

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

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PUBLIC WORKS DIRECTOR
COUNTY ADMINISTRATOR
DEPUTY COUNTY COUNSEL

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/81159246847?pwd=UFgvZWpsR0hiUTlyZ2hWMEFJOUQlh1dz09>

You can also dial in by phone at 1-669-900-6833 Meeting Id: 811 5924 6847 and then enter Passcode: 453984. 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

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).

December 1, 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. **CONSIDERATION OF A RESOLUTION** - The Planning Commission to meet remotely pursuant to AB 361.
- Action Item** 5. **ZONE TEXT AMENDMENT-2021-01/INYO COUNTY OUTDOOR LIGHTING** - A draft outdoor lighting ordinance has been prepared for the Planning Commission’s consideration of a recommendation to the Board of Supervisors for adoption.
- Action Item** 6. **CONDITIONAL USE PERMIT-2021-08/VARIANCE-2021-06 - & VARIANCE-2021-07 -ANDRACKI** - The applicant has applied for a CUP and two VAR to operate a commercial cannabis cultivation business located at 691 Desert Trail Way in the community of Charleston View.
- Action Item** 7. **CONDITIONAL USE PERMIT-2021-06/THE TREE FARM** - The applicant has applied for a CUP for the cultivation of 8.5 acres of cannabis located at 800 Ekenberg Rd. in the community of Sandy Valley in southeast Inyo County.
- Action Item** 8. **HEARING – RADCLIFF MINE/BUSH MANAGEMENT VIOLATION OF CONDITIONAL USE PERMIT-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



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AGENDA ITEM NO. 5 (Action Item – Public Hearing)

**PLANNING COMMISSION
MEETING DATE:**

December 1, 2021

SUBJECT:

**Zone Text Amendment 2021-01/Inyo County
Outdoor Lighting**

EXECUTIVE SUMMARY

Staff has intermittently been working on Dark Skies issues and an outdoor lighting ordinance for the County for several years. This work has been interrupted several times by staff reductions and Covid. Currently, a draft outdoor lighting ordinance has been prepared for the Planning Commission's consideration of a recommendation to the Board of Supervisors for adoption. Staff brought this item to the Planning Commission on October 27, 2021 for a hearing on a resolution with a recommendation to the Board of Supervisors for approval. Due to time constraints and unaddressed comments the hearing was continued until December 1, 2021.

PROJECT INFORMATION

Supervisory District: County-wide

Applicants: Inyo County

**Landowners:
Address/** Multiple

Community: County-wide

A.P.N.: County-wide

Existing General Plan: N/A

Existing Zoning: N/A

Surrounding Land Use: N/A

Recommended Action: **Adopt the attached Resolution, recommending that the Board of Supervisors:**

- 1.) Find the proposed project exempt from the requirements of the California Environmental Quality Act.
- 2.) Make certain Findings with respect to, and approve, Zone Text Amendment ZTA/2021-01/Inyo County Outdoor Lighting

Alternatives:

- 1.) Recommend modifications to the proposal.
- 2.) Recommend denial.
- 3.) Continue the public hearing to a future date, and provide specific direction to staff regarding additional information and analysis needed.

Project Planner:

Cathreen Richards

BACKGROUND

The Inyo County General Plan Chapter 8.8 - Visual Resources, Policy 1.6 Light and Glare, has addressed outdoor lighting, since 2002, which reads:

Control of Light and Glare

The County shall require that 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 which are fully shielded. Where public safety would not be compromised, the County shall encourage the use of low-pressure sodium lighting for all outdoor light fixtures.

This has never been implemented by the Code as regulations regarding outdoor lighting have never been added to it to do so.

In June of 2018, after presentations to the Board of Supervisors from the Inyo County Dark Sky Group (ICDSG) and planning department staff, the Board directed staff to continue researching outdoor lighting issues and conduct community workshops to get local input on the level of interest in dark skies and outdoor lighting regulations. In October of 2018, staff conducted three public workshops. Then, in February of 2019, staff conducted a workshop with the Planning Commission, where staff presented the public input received, as well as gave the Commission and the attending public an overview of the issues and opportunities relating to outdoor lighting. Finally, in November 2019, staff compiled the key points that the public expressed interest in and shared it with the Board of Supervisors. The Board directed staff to continue to work on an outdoor lighting ordinance that focused on reducing light trespass and pollution where State regulations might fall short, but are not too prescriptive in the methods to achieve this goal. This is essentially where the process stopped.

Based on the community workshops in Bishop, Lone Pine and Independence, the public is very interested in preserving the resource of Inyo County's dark skies, both for the enjoyment of residents and as a potential tourist attraction. Issues of glare, light trespass and the intensity of LED lighting at the bluer end of the spectrum were some of the primary concerns raised at the public meetings and echoed at the Planning Commission and Board workshops. It became evident at these meetings, and based on further research, that staff needed to get a more complete understanding of what was already covered by California Building Standards, and then make proposals that related to the issues that were unregulated by State law. Staff completed the research on how State law already regulates outdoor lighting and found the regulations are currently very comprehensive. This information has resulted in staff preparing an outdoor lighting ordinance that focuses on the elimination of light nuisances, pollution and the preservation of the night sky that can be enforced by the County.

ANALYSIS

Planning, Building and Safety and County Counsel staff reviewed the present status of lighting regulations, as well as, reviewed the outdoor lighting standards of other jurisdictions and the comments received by the public. With this information, a draft ordinance has been prepared for the Planning Commission's review and possible recommendation to the Board of Supervisors for approval. As directed by the Board, this ordinance focuses on results more than methods and it directly implements General Plan Policy Visual Resources 1.6 Control of Light and Glare. The proposed ordinance (Attached) includes sections for:

- Purpose and application
- Definitions
- Applicability
- Exemptions
- General Requirements
- Outdoor Lighting Plans
- Prohibitions
- Signs
- Outdoor Performance, Sport and Recreation Facilities
- Energy Conservation
- Violations and Penalties

These elements can be found in the attached Draft ordinance. Highlights of the ordinance include:

