |  |
| <i>Lepidium fremontii</i>                                 | desert alyssum            |                               |                           | x                         |                               |                                |                                    |                        | ss                 |  |
| <i>Rorippa nasturtium-aquaticum</i>                       | water cress               |                               |                           |                           |                               |                                | rs                                 |                        | p                  |  |
| CACTACEAE   |                           |                               |                           |                           |                               |                                |                                    |                        |                    |  |
| <i>Echinocactus polycephalus</i> var. <i>polycephalus</i> | clustered barrel cactus   |                               | x                         |                           |                               |                                |                                    |                        | s                  |  |
| <i>Echinocereus engelmannii</i>                           | hedgehog cactus           |                               | x                         |                           | x                             |                                |                                    |                        | s                  |  |
| <i>Ferocactus cylindraceus</i>                            | California barrel cactus  |                               |                           |                           | x                             |                                |                                    |                        | s                  |  |
| <i>Mammillaria tetrancistra</i>                           | little fishhook cactus    |                               |                           |                           | x                             |                                |                                    | x                      | s                  |  |
| <i>Opuntia basilaris</i> var. <i>basilaris</i>            | beavertail cactus         |                               | x                         |                           | x                             |                                |                                    | x                      | s                  |  |
| CHENOPODIACEAE  |                           |                               |                           |                           |                               |                                |                                    |                        |                    |  |
| <i>Atriplex confertifolia</i>                             | shadscale                 |                               |                           | x                         |                               |                                |                                    |                        | s                  |  |
| <i>Atriplex hymenelytra</i>                               | desert holly              |                               |                           | x                         |                               |                                |                                    |                        | s                  |  |
| <i>Atriplex polycarpa</i>                                 | allscale                  | x                             |                           | x                         |                               |                                |                                    | rs, mds                | s                  |  |
| CUSCUTACEAE   |                           |                               |                           |                           |                               |                                |                                    |                        |                    |  |
|   | DODDER FAMILY             |                               |                           |                           |                               |                                |                                    |                        |                    |  |

Exhibit 2

Table 2. (Cont.) Plant species observed in portions of the Pruett Ballarat Inc. Pleasant Canyon P81 BLM route right of way project area, January 11-12, 2008 (nomenclature from Hickman 1993).

| FAMILY<br>Species <sup>1</sup>                      | Common Name            | Project Location <sup>2</sup> |                           |                           |                               |                                |                                    | Habit <sup>3</sup> |
|---|------------------------|-------------------------------|---------------------------|---------------------------|-------------------------------|--------------------------------|------------------------------------|--------------------|
|   |                        | Lower<br>Borrow<br>Pit        | Lower<br>Realign-<br>ment | Upper<br>Realign-<br>ment | North Rim<br>Switch<br>-backs | Road<br>Rebuild in<br>Riparian | Rock<br>Removal for<br>Realignment |                    |
| <i>Cuscuta</i> sp.                                  | dodder                 |                               |                           | x                         | x                             |                                |                                    | ph                 |
| EUPHORBIACEAE                                       | SPURGE FAMILY          |                               |                           |                           |                               |                                |                                    |                    |
| <i>Chamaesyce</i> sp.                               | prostrate spurge       | x                             |                           |                           |                               |                                |                                    | a                  |
| <i>Stillingia paucidentata</i>                      | toothleaf stillingia   | x                             |                           |                           |                               |                                |                                    | p                  |
| FABACEAE  | LEGUME FAMILY          |                               |                           |                           |                               |                                |                                    |                    |
| <i>Prosopis pubescens</i>                           | screw bean             |                               |                           |                           |                               | rs                             |                                    | t                  |
| <i>Psoralea argemone</i> var.<br><i>minutifolia</i> | Mojave indigo bush     | x                             |                           |                           |                               |                                |                                    | s                  |
| LAMIACEAE   | MINT FAMILY            |                               |                           |                           |                               |                                |                                    |                    |
| <i>Salvia mexicana</i>                              | bladder-sage           |                               |                           | x                         |                               |                                | x                                  | s                  |
| <i>Salvia columbariae</i>                           | chia                   |                               |                           |                           |                               |                                | x                                  | a                  |
| LOASACEAE   | LOASA FAMILY           |                               |                           |                           |                               |                                |                                    |                    |
| <i>Encrinura urens</i>                              | rock nettle            |                               | x                         |                           |                               | mds                            |                                    | p                  |
| LYTHRACEAE  | LOOSESTRIFE FAMILY     |                               |                           |                           |                               |                                |                                    |                    |
| <i>Lythrum californicum</i>                         | California loosestrife |                               |                           |                           |                               | rs                             |                                    | p                  |
| MALVACEAE   | MALLOW FAMILY          |                               |                           |                           |                               |                                |                                    |                    |
| <i>Sphaeralcea ambigua</i>                          | apricot mallow         |                               |                           |                           |                               | mds                            |                                    | p                  |
| NYCTAGINACEAE                                       | FOUR O'CLOCK FAMILY    |                               |                           |                           |                               |                                |                                    |                    |
| <i>Amaranthus annulatus</i>                         | ringstem               | x                             |                           |                           | x                             |                                |                                    | p                  |
| ONAGRACEAE  | EVENING PRIMROSE       |                               |                           |                           |                               |                                |                                    |                    |
| <i>Camissonia boothii</i>                           | woody bottle-washer    | x                             |                           |                           |                               |                                |                                    | a                  |
| PLANTAGINACEAE                                      | PLANTAIN FAMILY        |                               |                           |                           |                               |                                |                                    |                    |
| <i>Plantago</i> sp.                                 | plantain               | x                             | x                         | x                         | x                             |                                |                                    | p                  |
| POLYGONACEAE  | BUCKWHEAT FAMILY       |                               |                           |                           |                               |                                |                                    |                    |
| <i>Chorizanthe brevicornu</i>                       | brittle spineflower    |                               | x                         |                           | x                             |                                |                                    | a                  |

Exhibit 2

Table 2. (Cont.) Plant species observed in portions of the Pruett Ballarat Inc. Pleasant Canyon P81 BLM route right of way project area, January 11-12, 2008 (nomenclature from Hickman 1993).

| FAMILY<br>Species <sup>1</sup>                 | Project Location <sup>2</sup> |                           |                           |                               |                                |                                    |                        | Habit <sup>3</sup> |
|--|-------------------------------|---------------------------|---------------------------|-------------------------------|--------------------------------|------------------------------------|------------------------|--------------------|
|  | Lower<br>Borrow<br>Pit        | Lower<br>Realign-<br>ment | Upper<br>Realign-<br>ment | North Rim<br>Switch<br>-backs | Road<br>Rebuild in<br>Riparian | Rock<br>Removal for<br>Realignment | Upper<br>Borrow<br>Pit |                    |
| <i>Chorizanthe rigida</i>                      | x                             | x                         |                           |                               |                                |                                    |                        | a                  |
| <i>Eriogonum deflexum</i>                      |                               |                           |                           | x                             |                                |                                    | x                      | a                  |
| <i>Eriogonum inflatum</i> var. <i>inflatum</i> | x                             | x                         | x                         |                               |                                |                                    | x                      | p                  |
| <i>Eriogonum rixfordii</i>                     |                               |                           |                           | x                             |                                |                                    |                        | a                  |
| <i>Eriogonum</i> sp. 1                         |                               |                           |                           |                               |                                |                                    |                        | a                  |
| <i>Eriogonum</i> sp. 2                         |                               | x                         |                           |                               |                                |                                    |                        | a                  |
| <i>Eriogonum trichopes</i>                     | x                             | x                         |                           | x                             |                                |                                    |                        | a                  |
| RANUNCULACEAE                                  |                               |                           |                           |                               |                                |                                    |                        |                    |
| <i>Clematis ligusticifolia</i>                 |                               |                           |                           |                               | rs                             |                                    |                        | wy                 |
| RUBIACEAE                                      |                               |                           |                           |                               |                                |                                    |                        |                    |
| <i>Galium</i> sp.                              |                               |                           |                           |                               |                                | x                                  |                        | p                  |
| RUTACEAE                                       |                               |                           |                           |                               |                                |                                    |                        |                    |
| <i>Thamnosma montana</i>                       |                               |                           |                           |                               |                                |                                    |                        |                    |
| SALICACEAE                                     |                               |                           |                           |                               |                                |                                    | x                      | s                  |
| <i>Salix erigua</i>                            |                               |                           |                           |                               |                                |                                    |                        | s                  |
| <i>Salix laevigata</i>                         |                               |                           |                           |                               | rs                             |                                    |                        | t                  |
| SOLANACEAE                                     |                               |                           |                           |                               |                                |                                    |                        |                    |
| <i>Datura wrightii</i>                         |                               |                           |                           |                               |                                |                                    |                        |                    |
| <i>Lycium andersonii</i>                       |                               |                           |                           |                               |                                |                                    | x                      | p                  |
| <i>Solanum</i> sp.                             |                               |                           | x                         |                               |                                |                                    |                        | s                  |
| VITACEAE                                       |                               |                           |                           |                               |                                |                                    |                        | ss                 |
| <i>Vitis girardiana</i>                        |                               |                           |                           |                               |                                |                                    |                        | wv                 |
| ZYGOPHYLLACEAE                                 |                               |                           |                           |                               |                                |                                    |                        |                    |
| <i>Larrea tridentata</i>                       | x                             | x                         | x                         |                               |                                |                                    | x                      | s                  |
| MONOCOT ANGIOSPERMS (FLOWERING PLANTS)         |                               |                           |                           |                               |                                |                                    |                        |                    |

Exhibit 2

Table 2. (Cont.) Plant species observed in portions of the Pruett Ballarat Inc. Pleasant Canyon P81 BLM route right of way project area, January 11-12, 2008 (nomenclature from Hickman 1993).

| FAMILY<br>Species <sup>1</sup>                 | Common Name              | Project Location <sup>2</sup> |                           |                           |                               |                                |                                    |                        | Habit <sup>3</sup> |
|--|--------------------------|-------------------------------|---------------------------|---------------------------|-------------------------------|--------------------------------|------------------------------------|------------------------|--------------------|
|  |                          | Lower<br>Borrow<br>Pit        | Lower<br>Realign-<br>ment | Upper<br>Realign-<br>ment | North Rim<br>Switch<br>-backs | Road<br>Rebuild in<br>Riparian | Rock<br>Removal for<br>Realignment | Upper<br>Borrow<br>Pit |                    |
| CYPERACEAE                                     | SEDGE FAMILY             |                               |                           |                           |                               |                                |                                    |                        |                    |
| <i>Eleocharis</i> sp.                          | spikerush                |                               |                           |                           |                               | rs                             |                                    |                        | p                  |
| JUNCACEAE                                      | RUSH FAMILY              |                               |                           |                           |                               |                                |                                    |                        |                    |
| <i>Juncus xiphioides</i>                       | iris-leaved rush         |                               |                           |                           |                               | rs                             |                                    |                        | p                  |
| POACEAE  | GRASS FAMILY             |                               |                           |                           |                               |                                |                                    |                        |                    |
| <i>Aristida</i> sp.                            | three-awn                |                               |                           |                           | x                             |                                |                                    |                        | a                  |
| * <i>Bromus madritensis</i> ssp. <i>rubens</i> | red brome, foxtail chess |                               |                           |                           |                               |                                |                                    | x                      | a                  |
| * <i>Bromus tectorum</i>                       | cheat grass              |                               | x                         |                           |                               |                                |                                    |                        | a                  |
| <i>Erioneuron pulchellum</i>                   | fluff grass              |                               |                           |                           | x                             |                                |                                    |                        | a                  |
| <i>Muhlenbergia asperifolia</i>                | scratchgrass             |                               |                           |                           |                               |                                |                                    |                        | p                  |
| <i>Phragmites australis</i>                    | common reed              |                               |                           |                           |                               | rs                             |                                    |                        | p                  |
| <i>Poa</i> sp.                                 | bluegrass                |                               |                           |                           |                               | rs                             |                                    |                        | p                  |
| * <i>Polygogon monspeliensis</i>               | annual beard grass       |                               |                           |                           |                               | rs                             |                                    |                        | p                  |
| * <i>Schismus</i> sp.                          | Mediterranean grass      |                               |                           |                           |                               | rs                             |                                    |                        | a                  |
| TYPHACEAE                                      | CATTAIL FAMILY           |                               |                           |                           |                               |                                |                                    |                        |                    |
| <i>Typha</i> sp.                               | cattail                  |                               |                           |                           |                               |                                |                                    |                        | a                  |
|  |                          |                               |                           |                           |                               | rs                             |                                    |                        | p                  |



## Exhibit 2

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**APPENDIX E**

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**Financial Assurance Cost Estimate**

State of California

**APPENDIX E**

DEPARTMENT OF CONSERVATION  
Financial Assurance Cost Estimate  
Form OMR-23 (New 06/96)

FINANCIAL ASSURANCE COST ESTIMATE

FOR

Radcliff Project (C.U.P. 2007-05/Pruett Ballarat, Inc.)