- The purpose statement:
 1. *Promote a safe and pleasant nighttime environment for residents and visitors;*
 2. *Eliminate nuisances caused by unnecessary light intensity, direct glare, and light trespass;*
 3. *Protect the ability to view the night sky by restricting unnecessary upward projection of light;*
 4. *Remove existing nonconforming outdoor lighting that violates this chapter;*
 5. *Promote lighting practices and systems that conserve energy.*

- The applicability of the ordinance, which addresses both new and existing outdoor lighting.
- Definitions, this is an important element of the draft ordinance as the regulations are based on the elimination of light trespass and pollution. These definitions include:
 - *“Light Trespass” means artificial light or illuminance that falls beyond the property it is located on, generally light from one property that shines onto another property or the public right of way. The amount of trespass shall be expressed in foot-candles (fc) as measured with a light meter and shall be limited to no more than 0.5 fc at the property line on which the light is located. Field measurements to determine light trespass compliance shall not include the effect of light produced by street lights.*
 - *“Light Pollution” means any adverse effect of artificial light sources including, but not limited to, discomfort to the eye or diminished vision due to glare, light trespass, uncontrolled up-lighting, or any artificial light that diminishes the ability to view the night sky.*
- Exemptions from the County’s ordinance (these are based on state regulations) with the addition of language related to night time flag illumination. This was included as the Flag of the United States must either be taken down at night or be illuminated. Local jurisdictions can regulate this. The draft code includes: *Night time illumination of the United States and State of California flags shall be limited to lighting the area of the flag without trespass and any up-lighting shall be at a temperature of no more than 3,000-kelvins.*
- The actual requirements with regard to:
 - Nuisance prevention
 - Maintenance
 - Lighting levels
 - Fixture types
 - Accent lighting.
 are also included.
- Outdoor lighting plans are required. Including this will result in lighting plans being required for new development and/or redevelopment, as well as for discretionary land use entitlements. As appropriate, applicants for new or substantial remodeling of residential buildings, subdivisions, conditional use permits, Lone Pine Design Review, General Plan and/or zone reclassifications will be required to submit the manufacturer specification sheets for the planned lighting and an illustration of the location, height and aiming point of all proposed outdoor lighting.
- With regard to existing lighting, the proposed ordinance includes: *Existing nonconforming outdoor lighting fixtures that were not regulated by previous development codes shall be allowed continued use, except that the lighting shall not be structurally altered so as to extend its useful life, aside from regular maintenance. If the Planning or Public Works Director determines that a*

nonconforming lighting fixture results in light pollution or light trespass, the Director may require the light to either be shielded, filtered, redirected, replaced with a less intense light source or otherwise modified (including removal if necessary) to eliminate the light pollution or light trespass.

In addition to the proposed outdoor lighting ordinance, staff is also suggesting that the County further evaluate changing the lighting zone established by the State for energy standards, found around the City of Bishop to a lower lighting category (map attached). Lighting areas are established by the California Energy Commission for all areas in the State. They are defined by Census Bureau urban and rural definitions. This is mostly driven by established Census geography and the number of people residing within it and not the actual characteristics of the area. The Zones are:

- Lighting Zone 1: areas that are developed portions of government designated parks, recreation areas and wildlife preserves;
- Lighting Zone 2: Rural areas
- Lighting Zone 3: Urban areas
- Lighting Zone 4 is a special use district that may be created by a local government through application to the Energy Commission.

The area defined as urban includes most of the City of Bishop, the Bishop Paiute Tribal land and the unincorporated County in west Bishop and the Meadow Creek area. A process set forth by the Energy Commission is required to change the lighting zone. This process is much easier for a down zone than an up zone. Staff is proposing to work with the City of Bishop and the Bishop Paiute Tribe as their interest allows. The County, however, can only request the change for the area under its jurisdiction.

COMMENTS

As previously mentioned, staff presented the ordinance as outlined above. Two comment letters were received regarding the Draft ordinance (attached). A summary of comments and responses are as follows:

Inyo County Dark Sky Group

- Put a total cap on lumens per acre and enlist an environmental monitoring program.
 - *Systems such as these are beyond the scope of direction received from the Board of Supervisors for outdoor lighting as well as beyond staff resources.*
- Unclear on what areas/zoning designations the ordinance applies to.
 - *It applies to all private property in the unincorporated county and zoning districts with the exception of federal, state, tribal and other jurisdiction's lands.*
- Include a statement addressing sensitive areas, tourism, and economy. A comment was also included to mention the effects on nocturnal species.
 - *A long narrative addressing these issues in detail is not really appropriate for the zoning code. The Purpose and Application 18.74.010*

section includes: Provide a pleasant nighttime environment for residents and visitors. This covers most of the above with the exception of sensitive areas and nocturnal species. Staff is proposing to add #6 under the Purpose and Application section to read:

Protect sensitive areas and nocturnal species that can be harmed by unregulated nighttime lighting.

- Also under 18.74.010 #3, a comment was submitted regarding the statement: ‘Protect the ability to view the night sky by restricting unnecessary upward projection of light’. A suggestion was offered to remove the word unnecessary as any upward lighting should be unnecessary unless covered by an exemption.
 - Staff has changed the Draft language to state: ‘*Protect the ability to view the night sky by restricting the upward projection of light*’
- With regard to Section 18.74.040 Exemptions #6, a comment was offered addressing the 3,000 kelvin limit put on flag lighting and a recommendation for a lumen or wattage measurement was requested.
 - *Flag illumination is regulated by the State’s BUG rating system that already includes a lumen measurement. By adding a temperature limitation as well, the County is going a bit beyond the minimum.*
- A comment/question addressing 18.74.050 3a asks if this refers to string lights and if the allowance ‘regardless of the number of bulbs’ is also restricted by the 0.5 fc at the property line as stated in the Definitions section.
 - *The answer is no if they are part of a holiday display, because holiday displays are exempted under 18.74.040 (1), and yes to other types. The fixture type addressed here is understood to cover string light fixtures such as yard and party string lights. Staff is adding to 18.74.050 #3, for clarification, to read:*
Fixture Types. All new outdoor lighting shall use full cutoff luminaires with the light source downcast and fully shielded with no light emitted above the horizontal plane, with the following exceptions:
 - a) *Fixtures that have a maximum output of 100 lumens (equivalent to one 10-watt incandescent bulb) or less, regardless of the number of bulbs such as yard and party string lights, may be left unshielded provided the bulb surfaces are obscured from off-site visibility with a semi-translucent or frosted glass that has an opaque top to prevent the light from shining directly up. However, partial or full shielding is preferred to control light output in all situations.*
- Under Prohibitions 18.74.070 #8 that addresses streetlights, a question about the wattage (150) that was suggested in the draft ordinance was offered, as well as, a narrative about LADWP’s street light practices.
 - *Staff cannot answer for DWP’s practices regarding their complaint driven streetlight policy. Safety lighting for street lights and egress lighting is regulated by the state with a BUG rating system. This is not expressed in wattage, though; therefore, staff has updated the Draft ordinance to:*

Streetlights shall be down directed with complete horizontal shielding of the reflective surface and no higher than 17 feet from the bottom of the shielded fixture surface with a maximum of 5fc at the surface. Greater height may be granted by the County Public Works Director for safety or adopted minimum highway standards.

Death Valley National Park

Death Valley National Park is designated as a Dark Sky Park by the National Park system. They provided comments on the draft ordinance.

- The County should limit the shortwave length of lighting (blue spectrum) to effectively reduce it.
 - *This is unnecessary as the State's BUG rating system covers this and since lighting plans will be required under the ordinance the county will be reviewing to ensure the requirements are met.*
- Landscape lighting should be clearly defined and restricted.
 - *Landscape lighting is addressed under 18.74.050 General Requirements #3 and requires full cutoff luminaires with the light source downcast and fully shielded with no light emitted above the horizontal plane, with some exceptions.*
- Flag Exemption, the comment addresses up lighting and recommends that it not be allowed.
 - *Federal law requires that up lighting of the flag of the United States be allowed.*
- Billboard Lighting, the Park is suggesting only allowing lights at the top of the billboard, pointed downward and fully shielded. They also provided a comment addressing electronic message boards.
 - *Both of these sign types are regulated under the County's sign ordinance. 18.75.090 Illumination of Signs states:*
 - A. No sign may be illuminated by intermittent light (flashing sign).*
 - B. Only billboards, monument signs and wall signs may be externally illuminated.*
 - C. Business signs may be illuminated only during the hours of operation of the business to which the sign refers.*
 - D. Only signs displaying a property address may be illuminated in any residential zone district.*

The proposed lighting ordinance 18.74.080 provides that: All outdoor lighting for commercial signs installed and maintained pursuant to Chapter 18.75 shall conform to the provisions of this chapter (Signs). This way any lights on signs must follow the standards included in both 18.75 and 18.74. The County can also look into the suggestion for down lighting -only on billboards through an update to the sign ordinance.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), the proposal is covered by the Common Sense 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 project is a proposal to add regulations regarding outdoor lighting, light trespass and pollution. It includes no development proposals or any increases in allowed uses or densities and will result in less impacts to people and wildlife as night time lighting will be reduced.

RECOMMENDATIONS

Staff recommends adoption of the attached Resolution recommending the Board of Supervisors consider the ZTA 2021-01, make certain findings, and adopt the proposed ordinance adding Chapter 18.74 to the Inyo County Code.

Recommended Findings

1. The proposed ordinance is covered by the Common Sense Rule 15061(b)(3)
[Evidence: the proposed ordinance is covered by the Common Sense Rule 15061(b)(3) that states 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 project is a proposal to add regulations regarding outdoor lighting, light trespass and pollution. It includes no development proposals or any increases in allowed uses or densities and will result in less impacts to people and wildlife as night time lighting will be reduced.]
2. Based on substantial evidence in the record, the proposed Zoning Ordinance Amendment is consistent with the Goals and Policies of the Inyo County General Plan.
[Evidence: Adding Chapter 18.74 – Outdoor Lighting, to the Inyo County Code is consistent with the Goals and Policies of the General Plan as it implements General Plan Policy 1.6 Light and Glare and does not conflict with other General Plan policies. It will also further existing General Plan policies related to visual resources, wildlife protection and increasing recreation opportunities.]
3. Based on substantial evidence in the record, the proposed Zoning Ordinance to add Chapter 18.74 to the Inyo County Code is consistent with Title 18 (Zoning Ordinance) of the Inyo County Code.
[Evidence: Zone Text Amendment 2021-01 is consistent with the Inyo County Zoning code as adding Chapter 18.74 does not discontinue or expand an allowed use, nor does it conflict with other regulations related to lighting, in any of the County's Zoning Districts. It does, instead, implement a General Plan policy and allow the County to reduce light trespass and pollution.]

ATTACHMENTS

- Draft proposed ordinance
- Resolution
- Map

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF INYO, STATE OF CALIFORNIA, ADDING CHAPTER 18.74 OUTDOOR LIGHTING TO THE INYO COUNTY CODE.

The Board of Supervisors of the County of Inyo ordains as follows:

SECTION ONE: Chapter 18.74 shall be added to the Inyo County Code to read as follows:

Chapter 18.74 Outdoor Lighting

- 18.74.010. Purpose and Application.**
- 18.74.020. Definitions.**
- 18.74.030. Applicability.**
- 18.74.040. Exemptions.**
- 18.74.050. General Requirements.**
- 18.74.060. Outdoor Lighting Plans.**
- 18.74.070. Prohibitions.**
- 18.74.080. Signs.**
- 18.74.090. Outdoor Performance, Sport and Recreation Facilities.**
- 18.74.100. Energy Conservation.**
- 18.74.110. Violations and Penalties.**

18.74.010 Purpose and application.

The purpose of this chapter is to provide regulations for outdoor lighting within Inyo County in order to:

1. Provide a safe and pleasant nighttime environment for residents and visitors;
2. Eliminate nuisances caused by unnecessary light intensity, direct glare, and light trespass;
3. Protect the ability to view the night sky by ~~restricting unnecessary~~ restricting the upward projection of light;
4. Remove existing nonconforming outdoor lighting that violates this chapter;
5. Promote lighting practices and systems that conserve energy;
6. Protect sensitive areas and nocturnal species that can be harmed by unregulated nighttime lighting.

These general provisions serve as specific development standards to be applied in addition to the basic provisions within each zoning district in the County and the California Uniform Building Code.