CA MINE ID # 91- 14-0064

Prepared by:

SRK Consulting (U.S.), Inc.  
5250 Neil Road, Suite 300  
Reno, Nevada 89502

Date: February 15, 2008

**Note:** This worksheet was developed by the Office of Mine Reclamation to assist lead agencies and operators prepare a reclamation cost estimate and determine an appropriate amount for the financial assurance in conformance with Section 2773.1 of SMARA. It should be used in conjunction with the *Financial Assurance Guidelines* adopted by the State Mining and Geology Board.

**Exhibit 2**

**Financial Assurance Guidelines**

**VII. SUMMARY OF COST**

|   |    |                             |
|---|----|-----------------------------|
| Total of all Primary Reclamation Activities Costs                   | \$ | 36,520.00                   |
| Total of all Revegetation Costs                                     | \$ | 5,245.00                    |
| Total of all Plant Structures & Equipment Removal Costs             | \$ | 12,651.00                   |
| Total of all Miscellaneous Costs                                    | \$ | 3,301.00                    |
| Total of all Monitoring Costs                                       | \$ | <u>5,000.00</u>             |
| Total of Direct Costs   | \$ | 62,717.00                   |
| Supervision ( <u>7</u> %)   | \$ | 4,390.00                    |
| Profit/Overhead ( <u>14</u> %)                                      | \$ | 8,780.00                    |
| Contingencies ( <u>10</u> %)  | \$ | 6,272.00                    |
| Mobilization ( <u>5</u> %)  | \$ | <u>3,136.00</u>             |
| Total of Indirect Costs   | \$ | 22,578.00                   |
| Total of Direct and Indirect Costs                                  | \$ | 85,295.00                   |
| Lead Agency Administrative Cost*<br>(Determined by the Lead Agency) | \$ | <u>                    </u> |
| <b>Total Estimated Cost of Reclamation</b>                          | \$ | <u>                    </u> |

**\*NOTE** The Financial Assurance Guidelines recommend that when reviewing and approving a financial assurance cost estimate, lead agencies should include their administrative cost to draw on the financial assurance and implement the reclamation plan, should it become necessary.

## Exhibit 2

### Reclamation Cost Estimate

The following estimate provides costs and supporting documentation that will be the basis for establishing a reclamation bond as required by BLM and SMARA regulations. The estimate projects the costs to reclaim existing and proposed facilities that are to be constructed over the life of the Radcliffe mine. Pruett Ballarat, Inc plans to bond for 8.6 acres of disturbance.

#### Labor and Equipment Rates

##### Labor

| Equipment Type or Job Description     | Group | Base Rate (\$/hr) | Fringe (\$/hr) | Hourly Wage (\$/hr) | FICA/Medicare 7.65% (\$/hr) | Unemployment 3.0%(\$/hr) | Workman's Comp 13.27% (\$/hr) <sup>(1)</sup> | Total (\$/hr) |
|---------------------------------------|-------|-------------------|----------------|---------------------|-----------------------------|--------------------------|--|---------------|
| D8 <sup>(2)</sup>                     | 8     | \$36.51           | \$15.82        | \$52.33             | \$4.00                      | \$1.57                   | \$5.63                                       | \$63.53       |
| 325C Excavator <sup>(2)</sup>         | 11    | \$37.76           | \$15.82        | \$53.58             | \$4.10                      | \$1.61                   | \$5.76                                       | \$65.05       |
| Drill Rig (Heavy Duty) <sup>(2)</sup> | 10    | \$36.66           | \$15.82        | \$52.48             | \$4.01                      | \$1.57                   | \$6.96                                       | \$65.02       |
| Seeding                               | 1     | \$21.25           | \$6.87         | \$28.12             | \$2.15                      | \$0.84                   | \$3.73                                       | \$34.84       |
| Wheel Loader                          | 10    | \$36.66           | \$15.82        | \$52.48             | \$4.01                      | \$1.57                   | \$6.96                                       | \$65.02       |
| Dump Truck                            |       | \$20.56           | \$10.39        | \$30.95             | \$2.37                      | \$0.93                   | \$4.11                                       | \$38.36       |

**Notes:**

1. From R.S. Means 2007, R0113-60-6217 Excavation Rock.
2. From Davis Bacon General Decision CA20070031 – ENGI0012-003 7/9/2007.
3. From R. S. Means 2007, 01-31-13.20-0280 Project Management and Coordination.
4. SRK Consulting (Total inc. O&P – 10%).

##### Equipment

| Equipment Type            | Monthly Rental Rate <sup>(1)</sup> | Hourly Rate <sup>(2)</sup> | Fuel/Lube/Wear <sup>(3)</sup> | Total (\$/hr) |
|---------------------------|------------------------------------|----------------------------|-------------------------------|---------------|
| D8                        | \$17,820                           | \$101.25                   | \$34.88                       | \$77.96       |
| Heavy Duty Drill/pump Rig | \$82,170                           | \$466.88                   | 0                             | \$466.88      |
| 325C Excavator            | \$7,885                            | \$44.80                    | \$23.38                       | \$68.18       |
| 928 Wheel Loader          | \$5,495                            | \$31.22                    | \$18.24                       | \$49.46       |
| 10 cy Dump Truck          | \$7,885                            | \$44.80                    | \$23.38                       | \$68.18       |

**Notes:**

1. Rental rates from R.S. Means.
2. Assumed single shift of 176 hours per month.
3. From Cat Handbook and experience.

## Exhibit 2

### Equipment Performance Calculations

#### Dozers

| Dozer Productivity vs. Grading Distance |                     |
|---|---------------------|
| Average Dozing Distance (feet)          | Production (LCY/hr) |
|   | D8R                 |
|   |                     |
| 50                                      | 1400                |
| 100                                     | 850                 |
| 200                                     | 475                 |
| 300                                     | 275                 |
| 400                                     | 175                 |
| 500                                     | 125                 |
| 600                                     | 100                 |

| % Grade vs. Dozing Factor |               |
|---------------------------|---------------|
| % Grade                   | Dozing Factor |
| -30                       | 1.6           |
| -20                       | 1.4           |
| -10                       | 1.2           |
| 0                         | 1             |
| 10                        | 0.8           |
| 20                        | 0.55          |
| 30                        | 0.3           |

Source: Caterpillar Performance Handbook Edition 35

## Exhibit 2

| <b>Job Condition Correction Factors -<br/>Bulldozers</b>                          |      |
|---|------|
| <b>OPERATOR</b>   |      |
| Average   | 0.75 |
| <b>MATERIAL <sup>(1)</sup></b>  |      |
| Loose stockpile   | 1.2  |
| Normal  | 1    |
| Hard to cut; frozen —<br>with tilt cylinder                                       | 0.8  |
| Hard to drift; "dead" (dry, non-<br>cohesive material) or very sticky<br>material | 0.8  |
| Rock, ripped or blasted   | 0.6  |
| <b>SLOT DOZING OR SIDE BY SIDE<br/>DOZING</b>                                     | 1.2  |
| <b>VISIBILITY</b>   |      |
| Good conditions   | 1    |
| <b>JOB EFFICIENCY</b>   |      |
| 50 min/hr   | 0.83 |
| Source: Caterpillar Performance Handbook Edition 35                               |      |

### Excavators

| <b>Track Excavator Specifications</b>            |           |
|--|-----------|
| Description                                      | 325C      |
| Bucket Capacity (cy)                             | 2.22 cy   |
| Fill Factor                                      | 0.90      |
| Average Bucket Load (cy)                         | 1.998 cy  |
| Soil Type  | hard clay |
| Job Condition                                    | med-hard  |
| Cycle Times (minutes) - based on hard clay       |           |
| <i>Load Bucket</i>                               | 0.09      |
| <i>Swing Loaded</i>                              | 0.06      |
| <i>Dump Bucket</i>                               | 0.04      |
| <i>Swing Empty</i>                               | 0.06      |
| <b>Total Cycle Time</b>                          | 0.25      |
| Job Efficiency                                   | 0.83      |
| Operator Efficiency                              | 0.75      |
| Corrected Productivity (LCY/hr)                  | 299 cy    |
| Exploration Road Cycle Time <sup>(1)</sup> (min) | 0.40      |
| Exploration Road Corr Prod (LCY/hr)              | 187 cy    |

1. Exploration bucket time assumes feathering and smoothing.



## Exhibit 2

| <b>Track Excavator w/Hammer Specifications</b> |             |
|--|-------------|
| <b>Description</b>                             | <b>325C</b> |
| Hydraulic Hammer                               | H120D s     |
| Material                                       |             |
| <i>Min Shift Production (8hr)</i>              | 160 cy      |
| <i>Max Shift Production (8hr)</i>              | 300 cy      |
| <i>Avg Shift Production (8hr)</i>              | 230 cy      |
| Job Efficiency                                 | 0.83        |

### Wheel Loader

| <b>Wheel Loader Specifications</b> |             |
|------------------------------------|-------------|
| <b>Description</b>                 | <b>928G</b> |
| Payload Capacity                   |             |
| <i>Struck</i>                      | 2.5 cy      |
| <i>Heaped</i>                      | 3.25 cy     |
| <i>Average</i>                     | 2.88 cy     |
| Matched Truck                      | N/A         |
| Average Cycle Time                 | 0.45 min    |
| Production/Hour                    | 384 cy/hr   |

Source: Caterpillar Performance Handbook Edition 35

## Exhibit 2

### Drill Hole and well Removal Productivity

| <b>Drill Hole Plugging Productivity</b>        |           |                                   |
|--|-----------|-----------------------------------|
| Description                                    | Drill Rig | Pump Rig                          |
| Move-to-hole, set-up, tear-down                | 1.5 hr    | 1.5 hr                            |
| Pulling casing (threaded, not cemented)        | 80 ft/hr  |                                   |
| Single-pass perforating (water wells)          |           |                                   |
| <i>4-inch</i>                                  | 240 ft/hr |                                   |
| <i>6-inch</i>                                  | 240 ft/hr |                                   |
| <i>8-inch</i>                                  | 200 ft/hr |                                   |
| <i>12-inch</i>                                 | 150 ft/hr |                                   |
| <i>18-inch</i>                                 | 40 ft/hr  |                                   |
| Perforation setup, trip in/out, tear-down time | 1.0 hr    |                                   |
| Perforation tool cost (wear cost)              | \$1.25 ft |                                   |
| Inert Material Placement (backfill)            |           |                                   |
| Grouting/Cement                                |           | 5.33 cy/hr                        |
| Cuttings (see below)                           |           | 3.50 cy/hr                        |
|  |           | Source: WDC Exploration, Dec 2005 |

### ***Site Demolition and Equipment/Facility Removal***

Site demolition activities will involve demolition of concrete foundations and removal of debris and facilities. The following activities are planned:

- demolish maintenance shop;
- demolish concrete pads;
- remove portable facilities and
- cleanup and dispose of miscellaneous waste,

## Exhibit 2

### Maintenance Shop

The steel maintenance shop will be demolished by dismantling and removing the structural steel for re-use off-site. The building is planned to be 30 feet by 50 feet with an eave height of 20 feet. The total volume of the building will be 30,000 cubic feet. Although it is anticipated the building will be dismantled and used off-site for costing purposes it will be assumed that it is demolished and disposed off-site. The cost for this is taken from 2007 Means 02-41-16-0500 and is provided below. There will be a 12-inch thick concrete foundation for this building. The foundation will be broken up using a demolition hammer mounted on the excavator. The broken concrete will be buried under 5-feet of cover using the dozer.