18.74.020 Definitions. The following terms have the following meanings in this chapter:

1. "Fixture" means a complete lighting unit including the lamp and parts designed to distribute the light, position and protect the lamp, and connect the lamp to a power source - also referred to as a "luminaire."
2. "Foot-candle (fc)" means a unit of measurement for the total amount of light cast on a surface (illuminance). One foot-candle is equivalent to the illuminance produced by a source of one candle at a distance of one foot.
3. "Full Cutoff Fixture" means a lighting fixture designed such that no light, either directly from the bulb or indirectly from the fixture, is emitted at or above a horizontal plane running through the lowest point on the fixture.
4. "Glare" means strong and dazzling light and/or direct and unshielded light striking the eye to result in visual discomfort and reduced visual performance.
5. "Lamp" means an artificial light source installed in the socket portion of the fixture, to be distinguished from the whole assembly - commonly referred to as a "bulb."
6. "Light Pollution" means any adverse effect of artificial light sources including, but not limited to, discomfort to the eye or diminished vision due to glare, light trespass, uncontrolled up-lighting, or any artificial light that diminishes the ability to view the night sky.
7. "Light Trespass" means artificial light or illuminance that falls beyond the property it is located on, generally light from one property that shines onto another property or the public right of way. The amount of trespass shall be expressed in foot-candles (fc) as measured with a light meter and shall be limited to no more than 0.5 fc at the property line on which the light is located. Field measurements to determine light trespass compliance shall not include the effect of light produced by street lights.
8. "Lumen" means the unit used to quantify the amount of light energy produced by a lamp. For example, a 40-watt incandescent lamp produces approximately 400 lumens, while a 35-watt high-pressure sodium lamp produces about 2,300 lumens.
9. "Outdoor Lighting Fixture" means any temporary or permanent lighting fixture that is installed, located, or used in such a manner to provide illumination of objects or activities outside. Outdoor lighting fixtures include all fixtures mounted to the exterior of a structure, poles, bollards, or other freestanding structures, or placed so as to provide direct illumination on any exterior area or activity.
10. "Shielding" means a barrier around or within a fixture that helps conceal the lamp and control light distribution. A fixture that is "fully shielded" incorporates a solid barrier, emits no light rays above the horizontal plane and effectively obscures visibility of the lamp. A fixture that is "partially shielded" may allow some light to pass through a semi-translucent barrier, and/or may allow visibility of the lamp from certain perspectives.
11. "Temporary Lighting" means lighting that is intended to be used for a special event for up to ten days.

18.74.030 Applicability.

1. New Outdoor Lighting. All outdoor lighting fixtures installed after the effective date of this chapter shall conform to the requirements established by this chapter.
2. Existing Outdoor Lighting. All existing outdoor lighting fixtures installed prior to the effective date of this chapter shall be addressed as follows:
 - a) All existing outdoor lighting fixtures located on a property that is part of an application for a Conditional Use Permit; Subdivision approval; Lone Pine Design Review; or, a building permit for any new structure, or new or modified exterior light fixtures, or any addition(s) of gross floor area, seating capacity, or parking spaces (either with a single addition or cumulative additions), shall meet the requirements of this chapter for the entire property. Such applications are required to include an outdoor lighting plan pursuant to section 18.74.060. Conformity shall occur prior to final inspection, or final map recordation when applicable.
 - b) Existing nonconforming outdoor lighting fixtures that were not regulated by previous development codes shall be allowed continued use, except that the lighting shall not be structurally altered so as to extend its useful life, aside from regular maintenance. If the Planning or Public Works Director determines that a nonconforming lighting fixture results in light pollution or light trespass, the Director may require the light to either be shielded, filtered, redirected, replaced with a less intense light source or otherwise modified (including removal if necessary) to eliminate the light pollution or light trespass.

18.74.040 Exemptions.

The following are exempt from the provisions of this chapter:

1. Seasonal displays using multiple low-wattage bulbs (approximately 15 lumens or less), provided that they do not constitute a fire hazard, create a nuisance, and are maintained in a safe condition.
2. Vehicular lights and all temporary emergency lighting needed by law enforcement, Fire Protection Districts, or other emergency services.
3. All temporary lighting used for the construction or repair of roadways, utilities, and other public infrastructure.
4. All lighting required by state or federal regulatory agencies.
5. Illuminated address signs at no more than 15 lumens.
6. Night time illumination of United States and State of California flags shall be limited to lighting the area of the flag without trespass and any up-lighting shall be at a temperature of no more than 3,000-kelvins.

The Planning or Public Works Director may authorize minor deviations when proposed outdoor lighting does not conflict with the purposes of this chapter. An application for such a deviation must be made in writing and include an outdoor lighting plan pursuant to sections 18.74.050 and 18.74.060. Temporary lighting for special events shall also be reviewed in this manner.

18.74.050 General Requirements.

The following general standards apply to all non-exempt outdoor lighting fixtures:

1. Nuisance prevention. All outdoor lighting fixtures shall be designed, located, installed, aimed downward or toward structures, retrofitted if necessary, and maintained in order to prevent glare, light trespass, and light pollution.
2. Maintenance. Fixtures and lighting systems shall be in good working order and maintained in a manner that serves the original design intent of the system.
3. Fixture Types. All new outdoor lighting, including landscape lighting, shall use full cutoff luminaires with the light source downcast and fully shielded with no light emitted above the horizontal plane, with the following exceptions:
 - a) Fixtures that have a maximum output of 100 lumens (equivalent to one 10-watt incandescent bulb) or less, regardless of the number of bulbs, such as for string party or yard lights, may be left unshielded provided the bulb surfaces are obscured from off-site visibility with a semi-translucent or frosted glass that has an opaque top to prevent the light from shining directly up. However, partial or full shielding is preferred to control light output in all situations.
 - b) Fixtures that have a maximum output of 600 lumens (equivalent to one 40-watt incandescent bulb) or less shall be partially or totally shielded using a solid or semi-translucent barrier, provided that the lamp is not visible from off site, no direct glare is produced, and the fixture has an opaque top to keep light from shining directly up; e.g., a low output-style wall pack.
 - c) Floodlights that do not meet the definition of “full cutoff” may be used if permanently directed downward, if no light is projected above the horizontal plane, and if and fitted with external shielding to prevent glare and off-site light trespass. Unshielded floodlights are prohibited.
4. Accent Lighting. Residential accent lighting shall be limited to street address illumination. LED-type accent lighting is preferred. Commercial accent lighting may be permitted in conjunction with a sign permit. Limited architectural features may be illuminated by up-lighting, provided that the light is effectively contained by the structure, the lamps are low intensity to produce a subtle lighting effect, and no glare or light trespass is produced. For statues, public art, or other objects of interest that cannot be illuminated with down-lighting, upward lighting may be used only in the form of one narrow-cone spotlight that confines the illumination to the object of interest.

The provisions of this chapter are not intended to prevent the use of any design, material, or method of installation or operation not specifically prescribed herein, provided that the Planning or Public Works Director has approved any such alternative. An alternative proposal may be approved if it provides at least approximate equivalence to the applicable specific requirements of this chapter or if it is otherwise satisfactory and complies with the intent of this chapter.

Inyo County reserves the right to further restrict outdoor lighting including, but not limited to, pole height and level of illumination, when it is deemed in the public interest consistent with the purpose of this chapter.

18.74.060 Outdoor Lighting Plans.

An outdoor lighting plan shall be submitted, as appropriate, in conjunction with an application for: a Conditional Use Permit; Subdivision approval; Lone Pine Design Review; Zoning or General Plan designation amendments; or, a Building Permit for any new structure, or new or modified exterior light fixtures, or any addition(s) of gross floor area, seating capacity, or parking spaces (either with a single addition or cumulative additions). An outdoor lighting plan is required for all new outdoor lighting installations on residential, commercial, industrial, public and institutional properties. The Planning or Public Works Director may request outdoor lighting plans from applicants for other types of projects due to project location, size, or proposed use, as necessary. An outdoor lighting plan shall include at least the following:

- a) Manufacturer specification sheets, cut-sheets, or other manufacturer-provided information for all proposed outdoor lighting fixtures to show fixture diagrams and light output levels;
- b) The proposed location, mounting height, and aiming point of all outdoor lighting fixtures (a site plan is preferred); and
- c) If building elevations are proposed for illumination, drawings for all relevant building elevations showing the fixtures, the portions of the elevations to be illuminated, the illuminance level of the elevations, and the aiming point for any remote light fixture.

If needed to review the proposed outdoor lighting fixture installation, the Planning or Public Works Director may require additional information following the initial outdoor lighting plan submittal, including but not limited to a written narrative to demonstrate the objectives of the lighting, Photometric data, Color Rendering Index (CRI) of all lamps and other descriptive information on the fixtures, computer-generated photometric grid showing foot-candle readings every 10 feet within the property or site and 10 feet beyond the property lines (an iso-foot-candle contour line-style plan may be acceptable), and/or landscaping information to describe potential screening.

The Planning or Public Works Director may approve, deny, or require modifications to any outdoor lighting plan in order to meet the purpose of this chapter.

18.74.070 Prohibitions.

1. The installation of any new fixture not in conformance to this chapter is prohibited.
2. No outdoor lighting fixtures shall be installed, aimed, or directed to produce light that constitutes light pollution or trespass into neighboring properties or the public right of way.

3. No outdoor lighting fixture may be installed or maintained in such a manner to cause glare visible from off the property.
4. No outdoor lighting fixture may be operated in such a manner as to constitute a hazard or danger to persons, or to safe vehicular travel.
5. Blinking, flashing, moving, revolving, flickering, changing-intensity, and changing-color lights and internally illuminated signs are prohibited unless permitted pursuant to Inyo County Code Chapter 18.75.
6. The installation of new mercury vapor and/or low-pressure sodium lamps is prohibited.
7. Search lights, laser source lights, or any similar high-intensity light is prohibited except in emergencies by police and fire personnel or at their direction, or for approved temporary lighting.
8. Streetlights shall be down directed with complete horizontal shielding of the reflective surface and no higher than 17 feet from the bottom of the shielded fixture surface with a maximum ~~150-watt lamp~~ of 5fc of light at the surface. Greater height may be granted by the County Public Works Director for safety or adopted minimum highway standards.

18.74.080 Signs.

All outdoor lighting for commercial signs installed and maintained pursuant to Chapter 18.75 shall conform to the provisions of this chapter.

18.74.090 Outdoor Performance, Sport and Recreation Facilities.

Where playing fields or other special activity areas are to be illuminated, lighting fixtures shall be mounted, aimed, and shielded so that their beams fall within the primary playing area and immediate surroundings, and so that no light trespass is produced.

The main lighting shall be turned off as soon as possible following the end of an event. Where feasible, a low-level lighting system shall be used to facilitate patrons leaving the facility, cleanup, nighttime maintenance, and other closing activities.

18.74.100 Energy Conservation.

All outdoor lighting fixtures shall conform to the requirements of Title 24 the California Energy Code.

18.74.110 Violations and Penalties.

It shall be unlawful to install or operate any outdoor lighting fixture in violation of this chapter. Any person violating any provisions of this chapter may be subject to the provisions of the Inyo County Code Title 22. In addition, any outdoor lighting fixture erected or maintained contrary to the provisions of this chapter may be declared to be a public nuisance subject to the procedures set forth Title 22. Such remedies are in addition to and may be sought or imposed concurrently with any other remedy provided by law, regulation or ordinance.