#### Assumptions:

- Building demolition is  $\$0.23 \text{ \$/cu.ft.} \times 30,000 \text{ cu.ft} = \$6,900$ .
- Load debris into dump truck 0.5 hours.
- Offsite hauling and disposal is assumed to be 2 dump truck loads to local landfill in Trona, California (35 miles) at average speed of 25 mph = 1.4 hours per direction plus 2 hours for load and disposal time = 3.4 hours per trip or 7.8 hours total.
- Disposal fees are assumed to be \$250 per load.
- Concrete volume is  $30 \text{ ft} \times 50 \text{ ft} \times 1 \text{ ft} = 1,500 \text{ cu.ft.} \div 27 \text{ cu. ft./cy} = 56 \text{ cy}$ .
- Time to attach and detach demolition hammer is 1 hours.
- Time to break concrete is  $56 \text{ cy} \div (230 \text{ cy/shift} \div 8) = 2.0 \text{ hours}$ .
- Earthwork volume is five times the concrete volume moved three times to account for digging a hole over 5 feet deep, pushing the concrete in and covering it ( $5 \times 56 \text{ cy} \times 3 = 840 \text{ cy}$ ).
- Average push distance is 50 feet.
- Uncorrected production = 1,400 cubic yards per hour;
- Correction Factors
  - Flat = 1
  - Average operator = 0.75
  - Average Material, normal = 1
  - Job efficiency = 50 min/hr = 0.83
- Corrected production =  $1,400 \times 1 \times 0.75 \times 1 \times 0.83 = 871.5 \text{ cy/hr}$
- Hours required =  $840 \text{ cy} \div 871.5 \text{ cy/hr} = 1.0 \text{ hours}$ .

| Task                   | Hours | Labor Rate (Hourly) | Total Labor (\$)  | Equipment Rate (Hourly) | Total Equipment (\$) | Materials (\$)  | Total for Task (\$) |
|------------------------|-------|---------------------|-------------------|-------------------------|----------------------|-----------------|---------------------|
| Demolish Building      |       |                     | \$3,000           |                         | \$3,900              |                 | \$6,900             |
| Load                   | 0.5   | \$65.02             | \$35.51           | \$49.46                 | \$24.73              |                 | \$60.24             |
| Transport and Disposal | 7.8   | \$38.36             | \$299.01          | \$68.18                 | \$531.80             | \$250.00        | \$1080.81           |
| Break Concrete         | 3     | \$65.05             | \$190.59          | \$68.18                 | \$204.54             |                 | \$395.13            |
| Bury concrete          | 1.0   | \$63.53             | \$63.53           | \$77.96                 | \$77.96              |                 | \$141.49            |
| <b>Total</b>           |       |                     | <b>\$3,588.64</b> |                         | <b>\$4,739.03</b>    | <b>\$250.00</b> | <b>\$8,577.67</b>   |

## Exhibit 2

### Crusher and Ore Transfer Facility

To support the crusher and have loading space an 80 feet by 150 feet 12-inch thick concrete pad will be built. The pad will be demolished by breaking it up using the excavator mounted demolition hammer and burying it in-place using the dozer.

- Concrete volume is  $80 \text{ ft} \times 150 \text{ ft} \times 1 \text{ ft} = 12,000 \text{ cu.ft.} \div 27 \text{ cu. ft./cy} = 444 \text{ cy.}$
- Time to attach and detach demolition hammer is 1 hours.
- Time to break concrete is  $444 \text{ cy} \div (230 \text{ cy/shift} \div 8) = 15.4 \text{ hours.}$
- Earthwork volume is five times the concrete volume moved three times to account for digging a hole over 5 feet deep, pushing the concrete in and covering it.  $5 \times 444 \text{ cy} \times 3 = 6,660 \text{ cy.}$
- Average push distance is 50 feet.
- Uncorrected production = 1,400 cubic yards per hour;
- Correction Factors
  - Flat = 1
  - Average operator = 0.75
  - Average Material, normal = 1
  - Job efficiency = 50 min/hr = 0.83
- Corrected production =  $1,400 \times 1 \times 0.75 \times 1 \times 0.83 = 871.5 \text{ cy/hr}$
- Hours required =  $6,660 \text{ cy} \div 871.5 \text{ cy/hr} = 7.6 \text{ hours.}$

| Task           | Hours | Labor Rate (Hourly) | Total Labor (\$) | Equipment Rate (Hourly) | Total Equipment (\$) | Materials (\$) | Total for Task (\$) |
|----------------|-------|---------------------|------------------|-------------------------|----------------------|----------------|---------------------|
| Break Concrete | 15.4  | \$65.05             | \$1001.77        | \$68.18                 | \$1049.97            |                | \$2051.74           |
| Bury concrete  | 7.6   | \$63.53             | \$428.83         | \$77.96                 | \$592.50             |                | \$1021.33           |
| <b>Total</b>   |       |                     | <b>\$1430.60</b> |                         | <b>\$1642.47</b>     |                | <b>\$3073.07</b>    |

### Septic Tank Demolition

The septic tank will be pumped out and broken up with the excavator and buried in place. It is anticipated that the septic tank will be a 3,000-gallon capacity. The cost to pump the septic tank is estimated to be \$1,000. The cost to demo with the excavator and bury with the dozer is estimated to be 1 hour each for a total cost of \$274.72

### Earthwork

Earthwork operations include regrading, ripping and revegetation. Cost projections to perform the earthwork activities for each category are subdivided as follows:

- Waste rock storage area;
- Portal sites;
- Exploration areas;
- Yards; and
- Roads.

## Exhibit 2

### Waste Rock Storage

There will be minimal waste rock taken out of the underground, however there will be some waste rock storage in areas near each portal site. Up to 1,500 cubic yards (cy) of waste rock at each portal will be placed near the portals at the locations shown on Figure 3. The waste rock storage piles will be about 10 feet high and 50 feet by 60 feet. The waste at portal #1 may be placed in area W-1 near the portal.

It is expected that during the course of operation the waste rock will be placed back into underground stopes as they become available and that at the end of the mine-life no waste will remain above ground<sup>1</sup>. However, for the purpose of this estimate it will be assumed that there will be waste rock stockpiles that will require sloping should the county be required to perform the reclamation. The disturbance for each area will be about 0.1 acres (total of 0.5 acres). Seeding cost will be included in the section below for re-contouring the portal sites.

For the purpose of costing reclamation it is assumed that 25% of each stockpile will need to be pushed with a dozer for one-half the length of the stockpile.

#### Assumptions:

- Earthwork volume =  $5 \times 1,500 \text{ cy} \times 0.25 = 1,875$  cubic yards;
- Dozing distance for D8 = 30 feet. (assume flat);
- Uncorrected production = 1,400 cubic yards per hour;
- Correction Factors
  - Flat = 1
  - Average operator = 0.75
  - Average Material, normal = 1
  - Job efficiency = 50 min/hr = 0.83
- Corrected production =  $1,400 \times 1 \times 0.75 \times 1 \times 0.83 = 871.5$  cy/hr
- Hours required =  $1,875 \text{ cy} \div 871.5 \text{ cy/hr} = 2.1$  hours.
- To account for the small project scale and walking the dozer to each portal site, one hour for each portal will be added bringing the total hours required to 7 (rounded to nearest hour).

From production assumptions the cost to regrade all of the stockpiles will be:

| Task                        | Hours | Labor rate (Hourly) | Total Labor (\$) | Equipment Rate (Hourly) | Total Equipment (\$) | Total for Task (\$) |
|-----------------------------|-------|---------------------|------------------|-------------------------|----------------------|---------------------|
| Slope waste rock stockpiles | 7     | \$63.53             |                  | \$77.96                 |                      | \$990.43            |

<sup>1</sup> Sufficient waste rock will be left above ground to plug the portals.

## Exhibit 2

### Portal Sites

There will be up to five portal sites. The locations are shown on Figure 3. Each of the sites will be located adjacent to existing roads except for Portal #2 which will require the addition of approximately 600 feet of new road. To the extent possible the pads will be re-sloped to blend with the natural topography.

Reclamation of the portal sites will consist of the following:

- Plugging the entrance with waste rock;
- sloping the area to blend with the surrounding topography;
- scarifying compacted surfaces and
- seeding the surface.

### Plugging Portal Entrance

A dozer will be used to push the waste rock from the stockpiles into the portal entrance. Since the portal pad will be pulled back up to replace the natural topography a minimum amount of backfill into the portal entrance will be required for plugging. For the purpose of this estimate a minimum of 10 feet will be required.

Assumptions:

- portal size 10' wide by 12' high;
- earthwork volume (1 site) =  $10 \text{ ft} \times 12 \text{ ft} \times 10 \text{ ft} \div 27 \text{ cu ft/cy} = 53.3 \text{ cubic yards}$  x 5 sites = 267 cy.
- Dozing distance for D8 = 100 feet. (assume flat).
- Uncorrected production = 850 cubic yards per hour.
- Correction Factors
  - Flat = 1
  - Average operator = 0.75
  - Average Material, normal = 1
  - Job efficiency = 50 min/hr = 0.83
- Corrected production =  $850 \times 1 \times 0.75 \times 1 \times 0.83 = 529 \text{ cy/hr}$ .
- Hours required =  $267 \text{ cy} \div 529 \text{ cy/hr} = 0.5 \text{ hours}$ .
- To account for the small project scale and walking the dozer to each portal site, one hour for each portal will be added bringing the total hours required to 6.0 (rounded to nearest hour).

## Exhibit 2

From production assumptions the cost to regrade all of the stockpiles will be:

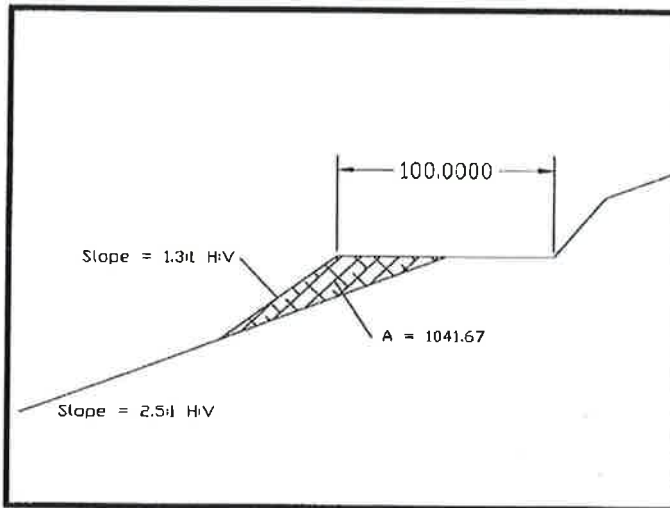
| Task                      | Hours | Labor rate (Hourly) | Total Labor (\$) | Equipment Rate (Hourly) | Total Equipment (\$) | Total for Task (\$) |
|---------------------------|-------|---------------------|------------------|-------------------------|----------------------|---------------------|
| Backfill Portal Entrances | 6     | \$63.53             | \$381.18         | \$77.96                 | \$467.76             | \$848.94            |

### Regrading Portal Site

Assumptions;

- five portal sites at 0.5 acres of disturbance = 3.0 acres;
- portal pad area will be created using a balanced cut-to-fill;
- average slope of ground is 2.5:1 H:V or 22 degrees;
- fill slope is angle of repose at 1.3:1 H:V;
- pads long axis will be parallel to contour; and
- regrading is accomplished using the dozer.

Cross sectional area of portal fill is shown below.



Given the cross-sectional area is 1042 square feet, the volume of earth (bank) to be pulled back for re-sloping is calculated by multiplying the cross sectional area by the length of the fill and converting to cubic yards.

### Dozer

- Bank Yards =  $1042 \text{ feet} \times 150^2 \text{ feet} / 27 \text{ cu.ft./cy} = 5,788 \text{ cy per pad.}$

<sup>2</sup> 150 feet is used to account for the volume of material at the ends of the pad.

## Exhibit 2

- Adding a “fluff factor” of 20% brings this number to 6,946 cy per pad or 34,733 cy or material to replace.
- Average distance of push is 150 feet.
- Uncorrected production is  $475 \text{ cy/hr} + (850 \text{ cy/hr} - 475 \text{ cy/hr}) \div 2 = 662.5 \text{ cy/hr}$
- Correction Factors
  - Uphill push (20%) = 0.55
  - Average operator = 0.75
  - Average Material, normal = 1
  - Job efficiency = 50 min/hr = 0.83
- Corrected production =  $662.5 \times 0.55 \times 0.75 \times 1 \times 0.83 = 227 \text{ cy/hr}$ .
- Hours required =  $34,733 \text{ cy} \div 227 \text{ cy/hr} = 153 \text{ hours}$ .
- It is assumed that this work will be performed after portal backfill so no additional walk-in hours will be required.

### Seeding

- Total acres to seed is 3.0 acres.
- Area will be hand seeded.
- Walking speed accounting for re-filling backpack seeder is 2 mph (10,000 ft per hour).
- Seeding width per pass is 8 feet.
- Production is  $10,000 \text{ feet/hr} \times 8 \text{ ft/hr} = 80,000 \text{ sqft/hr} = 1.8 \text{ acres per hour}$ .
- Seeding cost is  $3.0 \text{ acres} \div 1.8 \text{ acres/hour} = 1.7 \text{ hours}$ .
- Seed cost is \$300 per acre<sup>3</sup>.

From production assumptions the cost to regrade all of the portal sites will be:

| Task                    | Hours | Labor rate (Hourly) | Total Labor (\$)  | Equipment Rate (Hourly) | Total Equipment (\$) | Materials       | Total for Task (\$) |
|-------------------------|-------|---------------------|-------------------|-------------------------|----------------------|-----------------|---------------------|
| Regrade Portals – Dozer | 153   | \$63.53             | \$9,720.09        | \$77.96                 | \$11,927.88          |                 | \$21,647.97         |
| Seeding                 | 1.7   | \$34.84             | \$59.23           |                         |                      | \$900.00        | \$959.23            |
| <b>Totals</b>           |       |                     | <b>\$9,779.32</b> |                         | <b>\$11,927.88</b>   | <b>\$900.00</b> | <b>\$22,607.20</b>  |

### Yards

There will be a total of 0.8 acres of yards constructed. The yards will be constructed on relatively flat ground and not require much regrading. For the purposes of this cost estimate 2 hours of dozer time will be applied for regrading. The costs to reclaim the yards is given below.

<sup>3</sup> Seed mix will be determined by BLM consultation, \$300 dollars per acre is chosen as a conservative amount.



## Exhibit 2

| Task                  | Hours | Labor rate (Hourly) | Total Labor (\$) | Equipment Rate (Hourly) | Total Equipment (\$) | Materials       | Total for Task (\$) |
|-----------------------|-------|---------------------|------------------|-------------------------|----------------------|-----------------|---------------------|
| Regrade Yards - Dozer | 2     | \$63.53             | \$127.06         | \$77.96                 | \$155.92             |                 | \$282.98            |
| Seeding               | 0.8   | \$34.84             | \$27.87          |                         |                      | \$240.00        | \$267.87            |
| <b>Totals</b>         |       |                     | <b>\$154.93</b>  |                         | <b>\$155.92</b>      | <b>\$240.00</b> | <b>\$550.85</b>     |

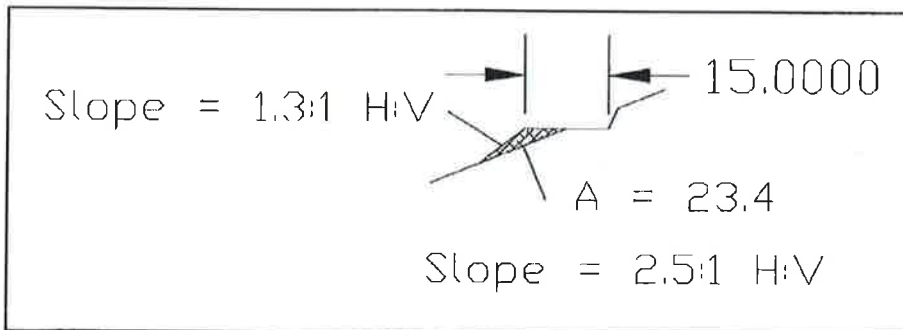
### Roads

There are approximately 17,204 feet of roads to be reclaimed at the end of the mine life. The average width of the roads is assumed to be 15 feet. This will be about 5.9 acres of disturbance.

#### Assumptions;

- 17,204 feet x 15 feet ÷ 43,560 sq ft = 5.9 acres.
- Roads will be created using a balanced cut-to-fill.
- Average slope of ground is 2.5:1 H:V or 22 degrees.
- fill slope is angle of repose at 1.3:1 H:V;
- regrading is accomplished using the 325 excavator
- The roads will be hand seeded.

Cross sectional area of portal fill is shown below.



### Excavator

- Bank Yards = 17,204 feet x 23.4 feet / 27 cu.ft./cy = 14,910 cy.
- Adding a "fluff factor" of 20% brings this number to 17,892 cy.
- Corrected production = 187 cy/hr.
- Hours required = 17,892 cy ÷ 187 cy/hr = 95.7 hours.

## Exhibit 2

| Task          | Hours           | Labor rate (Hourly) | Total Labor (\$)  | Equipment Rate (Hourly) | Total Equipment (\$) | Materials      | Total for Task (\$) |
|---------------|-----------------|---------------------|-------------------|-------------------------|----------------------|----------------|---------------------|
| Regrade Roads | 95.7            | \$68.18             | \$6,524.83        | \$65.05                 | \$6,225.28           |                | \$12,750.11         |
| Seeding       | 12 <sup>4</sup> | \$34.84             | \$418.08          |                         |                      | \$3,600        | \$4,018.08          |
| <b>Totals</b> |                 |                     | <b>\$6,942.91</b> |                         | <b>\$6,225.28</b>    | <b>\$3,600</b> | <b>\$16,768.19</b>  |

### **Well Abandonment**

The well is estimated to be a maximum of 100 feet deep. The casing size will be 12-inch or less in diameter. Because of the small size of the well the cost will be based upon 4 hours of drilling rig rental with 2 hours of mobilization cost included.

Drill Rig cost will be  $6 \times \$466.88 = \$2,801.28$

Miscellaneous materials will be \$500.00

### **Monitoring**

Vegetation monitoring will be conducted once per year for 5 years, at a cost of \$1,000 dollars per visit for a total of \$5,000.

### **Mobilization/Demobilization of Equipment**

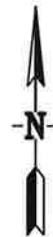
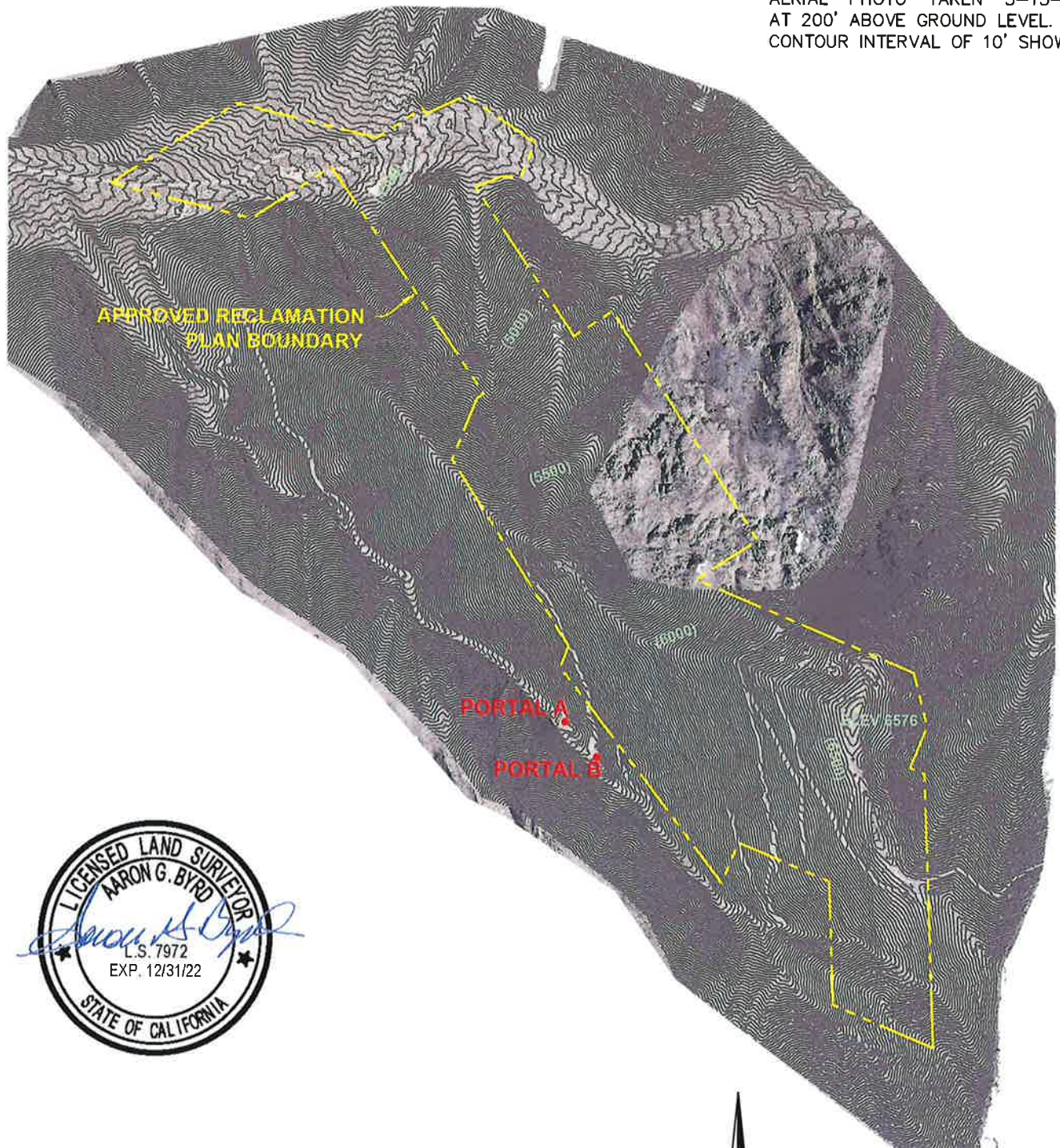
Equipment will be mobilized from Ridgecrest, California.

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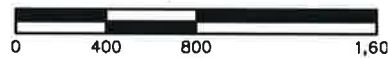
<sup>4</sup> Acreage is doubled to account for full road footprint disturbance including cuts and fills.

# Exhibit 3 RADCLIFF/WORLDBEATER MINE COMPLEX

NOTE:  
AERIAL PHOTO TAKEN 5-13-20  
AT 200' ABOVE GROUND LEVEL.  
CONTOUR INTERVAL OF 10' SHOWN.



SCALE: 1" = 800'



 **LAV// Pinnacle Engineering**  
ENGINEERING • PLANNING • SURVEYING

12418 Rosedale Hwy., Suite A, Bakersfield, CA 93312  
Phone: (661) 869-0184 Fax: (661) 885-4155

## Exhibit 4



United States Department of the Interior  
BUREAU OF LAND MANAGEMENT  
Grand Junction, Colorado 81506  
<https://www.blm.gov>



August 13, 2020

**In Reply Refer To:**

CACA-59060  
9230(P)  
LLCAD05000.51

Black Swan Advisors  
Attn: Charles McLaughlin  
P.O. Box 11179  
Newport Beach, CA 92658

Mr. McLaughlin,

On June 9, 2020 you informed the Bureau of Land Management (BLM) Ridgecrest Field Office of two portals that were installed on BLM land near your patented land in an unsurveyed portion of Township 22 South, Range 43 East, Mount Diablo Meridian. These portals were constructed by a previous operator at the site without any BLM approval. You subsequently requested a meeting with Inyo County, the lead agency for the California Surface Mining and Reclamation Act (SMARA), California State Division of Mine Reclamation, and the BLM to discuss the portals. That meeting was held on July 7, 2020. At the meeting, the BLM informed you of the need to file a plan of operations in order to use those portals in a mining operation. After that meeting, you informed the BLM that you preferred to close the portals on BLM land.

You have stated that the closures will be closed by backfilling the adits and that the work will be done by a contractor who has previously worked with the BLM Abandoned Mine Land (AML) program. This letter requests additional information regarding the closures. Please provide to the BLM a closure plan that includes:

- 1) A detailed description of the closure method to be used including the proposed fill material, fill depth, and any measures used to compact the material.
- 2) A proposed schedule of closure activities including a timeframe to complete the closure.
- 3) Any measures proposed to protect resources within the vicinity of the portals.

Please note that since this action is taking place on public land managed by the Ridgecrest Field Office, approval is required prior to performing the work. This action is also subject to the requirements of the National Environmental Policy Act (NEPA). Supplying the requested closure plan in a timely manner will expedite our approval of this action.

## Exhibit 4

If you have any questions about this information request, please contact Brian Ferwerda, Ridgecrest Field Office geologist, by phone at (760)384-5451, or by email at [bferwerda@blm.gov](mailto:bferwerda@blm.gov).

Sincerely,

CARL  
SYMONS

Carl B. Symons  
Field Manager

Digitally signed by CARL  
SYMONS  
Date: 2020.08.13 11:33:11  
-0700'

cc:

(1) Ryan Smith-Standridge, Inyo County SMARA Coordinator

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## Exhibit 5

**From:** [Porter, Randall K](#)  
**To:** [Porter, Randall K](#)  
**Subject:** Fw: [EXTERNAL] RE: Radcliff Mine  
**Date:** Monday, August 23, 2021 3:56:41 PM  
**Attachments:** [image001.png](#)

**CAUTION:** This email originated from outside of the Inyo County Network. DO NOT click links or open attachments unless you recognize and trust the sender. Contact Information Services with questions or concerns.

---

**From:** Will, Blair <bwill@kmtg.com>  
**Sent:** Monday, August 23, 2021 3:40 PM  
**To:** Porter, Randall K <rporter@blm.gov>  
**Cc:** 'Andrew Heinemann' <aheinemann@benchmarkresources.com>  
**Subject:** RE: [EXTERNAL] RE: Radcliff Mine

Hi Randy,

At present, the adits remain screened. BMC is seeking contractor bids for the work necessary to execute the closure plan submitted by Benchmark Resources. BMC hopes to have the contractor hired within a couple weeks. I will update you when we have an estimated date to conduct the work.

Please note that I have changed law firms and have new contact information. The Pioneer law group address is no longer active.

Best,  
Blair



**Blair W. Will** | Attorney  
Kronick Moskowitz Tiedemann & Girard | [kmtg.com](#)  
office: 916.321.4500 | mobile: 619.757.6332

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**From:** Porter, Randall K <[rporter@blm.gov](mailto:rporter@blm.gov)>  
**Sent:** Monday, August 23, 2021 3:23 PM  
**To:** Blair Will <[blair@pioneerlawgroup.net](mailto:blair@pioneerlawgroup.net)>  
**Subject:** Re: [EXTERNAL] RE: Radcliff Mine

Mr. Will:  
What is the news for closing the adits at Radcliff??

What will I find if I go see the adits we agreed to close??