RESOLUTION NO. _____

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
COUNTY OF INYO, STATE OF CALIFORNIA, RECOMMENDING
THAT THE BOARD OF SUPERVISORS CERTIFY THAT ZONE
TEXT AMENDMENT 2021-01/INYO COUNTY- OUTDOOR
LIGHTING IS EXEMPT FROM CALIFORNIA ENVIRONMENTAL
QUALITY ACT, AND MAKING CERTAIN FINDINGS WITH
RESPECT TO AND APPROVING ZONE TEXT AMENDMENT NO.
2021-01/INYO COUNTY- OUTDOOR LIGHTING**

WHEREAS, the County of Inyo ("County") desires to add a chapter to the Inyo County Code Title 18 (Zoning) relating to outdoor lighting;

WHEREAS, the County intends to regulate outdoor lighting in all zoning districts;

WHEREAS, the purpose of this ordinance is to provide the requirements and standards for outdoor lighting within the unincorporated areas of Inyo County to help to ensure that outdoor lighting is not a nuisance due to unnecessary light intensity, direct glare, and light trespass;

WHEREAS, the Inyo County Board of Supervisors, through Inyo County Code (ICC) Section 15.12.040, has designated the Planning Commission to serve as the Environmental Review Board pursuant to Section 15022 of the California Environmental Quality Act (CEQA) Guidelines, which is responsible for the environmental review of all County projects;

WHEREAS, Pursuant to the CEQA, the proposed ordinance is covered by the Common Sense 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;

WHEREAS, on December 1, 2021, following a noticed public hearing the Inyo County Planning Commission recommended that this Board of Supervisors:

1. Certify that the proposed project is exempt from the requirements of CEQA.
2. Make certain findings with respect to and approve Zone Text Amendment 2021-01/Inyo County – Outdoor Lighting, based on all of the information in the public record and on the recommendation of the Planning Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that based on all of the written and oral comment and input received at the October 27, and December 1, 2021 hearings, including the Planning Department Staff Report, this Planning Commission makes the following findings:

RECOMMENDED FINDINGS

1. The proposed ordinance is covered by the General Rule 15061(b)(3) that states 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.
2. Based on substantial evidence in the record, the proposed Zoning Ordinance Amendment is consistent with the Goals and Policies of the Inyo County General Plan.
3. Based on substantial evidence in the record, the proposed Zoning Ordinance Amendment is consistent with Title 18 (Zoning Ordinance) of the Inyo County Code.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the Board of Supervisors take the following actions:

1. Certify ZTA No. 2021-01/Inyo County – Outdoor Lighting is exempt from CEQA, per the Common Sense Rule.
2. Make certain findings with respect to, and approve ZTA No. 2021-01/Inyo County – Outdoor Lighting, based on all of the information in the public record and on recommendation of the Planning Commission.

PASSED AND ADOPTED THIS DECEMBER 1, 2021 by the following vote of the Inyo County Planning Commission:

AYES:
NOES:
ABSTAIN:
ABSENT:

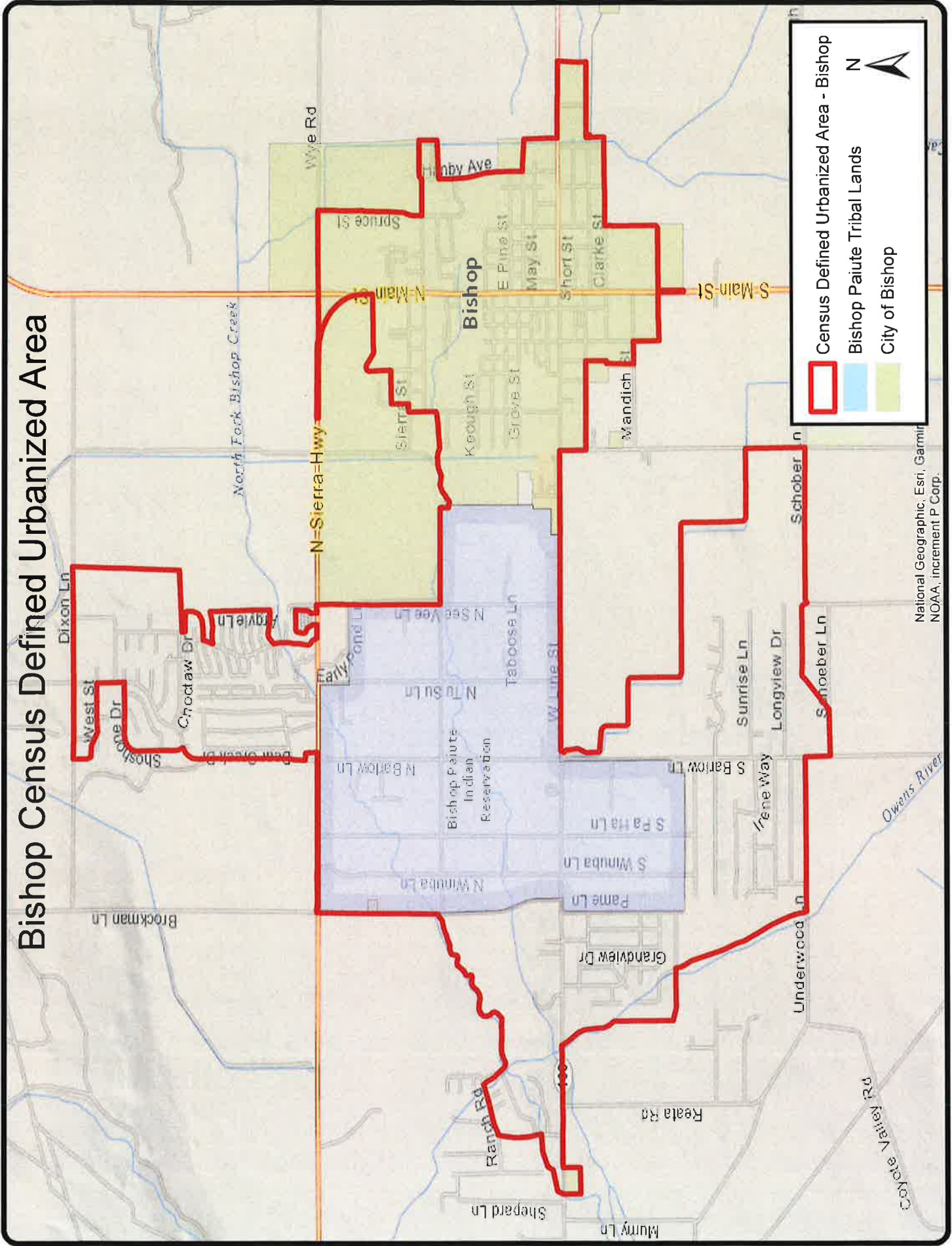
Caitlin Morley, Chairperson
Inyo County Board of Supervisors

ATTEST:

Cathreen Richards
Planning Director

By _____
Paula Riesen, Secretary of the Commission

Bishop Census Defined Urbanized Area



National Geographic, Esri, Garmin
NOAA, increment P Corp.