## Exhibit 5

Please respond

---

**From:** Blair Will <[blair@pioneerlawgroup.net](mailto:blair@pioneerlawgroup.net)>  
**Sent:** Friday, April 23, 2021 11:31 AM  
**To:** Porter, Randall K <[rporter@blm.gov](mailto:rporter@blm.gov)>  
**Cc:** Bickauskas, Thomas V <[TBickaus@blm.gov](mailto:TBickaus@blm.gov)>  
**Subject:** [EXTERNAL] RE: Radcliff Mine

**This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.**

Hello Randy,

Patricia Brown completed the bat exclusion action and it is her opinion that no bats remain in the Pruetts Portals. She will be providing BLM with her closure report shortly.

Meanwhile, Andrew is designing the hard closure. The adits are installed in competent rock and, in general terms, the closure will include backfill with some reinforcement. I plan to have the closure design forwarded to you for review next week. I anticipate that document will be transmitted to you electronically.

Best regards,  
Blair



Blair W. Will, Of Counsel  
1122 S Street | Sacramento, CA 95811  
**Office** 916.287.9500 | **Direct** 916.287.9506 | **Fax** 916.287.9515  
[blair@pioneerlawgroup.net](mailto:blair@pioneerlawgroup.net) | [www.pioneerlawgroup.net](http://www.pioneerlawgroup.net)

---

**From:** Porter, Randall K <[rporter@blm.gov](mailto:rporter@blm.gov)>  
**Sent:** Wednesday, April 14, 2021 6:45 PM  
**To:** Blair Will <[blair@pioneerlawgroup.net](mailto:blair@pioneerlawgroup.net)>  
**Cc:** Bickauskas, Thomas V <[TBickaus@blm.gov](mailto:TBickaus@blm.gov)>  
**Subject:** Radcliff Mine

Mr. Blair:

Good Evening !

I thought you agreed to send us a written closure plan for the adit(s) at Radcliff. Are you going to do what you agreed? An email is a good start. But please also put (or have Bush Management put) a closure proposal in an envelope and mail it to

## **Exhibit 5**

Ridgecrest Field Office  
300 S. Richmond Rd  
Ridgecrest, CA 93555

Thank you !



## Exhibit 6

UNITED STATES DEPARTMENT OF INTERIOR  
BUREAU OF LAND MANAGEMENT  
*Ridgecrest Field Office*

### CATEGORICAL EXCLUSION REVIEW AND APPROVAL

**Project Name:** Radcliff Adits Remediation

**NEPA Number:** DOI-BLM-CA-D010-2021-0028-CX

**Lead Preparer:** Caroline Woods

**Project Lead:** Carl Symons

**General Location:** Inyo County, California

#### **A. Project Description and Rationale, including Stipulations:**

The Radcliff Mine is an underground gold prospect on private land (patented claims) and has a conditional use permit and reclamation plan approved by Inyo County. Two adits on adjacent public lands managed by the USDI Bureau of Land Management (BLM) were inadvertently created by previous operators outside of the parcel and permit boundaries without necessary BLM approvals. The mine owner intends to close the openings and reclaim the surface disturbance in a manner consistent with BLM land management objectives and reclamation standards and does not intend to operate from those adits by obtaining a permit from the BLM.

The proposal is to close the two mine adits for public health and safety. The method involves backfilling the adits with the native rock that was excavated, placed, and piled up directly outside each adit when the adits were originally excavated. The native rock will be used to create a "bulkhead backfill" by completely filling the opening to prevent human and wildlife access. Access to each mine feature to be remediated would be limited to existing routes. The proposed project would require transporting equipment, supplies and personnel from existing trails and/or roads to the two features. Access may be limited in some cases therefore requiring a small amount of trail or road improvements prior to construction. For example, an open route may have a wash out and a backhoe would be used to smooth the route for passage. Reclamation of disturbed areas will be done on completion of remediation including reseeding of the fill surface and borrow area. Revegetation would use native species common to the region and approved by the BLM.

The subject adits, hereafter referred to as "Adit A" and "Adit B," are located in a remote area of the western flank of the Panamint Range in Pleasant Canyon, approximately five (5) miles east of the town of Ballarat, in Inyo County, California (Appendix B-Figure 1, "Regional Location"). The adit locations can be seen on Attachment A, "Site Survey," are specifically at:

## Exhibit 6

- Adit A: 36° 01' 26.66"N, 117° 07' 52.63" W
- Adit B: 36° 01' 264.96"N, 117° 07' 50.17" W

Elevation at the sites are approximately 5,500 feet (ft) and 5,600 ft, respectively. The site is accessed by following P-81, a BLM-designated public access but unmaintained dirt road, eastward from Ballarat for six (6) miles along Pleasant Canyon to Hope Canyon. Remediation for the sites will follow protective measure and stipulations (Appendix A).

An investigation of the conditions and use by the adits was completed on April 15 and 16, 2021 by a qualified biologist. The investigation included a survey for any occupation and installation of exclusion netting to preclude wildlife entry prior to the closure work. No bats were detected in Adit A, and one bat was detected in Adit B. The bat left Adit B, after which both Adit A and B were closed with chicken wire in April, to prevent any bats from entering either adit. **IF THE EXCLUSION WIRE HAS BEEN BREACHED, another survey of the adits for person(s) and/or wildlife must occur prior to closure.**

### **B. Plan Conformance**

This action conforms to the following Land Use Plan: California Desert Conservation Area Plan, as amended.

Other applicable plans, regulations, and policies:

The Northern and Eastern Mojave Plan, 2002, an amendment to the CDCA Plan

Desert Renewable Energy Conservation Plan, 2016, an amendment to the CDCA Plan - The Proposed Action has been reviewed for conformance with this plan and is consistent with the type and degree of actions allowed under the Plan for this area.

### **C. Compliance with the National Environmental Policy Act**

The action described above generally does not require the preparation of an environmental assessment (EA) or environmental impact statement (EIS), as it has been found to not individually or cumulatively have a significant effect on the human environment.

This Proposed Action qualifies as a categorical exclusion under Departmental Categorical Exclusions 516 DM 11.9 - J. Other:

- (8) Installation of minor devices to protect human life (e.g. grates across mines).
- (10) Removal of structures and materials of no historic value, such as abandoned automobiles, fences, and buildings, including those built in trespass and reclamation of the site when little or no surface disturbance is involved.

## **Exceptions to Categorical Exclusion Documentation**

## Exhibit 6

The action has been reviewed to determine if any of the below listed exceptions apply:

**The project would:**

| <b>Exceptions</b>   |                           |   |
|---|---------------------------|---|
| 1. Have significant impacts on public health or safety.   |                           |   |
| <b>Yes</b>  | <b>No</b><br><br><b>X</b> | <p><b>Rationale:</b> <i>The proposed project will not have significant impacts on public health and safety. The project is located on previously disturbed land in the Panamint Mountains, Inyo County. There would be no hazardous or solid waste generated by remediating these mine features.</i></p> <p><i>Effects would be predominantly positive and related to preventing people from entering hazardous areas.</i></p>  |
| 2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas. |                           |   |
| <b>Yes</b>  | <b>No</b><br><br><b>X</b> | <p><b>Rationale:</b> <i>The proposed action would not take place in any designated park, recreation or refuge lands, Wilderness or Wilderness Study Areas, proposed Prime or Unique Farmlands, national natural landmark areas or national monuments. No water sources are available for farming purposes. There would not be any runoff to surface or ground water as a result of this project. These mines are currently located within washes or where riparian areas would be found.</i></p> <p><i>This action would comply with relevant protection measures under the Migratory Bird Treaty Act, and associated federal regulations and BLM policies, and would not measurably affect any of the species regulated by those acts.</i></p> |
| 3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].   |                           |   |

## Exhibit 6

|   |                    |  |
|---|--------------------|--|
| Yes   | No<br><br><b>X</b> | <p><b>Rationale:</b> <i>The proposed action will not have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.. In addition, the effects of the proposed actions on recreation, visual resources, biological resources and cultural resources are negligible.</i></p> <p><i>The effects of mine closures are well known and not controversial.</i></p> |
| <p>4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.</p>   |                    |  |
| Yes   | No<br><br><b>X</b> | <p><b>Rationale:</b> <i>Overall, the proposed ground disturbance and resultant environmental effects would be insignificant. New disturbance will be limited, which would limit any wind blown dust to a very small area and would be stabilized by the first rain fall</i></p>  |
| <p>5. Establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects.</p>             |                    |  |
| Yes   | No<br><br><b>X</b> | <p><b>Rationale:</b> <i>The implementation of the proposed projects would have negligible cumulative effects on floodplains, wetland/riparian zones, environmental justice, water quality (surface/ ground), and energy. The effects of the proposed actions on recreation, visual resources, biological resources and cultural resources are also negligible.</i></p>   |
| <p>6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.</p>                                   |                    |  |
| Yes   | No<br><br><b>X</b> | <p><b>Rationale:</b> <i>The proposed action is not related to other past, present or reasonably foreseeable actions likely to result in any significant impacts. The area has been previously disturbed by mineral exploration and mining. Overall, the proposed ground disturbance and resultant environmental effects would be minimal.</i></p>  |
| <p>7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.</p> |                    |  |

## Exhibit 6

|   |                |   |
|---|----------------|---|
| Yes   | No<br><b>X</b> | <b>Rationale:</b> <i>The Cultural Findings are- Appendix A, Exempt Undertakings, Class B Activities: Activity B-4: Hazards abatement, including elimination of toxic waste sites, filling, barricading, or screening of abandoned mine shafts, and stopes where such features are not historic or contributing properties. The exemption number is: CA-650-EX-2021-16.</i>                        |
| 8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.                 |                |   |
| Yes   | No<br><b>X</b> | <b>Rationale:</b> <i>The project would not have a significant impact on any current threatened, endangered or proposed to be listed wildlife species. No federally listed plants occur in the vicinity. Implementation of mitigation measures will ensure that there is a No Effect for any federally listed species.</i>   |
| 9. Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.   |                |   |
| Yes   | No<br><b>X</b> | <b>Rationale:</b> <i>The proposed action does not violate Federal, State, and local laws or requirements for the protection of the environment.</i>   |
| 10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).  |                |   |
| Yes   | No<br><b>X</b> | <b>Rationale:</b> <i>The proposed action is a part of the BLM's plan to mitigate and remediate physical safety hazards. The project would not detrimentally affect the minority and low-income populations of local communities. The project would not have disproportionate effects on low-income or minority populations because it is located in a remote uninhabited area of Inyo County.</i> |
| 11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007). |                |   |
| Yes   | No<br><b>X</b> | <b>Rationale:</b> <i>Based upon the past 15 years of Tribal consultation by the BLM with Tribes within the region, there are no sacred sites, or any other significant Tribal cultural resources made known to the BLM that occur within the project area.</i>  |

**Exhibit 6**

|  |           |   |
|--|-----------|---|
| <p>12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).</p> |           |   |
| <b>Yes</b>   | <b>No</b> | <p><b>Rationale:</b> <i>The proposed action would not involve clearing of vegetation. Design features would include washing and/or inspection of all equipment prior to entering and exiting the project site; this would prevent any non-invasive species from being introduced and/or spread in the project area.</i></p> |
|  | <b>X</b>  |   |

**Land Use Plan Conformance and Categorical Exclusion Review Record**

| <b>Resource</b>                              | <b>Assigned Specialist<br/>Signature</b> | <b>Date</b> |
|--|--|-------------|
| Air Quality                                  | C.Woods                                  | 7/21/2021   |
| Areas of Critical Environmental Concern      | C.Woods                                  | 7/9/2021    |
| Cultural Resources                           | D. Storm                                 | 7/21/2021   |
| Environmental Justice                        | C.Woods                                  | 7/9/2021    |
| Farm Lands (prime or unique)                 | CWoods                                   | 7/9/2021    |
| Floodplains                                  | C. Helms                                 | 7/12/2021   |
| Invasive, Non-native Species                 | C.Woods                                  | 7/21/2021   |
| Native American Religious Concerns           | D. Storm                                 | 7/21/2021   |
| Threatened, Endangered, or Candidate Species | C.Helms                                  | 7/12/2021   |
| Wastes (hazardous or solid)                  | C.Woods                                  | 7/21/2021   |
| Water Quality (drinking or ground)           | C Helms                                  | 7/12/2021   |
| Wetlands / Riparian Zones                    | C.Helms                                  | 7/12/2021   |
| Wild and Scenic Rivers                       | C.Woods                                  | 7/9/2021    |
| Wilderness                                   | C.Beck                                   | 7/21/2021   |
| Other:                                       |  |             |

## Exhibit 6

*NOTE: Each item of the review record should be completed by the assigned resource specialist. The Team Leader, NEPA Coordinator or authorized officer may sign the review record when they are acting as a specialist.*

Environmental Coordinator: Caroline Woods Date: 7/21/2021

### Approval and Decision

Based on a review of this AML Remediation project described above (DOI-BLM-CA-D010-2021-0028-CX) and field office staff recommendations, I have determined that the project is in conformance with the land use plan and is categorically excluded from further environmental analysis. It is my decision to approve the action as proposed, with the following stipulations (see below Appendix A):

Authorized Officer: CARL SYMONS Digitally signed by CARL SYMONS  
Date: 2021.07.21 11:22:39 -07'00' Date: \_\_\_\_\_

## Exhibit 6

### Appendix A: STIPULATIONS / CONDITIONS OF APPROVAL

#### Biological stipulations

##### 1. General

- a. If special-status biological resources are found (burrows, etc.), they will be flagged for avoidance. Please notify BLM biologist with any questions.
- b. Construction equipment and vehicles should be washed off prior to ingress onto to minimize spread of invasive seeds.
- c. All trash and food items shall be promptly contained within closed, raven-proof containers or placed out of sight in vehicles with closed windows.
- d. Soil disturbance will be minimized, when possible, shrubs should be crushed rather than bladed, and previously disturbed areas within the project site shall be utilized for parking vehicles and storing equipment.

##### 2. Nesting Birds

- a. Let the biologist know if the proposed action occurs during the general bird-nesting season (March 1 through August 31), because a pre-construction nesting survey should be conducted.
- a. Bird nests should be avoided. Shrubs with nests in them should not be severely trimmed back. If work takes place during breeding season and an active nest is found, the BLM should be notified.

##### 3. Bats

- a. Remediate features as recommended by Dr. Pat Brown Berry (per her data sheets).

##### 4. Recommended Closure Techniques

- d. A few nights prior to hard closure, the features that require wildlife exclusions must be watched and excluded with chicken wire, at least an hour before to an hour after sunset.
- e. If the exclusion has been breached before closure, a second wildlife sweep must be made to ensure no wildlife moved back into the adits.



**Exhibit 6**

**Appendix B: Proposal including a Map of location**

# TECHNICAL MEMORANDUM

## ADIT CLOSURE

### ADJACENT TO RADCLIFF MINE

---

The Radcliff Mine is an underground gold prospect on private land (patented claims) and has a conditional use permit and reclamation plan approved by Inyo County. Two adits on adjacent public lands managed by the USDI Bureau of Land Management (BLM) were inadvertently created by previous operators outside of the parcel and permit boundaries without necessary BLM approvals. The mine owner intends to close the openings and reclaim the surface disturbance in a manner consistent with BLM land management objectives and reclamation standards and does not intend to operate from those adits by obtaining a permit from the BLM.

This Technical Memorandum provides a recommended approach to securing the adit openings in a manner similar to methods already provided in the Radcliff Mine reclamation plan. The method involves backfilling the adits with the native rock that was excavated, placed, and piled up directly outside each adit when the adits were originally excavated. The native rock will be used to create a "bulkhead backfill" by completely filling the opening to prevent human and wildlife access.

### LOCATION

The subject adits, hereafter referred to as "Adit A" and "Adit B," are located in a remote area of the western flank of the Panamint Range in Pleasant Canyon, approximately five (5) miles east of the town of Ballarat, in Inyo County, California (Figure 1, "Regional Location"). The adit locations can be seen on Attachment A, "Site Survey," are specifically at:

- Adit A: 36° 01' 26.66"N, 117° 07' 52.63" W
- Adit B: 36° 01' 26.96"N, 117° 07' 50.17" W

Elevation at the sites are approximately 5,500 feet (ft) and 5,600 ft, respectively. The site is accessed by following P-81, a BLM-designated public access but unmaintained dirt road, eastward from Ballarat for six (6) miles along Pleasant Canyon to Hope Canyon.

### GENERAL GEOLOGY

Topography at the Radcliff Mine is extremely rugged, with slope angles ranging from 35° to 75°. Elevations vary from 6,580 ft at the top of the hill above the Radcliff glory hole, to 4,530 ft at the Clair Camp in Pleasant Canyon, constituting a difference of 2,050 vertical ft. Vegetation is sparse in this arid region and the rocky terrain. There is little or no topsoil throughout the site area, and any occurrence is generally only along stream valleys at lower elevations. Mineralization occurs within quartz-sulfide veins, disseminated sulfides, and locally massive sulfides, emplaced along zones of shearing and dilatancy within argillite and amphibolite units of the Limekiln Spring Member of the Kingston Peak Formation. These units structurally and unconformably overlie quartzofeldspathic gneisses and granites of the World Beater complex. Quartz veins and shear zones within the gneiss complex may also be mineralized. The argillites and amphibolites are conformably overlain by quartzite and diamictite units, which are upper members of the Kingston Peak Formation. The adits appear to be within the argillites, amphibolites, and the quartzite and diamictite. The host rock appears to be very stable with stable back and ribs of the adits. No water is present in either of the adits.

## Exhibit 6

### EXISTING CONDITIONS

Adits A and B have openings that are approximately 12 feet high and 12 feet wide. The openings are gated, and some limited equipment exists. Excavated rock was piled near the entrances in adequate quantities to support the closure. The rock is the same geologic material as observed on the Radcliff Mine property, whereas studies of this material have indicated that the material is neither acid forming nor containing elevated levels of any deleterious elements that would create acid rock drainage. No water was observed anywhere inside or around either of the adits. No special management practices are therefore required to address potential exposure or water quality.

### WILDLIFE INVESTIGATION

An investigation of the conditions and use by the adits was completed on April 15 and 16, 2021 by a qualified biologist. The investigation included a survey for any occupation and installation of exclusion netting to preclude wildlife entry prior to the closure work. No bats were detected in Adit A, and one bat was detected in Adit B. The bat left Adit B, after which both Adit A and B were closed with chicken wire to prevent any bats from entering either adit. See Attachment B, "Wildlife Exclusion Report."

### BULKHEAD CLOSURE PLAN

A single bulkhead backfill will be constructed across both horizontal to sub-horizontal mine openings. The bulkhead will provide a secure seal that completely eliminates access into the adits and is suited for sites like this that do not require access for wildlife or natural airflow. Future entry into the mine opening for mineral exploration or historical purposes would still be possible by demolition of the bulkhead.

The fill will be comprised of native rock recovered from rock piles directly outside of each adit. Prior to installation, loose rock around the perimeter of the opening, including the floor, should be removed to ensure a stable foundation. Uneven floors may need to be leveled and smoothed. The seal between the foundation, back (roof), walls, and the bulkhead will be tight. The fill will be watered to optimum moisture levels for compaction during the construction of the bulkhead backfill. Fill will be compacted as it is placed.

The backfill will be placed as shown in Figure 2, "Bulkhead Adit Backfill." Each adit will receive a length of fill that is 3 times the height of the adit or 36 feet. Once the length and height of fill within the adit are met, a 2:1 slope will be developed and compacted, at the portal entrance creating the bulkhead. Each adit is calculated to require approximately 192 cubic yards of fill material. No drainage pipes will be installed as there is not any water present at either of the adits.

### REVEGETATION

While there is little native vegetation cover, reseeding of the fill surface and borrow area will be completed to assist in controlling erosion of the closure. Revegetation would use native species common to the region. The planned seed list is shown in Table 1, "Revegetation Seed List."

TABLE 1  
REVEGETATION SEED LIST<sup>1</sup>

| Common Name         | PLS lbs/acre |
|---------------------|--------------|
| Shadscale saltbrush | 2.00         |
| Spiny hopsage       | 1.00         |
| Rabbitbrush         | 0.25         |
| Mormon tea          | 1.00         |
| Winterfat           | 1.00         |

## Exhibit 6

| Common Name                           | PLS lbs/acre |
|---------------------------------------|--------------|
| California Buckwheat                  | 1.00         |
| Galleta grass                         | 1.00         |
| Indian ricegrass                      | 2.00         |
| Needlegrass                           | 0.25         |
| <b>Total: 9.5 Pounds PLS per Acre</b> |              |

Notes: PLS= Pure Live Seed.

<sup>1</sup> Minor species and/or quantity adjustment may be made based on test plot results or availability at the time of purchase.

Seeding will take place in the first fall after closure is completed and when there is sufficient moisture and soil development to optimize survival and growth.

### **Attachments**

Figure 1, "Regional Location"

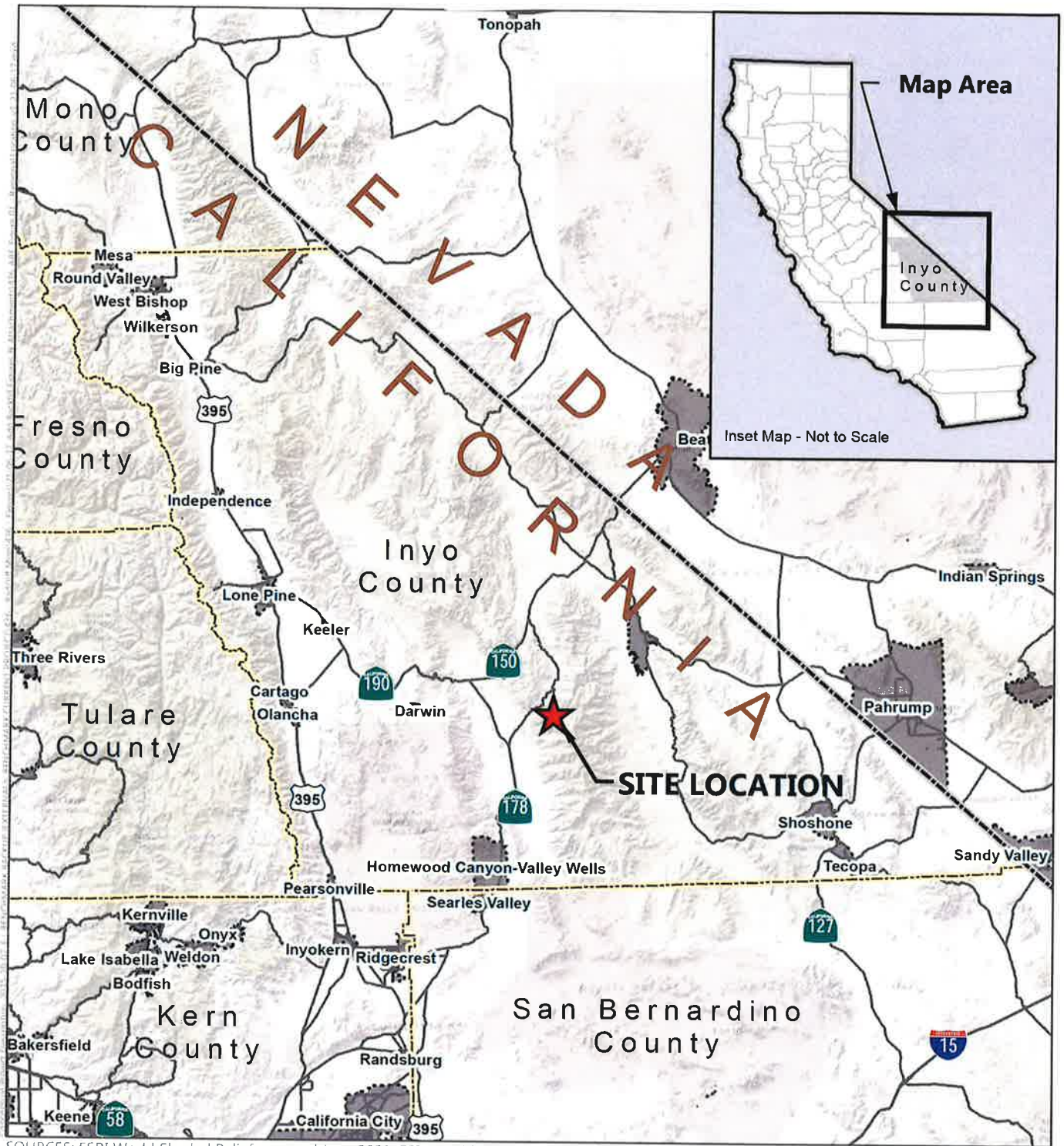
Figure 2, "Bulkhead Adit Backfill"

Attachment A "Site Survey"







Attachment B, "Wildlife Exclusion Report"