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FAX: (760) 873-2712
E-Mail: inyoplanning@inyocounty.us**

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

**PLANNING COMMISSION
MEETING DATE:** December 1, 2021

SUBJECT: Conditional Use Permit (CUP) 2021-08/Andracki; Variance (VAR) 2021-06/Andracki; Variance (VAR) 2021-07/Andracki

EXECUTIVE SUMMARY

The applicant has applied for a CUP and two VARs to operate a commercial cannabis cultivation operation located at 691 Desert Trail Way in the community of Charleston View.

PROJECT INFORMATION.

Supervisory District: 5

Project Applicant: Stephen Andracki

Property Owner: Stephen Andracki

Site Address/ 691 Desert Trail Way, Charleston View, CA

Community: Charleston view

A.P.N.: 048-433-36

General Plan: Resort Recreational (RES)

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

Size of Parcel: Approximately 10-acres

Surrounding Land Use:

Location:	Use:	Gen. Plan Designation	Zoning
Site	Residential and organic farming	Resort Recreational (RES)	Open Space with a 40-acre minimum (OS-40)
North	Vacant	Resort Recreational (RES)	Open Space with a 40-acre minimum (OS-40)
East	Vacant	Resort Recreational (RES)	Open Space with a 40-acre minimum (OS-40)
South	Vacant	Resort Recreational (RES)	Open Space with a 40-acre minimum (OS-40)
West	Vacant	Resort Recreational (RES)	Open Space with a 40-acre minimum (OS-40)

Staff Recommended Action: 1.) Approve the Conditional Use Permit (CUP) 2020-08/Andracki; Variance (VAR) 2021-06/Andracki; and Variance (VAR) 2021-07/Andracki 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 has requested a CUP to operate a medical commercial cannabis cultivation operation, located at 691 Desert Trail Way in the community of Charleston View. This establishment will grow cannabis plants for medical uses. The mature plants will also be dried, cured, trimmed and packaged at the project site (activities included with cultivation). The property is zoned OS, which allows for commercial cannabis cultivation with a CUP. The surrounding area is vacant and zoned OS. 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 the Andracki cannabis cultivation project is currently in use as an organic vegetable and egg farm and vineyards. It is already developed with agriculture uses and is highly disturbed. There is a single-family home where the owner/grower resides part time.

The project will also require a setback variance as it cannot meet the 300-foot setback requirement set forth by the County cannabis cultivation requirements. It also needs a fence height variance for a higher than the 6-foot limit as provided for in the zoning code, for required security.

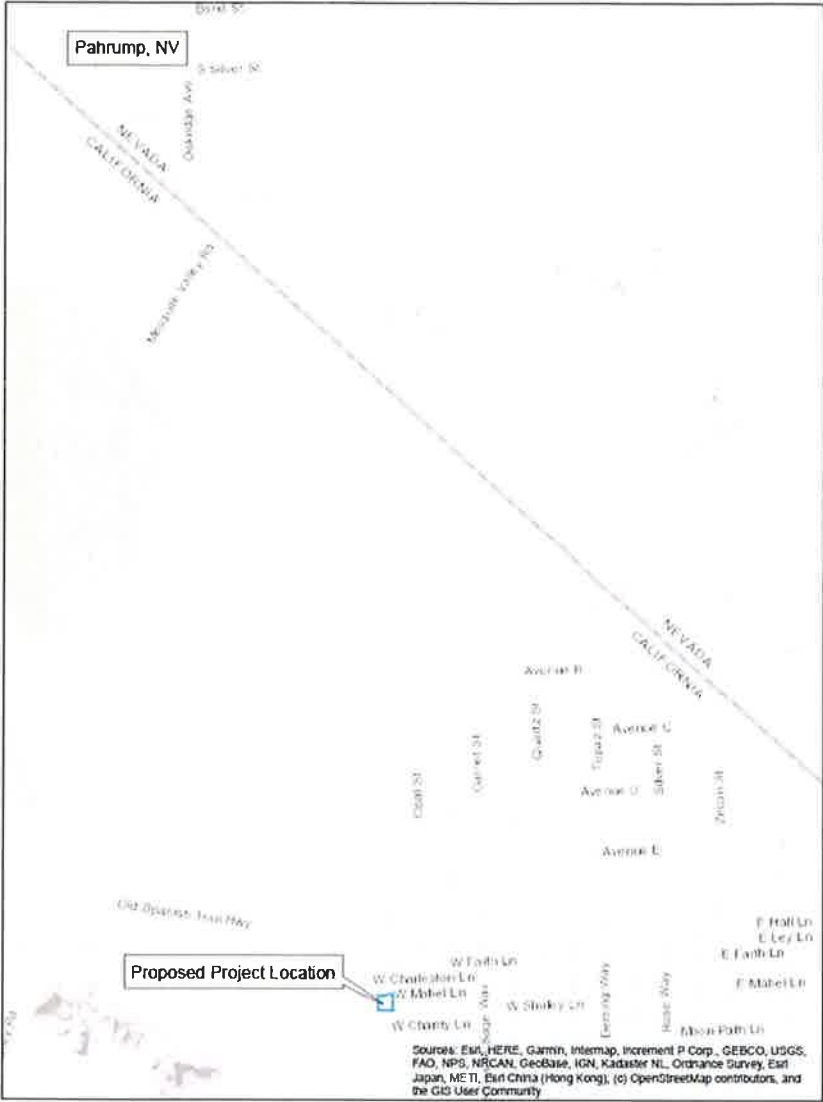
The project will occur in phases that could take up to eight-years to complete. The first phase will occur strictly within existing buildings and grow areas. Additional hoop houses (4), a drying and curing building and up to two additional aquaponics greenhouses may be phased in over time. Any and all additional building/growing areas will be located strictly on areas already in use for the current farm. All cannabis will be organically grown and waste will be ground up and used for compost. The farm is also powered by 50KW solar array with batteries. Generators are only used when sunlight is low.

At full buildout, the cannabis cultivation operations will employ approximately eight people. Currently, there are four farm workers plus the two owners at the property on a daily basis. Delivery truck trips will stay at about twice a week as they are now. Overall traffic may increase slightly with the change from the existing farm to a cannabis cultivation operation at buildout. The owner maintains the dirt road to the farm from the Old Spanish Trail Highway and will continue to do so.