## Exhibit 6

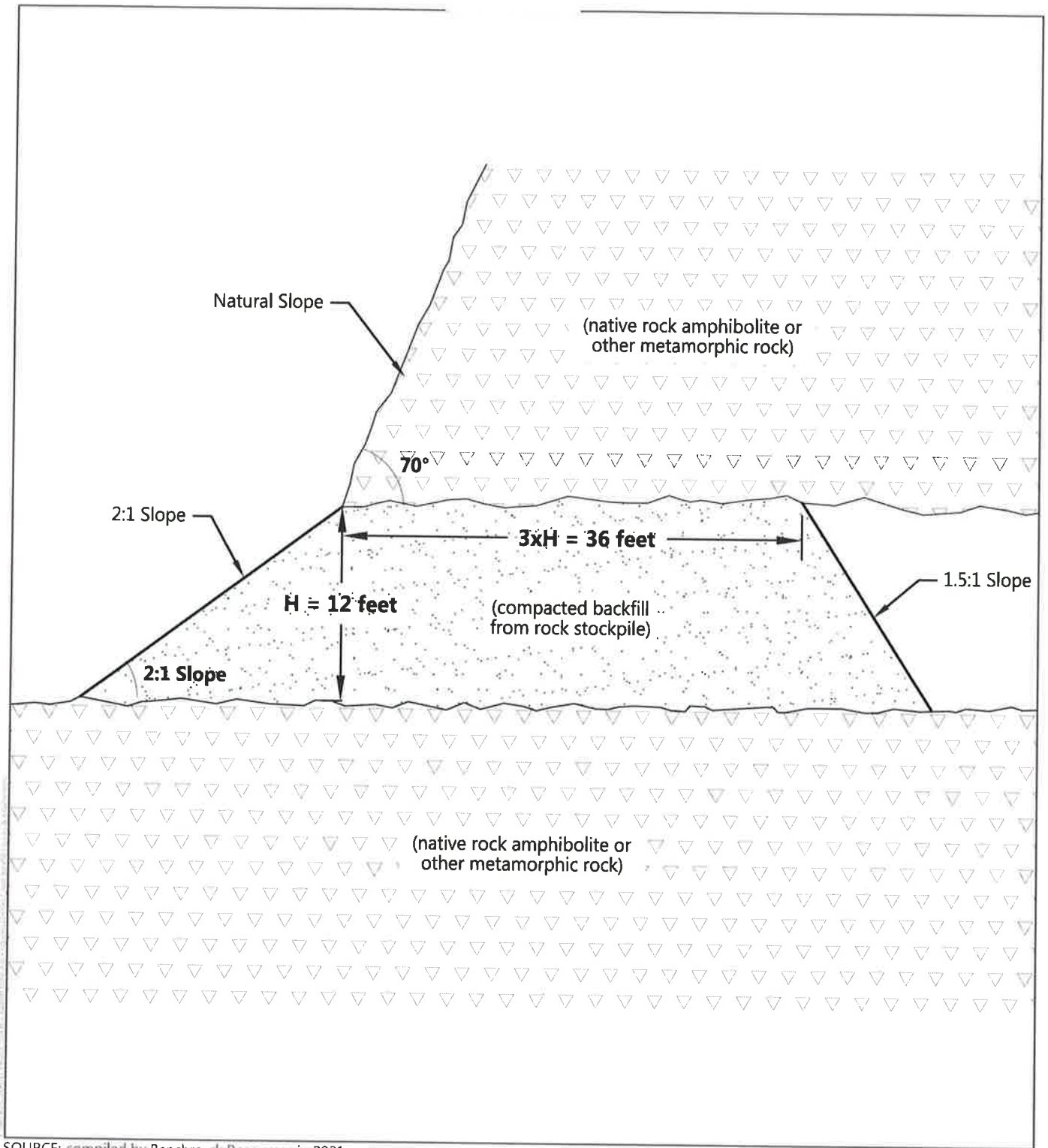
FIGURES



SOURCES: ESRI World Shaded Relief accessed June 2021, ESRI World Topographic Map accessed June 2021; ESRI World Streetmap, 2009; compiled by Benchmark Resources in 2021

-  Site Location
-  California State Boundary
-  County Boundary
-  Highway
-  City
-  Water Body

# Exhibit 6



SOURCE: compiled by Benchmark Resources in 2021

NOTES:

1. Figure not to scale.

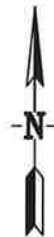
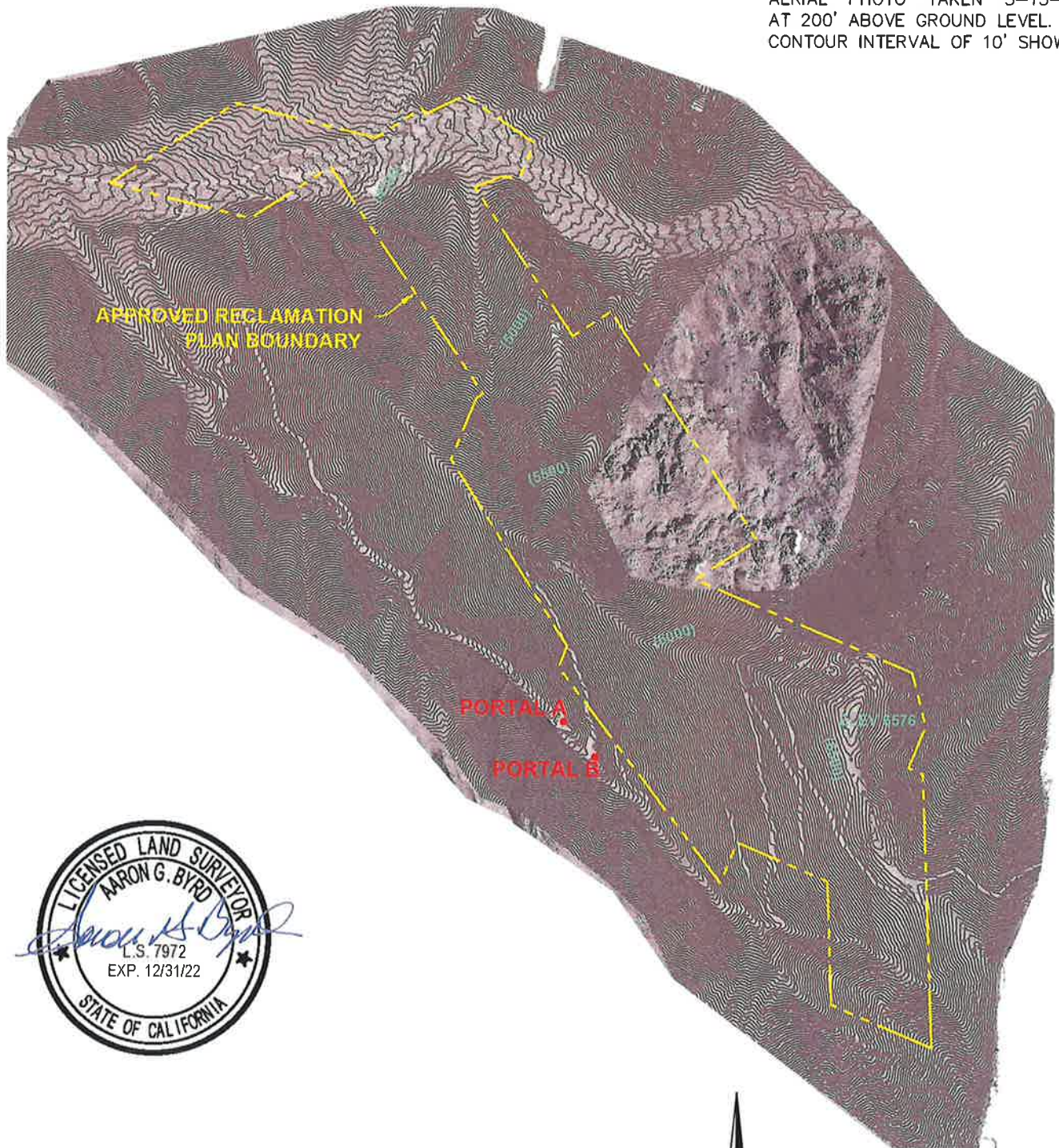
## Exhibit 6

### ATTACHMENTS A—SITE SURVEY



# RADCLIFF/WORLDBEATER MINE COMPLEX

NOTE:  
AERIAL PHOTO TAKEN 5-13-20  
AT 200' ABOVE GROUND LEVEL.  
CONTOUR INTERVAL OF 10' SHOWN.



SCALE: 1" = 800'



 **LAV// Pinnacle Engineering**  
ENGINEERING • PLANNING • SURVEYING

12418 Rosedale Hwy., Suite A, Bakersfield, CA 93312  
Phone: (661) 869-0184 Fax: (661) 885-4155

**ATTACHMENTS B—WILDLIFE EXCLUSION REPORT**

## Exhibit 6



April 21, 2021

From: Patricia Brown, Ph.D.

134 Eagle Vista, Bishop, CA 93514

760 920 3975

[Patbobbat@aol.com](mailto:Patbobbat@aol.com)

To: John Hagestad

Bush Management Company

### Regarding: Results of Wildlife Exclusion from the Radcliff Mine, Pruett Portals

On April 15 and 16, we conducted wildlife exclusions of the two Pruett Portals as described in the proposal of March 31, 2021. Since no advance preparation of the portals had been done prior to our arrival, the job took more time and required more assistance. The chain link mine gate and other potential access areas around the sides and top of the mine portal were covered with half inch hardware cloth to block the entry and exit of bats, leaving only the areas open above the gate on the lower portal and a side "window" on the upper portal for their access. These were covered with one inch chicken wire after we finished watching for exiting bats on April 15 and opened again before dark on April 16. These temporary access areas were sealed with one inch chicken wire after the exclusion was completed around 2300 hours on April 16. One inch chicken wire was chosen because most bat species caught inside the mine could squeeze through the openings if trapped inside the mine but would likely be deterred from entering.

On April 15, we entered the mine adits and searched visually for bats and other wildlife. With numerous drill holes and crevices in the mines, bats of many local species are usually hard to observe. We did not see any bats or other wildlife. We placed two ultrasonic bat detectors inside each adit (one near the portal and one near the face) to record echolocation signals (with a time stamp) of bats flying inside the mine. These

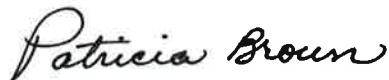
## Exhibit 6

were left operating in the mine until the following evening. At dusk on April 15, we watched each adit with night vision goggles, augmented by UV light sources for at least 120 minutes. No bats exited from the lower portal. Inside the upper portal, a California myotis (*Myotis californicus*) was observed circling behind the hardware cloth for over 90 minutes, until it finally exited via the side "window". No other bats were observed exiting, but two other myotis and a Townsend's big-eared bat (*Corynorhinus townsendii*) approached the portals from up the canyon and attempted to enter the screened area over the gate before flying away down the canyon. They did not discover the open side "window".

The following afternoon, I entered the adits, searched for visible bats and retrieved the bat detectors. The detector data cards were downloaded on a laptop computer and analyzed for bat signals. No signals were recorded on either detector in the lower portal. Multiple California myotis signals were recorded within the upper adit for 90 minutes after dark on April 15 (until about the time that the bat exited). The detectors were left in the upper adit until they were retrieved on April 16 at the end of watching that adit. No more echolocation signals were recorded.

At dusk on April 16, we opened the areas of both portals covered with chicken wire and watched for exiting bats with night vision goggles for another night. No bats emerged from either portal. The chicken wire was firmly attached and other areas between boards or beams that bats could crawl through to enter the mine were sealed with hardware cloth. The hard closure by your company should ideally be completed within the next week before these barriers that have been placed over the mines are opened by people or other sources of site disturbance.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Brown".

Patricia Brown, Ph.D.

## Exhibit 7

**From:** [Wrobel, Bart - MSHA](#)  
**To:** [Ryan Smith-Standridge](#)  
**Subject:** 04-05839 Rad Clift Mine  
**Date:** Wednesday, September 8, 2021 9:18:09 AM  
**Attachments:** [image001.png](#)  
[04-05839 209 Closure...pdf](#)

**CAUTION:** This email originated from outside of the Inyo County Network. DO NOT click links or open attachments unless you recognize and trust the sender. Contact Information Services with questions or concerns.

*Here is the Closure form filled out for 04-05839 Rad Clift Mine.  
MSHA has not had this operation on our books since December of 2016*

*Bart Wrobel*

Supervisory MSHA  
Henderson, NV  
Office 702-558-4665  
Direct 702-800-8405  
Cell 702-521-4362



**"Protecting Miners' Safety and Health since 1978"**

*"This email and any files transmitted with it may be confidential and are intended solely for the use of the individual or entity to which they are addressed. This communication may contain material that is privileged or otherwise protected from disclosure. If you are not the intended recipient, be advised that you have received this email in error and that any use, dissemination, forwarding, printing, or copying of this email is strictly prohibited."*

Mine Information Form  
Page 1

Reset Form

Exhibit 7  
U.S. Department of Labor  
Mine Safety and Health Administration



|   |  |  |  |
|---|--|--|--|
| New   |  | All fields are required  |  |
| Change  |  | <input checked="" type="checkbox"/> The Mine ID Number is required, otherwise fill out only those fields that have changed |  |
| 1. MSHA Mine ID Number:<br><b>04 - 05839</b>              |  | 2. Operating Company Name:<br>PRUETT BALLARAT INC  |  |
| 3. Mine or Mill Name:<br>RADCLIFF MINE                    |  |  |  |
| 3a. Mine Emergency Phone No.                              |  | 4. Type of Operation<br>COAL <input type="checkbox"/> Metal / Non-Metal <input type="checkbox"/>                           |  |
| 7. MSHA Office Code:                                      |  | 8a. Work Group   |  |
| 8b. Travel Area   |  | 9. Nearest Town, Landmark, or Post Office:   |  |
| 10. County Name Where Mine is Located:                    |  | 11. State Abbreviation:  |  |
|   |  | 12. Cong. Dist. (Coal Only)  |  |
|   |  | 13. Mileage from Field Office  |  |
| 14. Directions to Operation from Field Inspection Office: |  |  |  |

|                      |  |   |  |
|----------------------|--|---|--|
| 15. Total Employees: |  | 16. Schedule of Operation:  |  |
|                      |  | a. Hours per Production Shift _____ b. Production Shifts per Day _____ c. Maint. Shifts per Day _____ d. Work Days per Week _____ |  |

17. Longitude and Latitude:

a. Longitude: Degrees \_\_\_\_\_ Minutes \_\_\_\_\_ Seconds \_\_\_\_\_ b. Latitude: Degrees \_\_\_\_\_ Minutes \_\_\_\_\_ Seconds \_\_\_\_\_

18. Mine Status

New Mine  Active  Intermittent  Non-Producing  Abandoned  Temporarily Idle  Abandoned Sealed (COAL ONLY)

19. Status Date (mm/dd/yyyy) **12/20/2016**

20. Types of Minerals being Extracted or Processed:

a. Primary Commodity \_\_\_\_\_ b. Secondary Commodity (Optional) \_\_\_\_\_

c. Other Commodities (Optional) \_\_\_\_\_

21. Mine Characteristics: a. Applicable to ALL MINES (Check all that apply)

Auger  Dredge  Laboratory  Mill / Prep Plant / Loading Dock  Open Pit / Strip  Shop or Yard  Remaining Culm Bank/ Refuse Pile/Tailings

b. Applicable to COAL MINES Only

Highwall Miner

c. Applicable to METAL and NON-METAL MINES Only

Adit  Block Caving  Cut and Fill  Dimensions  Quarry  Longwall

Shaft  Slope  Heap Leaching  In-Situ Leaching  Room & Pillar

22. Other Mine Information: a. Applicable to ALL MINES (check all that apply)

103(l) Status: Ignition  Hazard  5 Day  10 Day  15 Day  Removed  Date entered 103(l) status (mm/dd/yyyy) \_\_\_\_\_

Explosives Used  Explosives Stored on Surface  Explosives Stored Underground  Treasury Permit/License

Government Owned  Government Operated  Mine Rescue Station at Mine  Safety Committee at Mine  Methane Liberation: \_\_\_\_\_ cubic ft/24 hrs

b. Applicable to Coal Mines ONLY

No. of Producing Pits \_\_\_\_\_ No. of Non-Producing Pits \_\_\_\_\_ No. of Drift Openings \_\_\_\_\_ No. of Slope Openings \_\_\_\_\_ No. of Shaft Openings \_\_\_\_\_ Average Daily Coal Production \_\_\_\_\_ tons

Primary Coal Bed Name: \_\_\_\_\_ Average Mine Height (inches): \_\_\_\_\_ Surface Mines: CH4/O2 Test Required  Requires Underground Plans where Non-producing (YorN)

c. Applicable to METAL and NONMETAL MINES ONLY

Mine Gas Category: \_\_\_\_\_ No. of Impoundments: \_\_\_\_\_ No. of Escapeways to Surface: \_\_\_\_\_ No. of Hoists: \_\_\_\_\_ No. of Refuge Chambers: \_\_\_\_\_

Associated Cement Mill:  Kilns:  Electrowining as Part of Milling:  Produces Ground Silica as a Product:  Hazardous Waste Burned as Fuel:  Channel Burners:  Wire Saws:

Metal Refinery as Part of Milling:  Retort  Roaster  Mechanical Ventilation for Underground Mine:  Natural Ventilation for Underground Mine

**Mine Information Form**

Page 2

MINE - ID

**04 - 05839**

**Exhibit 7**

**U.S. Department of Labor**

Mine Safety and Health Administration



23. Quarterly Report Mailing Address

First Name \_\_\_\_\_ Middle Initial \_\_\_\_\_ Last Name \_\_\_\_\_

Street Address \_\_\_\_\_

P.O. Box \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Phone No. \_\_\_\_\_ Fax No. \_\_\_\_\_

24. Mailing Address for Respirable Dust Materilas (COAL ONLY)

First Name \_\_\_\_\_ Middle Initial \_\_\_\_\_ Last Name \_\_\_\_\_

Street Address \_\_\_\_\_

P.O. Box \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Phone No. \_\_\_\_\_ Fax No. \_\_\_\_\_

25. Miner's Representative Information (for transmittal of documents)

(Use separate paper for more than one Miner's Representative)

First Name \_\_\_\_\_ Middle Initial \_\_\_\_\_ Last Name \_\_\_\_\_

Street Address \_\_\_\_\_

P.O. Box \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Phone No. \_\_\_\_\_ Fax No. \_\_\_\_\_

26. Union Information

(Use separate paper for more than one Union Local Information)

Union Name \_\_\_\_\_ Local Union Number \_\_\_\_\_ Union Abbreviaton \_\_\_\_\_

Start Date: (mm/dd/yyyy) \_\_\_\_\_

End Date: (mm/dd/yyyy) \_\_\_\_\_

Union Name \_\_\_\_\_ Local Union Number \_\_\_\_\_ Union Abbreviation \_\_\_\_\_

Start Date: (mm/dd/yyyy) \_\_\_\_\_

End Date: (mm/dd/yyyy) \_\_\_\_\_

27. Submitted By

AR Number 4080 Date 03/09/2017

AR Name: Miles D. Frandsen

Exhibit 8

Adit # 4

029

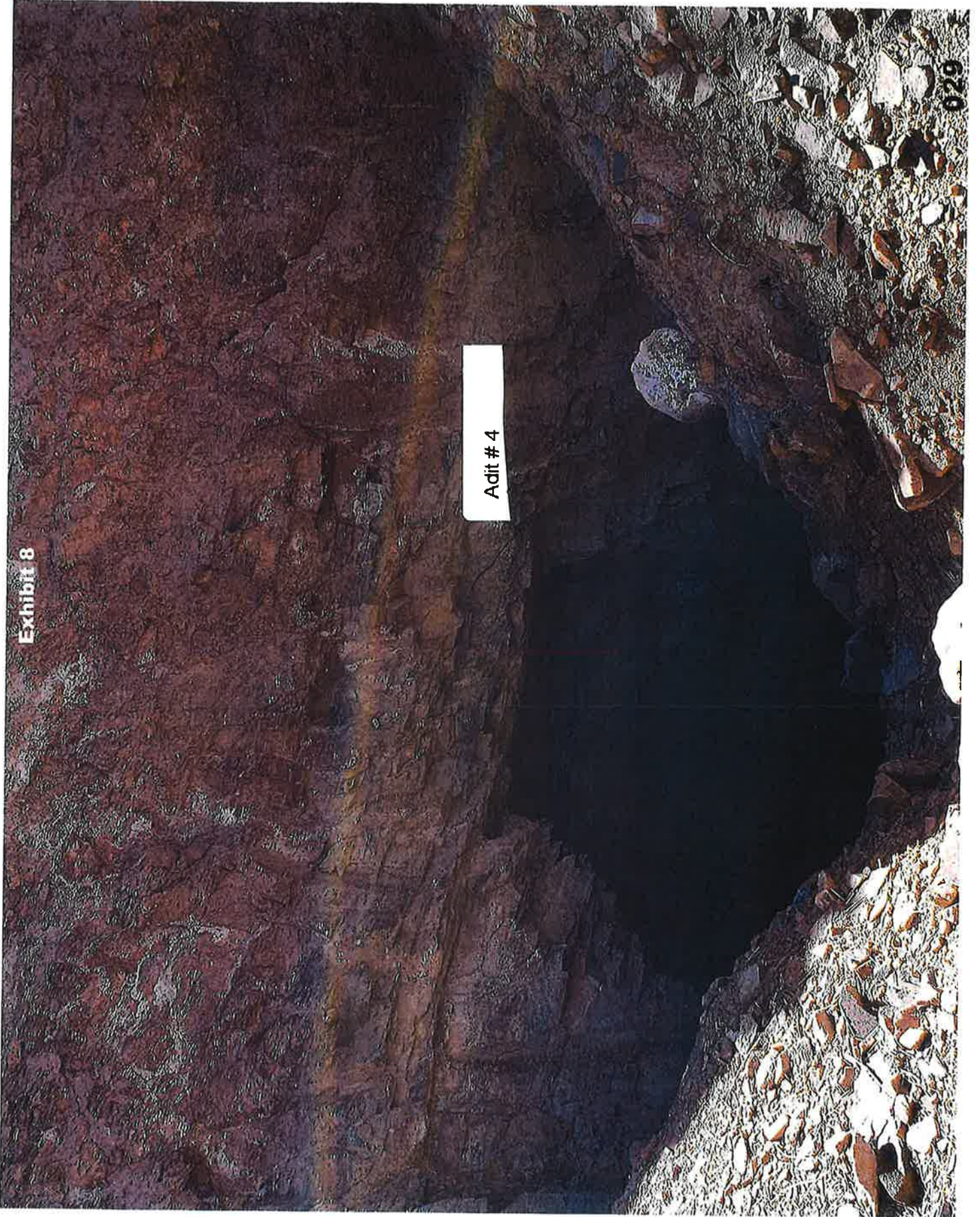




Exhibit 8

Adit #5



Exhibit 8



Adit #5

034

Exhibit 8

Adit # 3

037

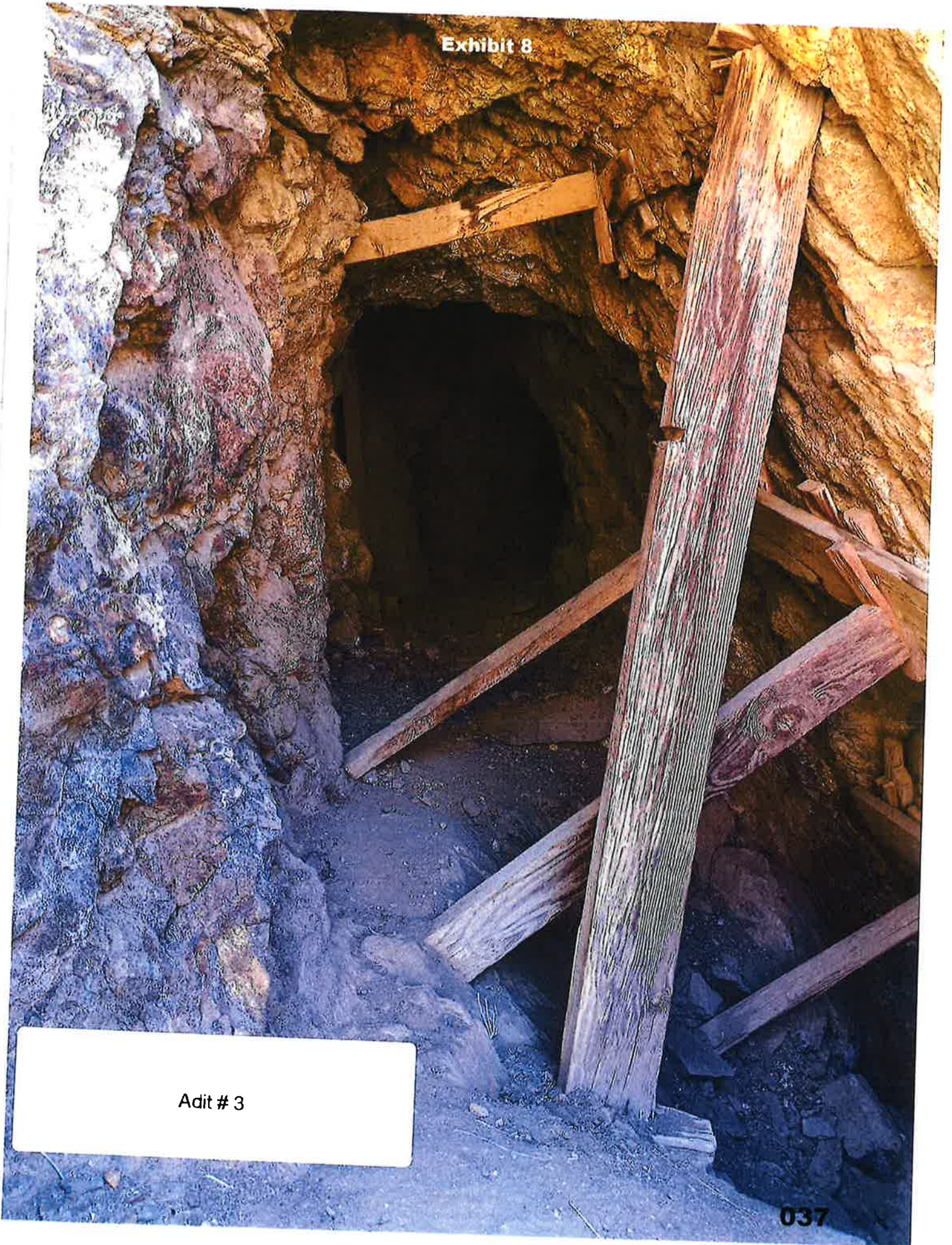


Exhibit 8

Adit # 3

038