Water use will also not increase with the change in crops. Currently, the farm and the residential yard area require about 1.8-million gallons of water per year. At phase 1 this will be lowered by about 90% and will then go back up incrementally with the development phases but will not exceed the amount of water currently used. The water is provided by two onsite wells and there is not another water source to the project area, other than trucking it in. Water will also continue to be recycled and rainwater captured by the applicant to help minimize well water usage and to meet the goal of a sustainable cannabis cultivation project.

The OS zone requires a 300-foot setback for the entire perimeter of a cultivation project area. The applicant's property is 10-acres and cannot accommodate the setback requirement; therefore, a setback variance is being requested for the project. This request is for a 200-foot encroachment on the north and west sides and a 250-foot encroachment on the south and east. Since this property is located far from other development and is already being used for a very similar use the variance request is reasonable. A fence height variance is also being sought for the required security for a cannabis related business.

Vicinity Map



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 Resort Recreation (REC) as it allows for commercial activities and the project promotes Goal AG 1.0 that states: *Provide and maintain a viable and diverse agriculture industry in Inyo County.* It also promotes Policy AG-1.2 that states: *Support and encourage continued agriculture production activities in the County.* The applicant is proposing to grow cannabis as a replacement to organic vegetable and egg farming and vineyards, which is consistent with both, as it diversifies and maintains an agriculture type of production.

Zoning Ordinance Consistency

The OS zoning designation allows for agriculture uses. Commercial cannabis cultivation is also allowed in the OS zone with a CUP. The applicant has applied for the CUP to operate the cannabis cultivation project in compliance with the County's zoning ordinance.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), the proposal is covered by the Common Sense 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 being used as a farm; is disturbed by the farming use; and, the proposed activities will result in no change to the impact of uses than are allowed without the CUP. It will not cause new impacts on the property since all future activity will occur in the same disturbed areas as are currently used for the existing farm.

NOTICING & REVIEW

The applications for CUP 2021-08 and VAR 2021-06/Andracki have been reviewed by the appropriate county departments and the Southern Inyo Fire Protection District and no issues were reported. Before the applicant can begin the cannabis cultivation activities, a cannabis business license will also need to be obtained from the Inyo Mono Agricultural Commission.

CUP 2021-08 and VAR 2021-06 and 2021-07/Andracki were noticed on November 20, 2021 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 to date.

RECOMMENDATION

Planning Department staff recommends the approval of CUP 2021-08; VAR 2021-06 and VAR 2021-07/Andracki with the following Findings and Conditions of Approval:

FINDINGS – Conditional Use Permit

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 Common Sense 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 being used as a farm and is disturbed; and, the proposed activities will result in no change to the impact of uses than are allowed without the CUP or currently or historically conducted on the property.]

2. The proposed Conditional Use Permit is consistent with the Inyo County General Plan Goal 1.0 and Policy 1.2.
[Evidence: The goal of this project is to allow for a commercial cannabis cultivation operation. General Plan Goal AG 1.0 states: Provide and maintain a viable and diverse agriculture industry in Inyo County and Policy AG-1.2 states: Support and encourage continued agriculture production activities in the County. The applicant is proposing to grow cannabis as a replacement to organic vegetable and egg farming and vineyards, which is consistent with both Goal 1.0 and Policy 1.2 as it diversifies and maintains agriculture type production in the County.]
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 OS zone.
[Evidence: The OS zoning designation allows for agriculture uses. Commercial cannabis cultivation is also allowed in the OS zone with a CUP. The applicant has applied for the CUP to operate the cannabis cultivation project in compliance 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 as a farm and is highly disturbed. It is related to the 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 as a farm and is 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 project was reviewed by the Southern Inyo Fire District and they found no issues with it. It will also be reviewed by the Inyo County Sheriff for a cannabis business license, which requires a security plan.]

Due to these factors, 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: A commercial cannabis cultivation operation in the OS zone requires a CUP per Inyo County Code Section 18.12.040(N) and is therefore necessary for the operation of the project.]

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.

Findings – Variance 2021-06 – Setback Encroachment

Staff has reviewed the 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: *Inyo County Code (ICC) 18.12.040 (N) requires 300-foot front, rear and side yard setbacks for cannabis cultivation. Due to the current use and conditions of the proposed project site, this setback requirement is not attainable. The property is currently developed with an organic vegetable and egg farm and vineyards. The applicant will only grow cannabis in the areas already disturbed by current farming on the property. Land within the County that is designated OS is mostly vacant and consist of parcels that are at least 40-acres in size. Some has agriculture and residential uses. Most of these uses are not used for commercial cannabis and are not as remote as this location, nor are they replacing existing agriculture uses. These factors are unique with regard to the OS zone, and warrant the applicant's need for setback encroachments.*)
2. That the result would not be detrimental to the public welfare, or injurious to property in the vicinity.
(Affirmative – Evidence: *Allowing for the encroachments into the setbacks keeps the cannabis cultivation within the existing foot print of an operating farm. The property is located in the remote area of Charleston View and surrounded by vacant land. The nearest other developed property (has a vacant mobile home) in the vicinity is about .25-miles away. Allowing the encroachments into the setbacks is not allowing for activities that are detrimental or injurious to either public welfare or other properties in the vicinity as it is sparsely populated and primarily undeveloped.*)
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 encroachments into the required yard setbacks is being requested so the applicant can convert an existing organic vegetable and egg farm and vineyards to an organic medical cannabis cultivation farm. The strict application of the 300-foot setbacks would essentially stop the project. Granting a variance for the encroachments would still allow for the general purposes of Title 18.12 of the Zoning Code to be fulfilled, as the OS zone encourages agriculture; allows for farms, ranches, greenhouses etc.; and, allows for commercial cannabis cultivation as a conditional use; therefore, the setback encroachment will not affect the general purposes of 18.12.*)
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 proposed cannabis cultivation project is located in the OS zone and about .25-miles from the nearest other development (a vacant mobile home). Commercial cannabis cultivation is an allowed conditional use in the OS zone. The*

variance will allow for encroachments into the front, rear and side yard setbacks, but will not create additional disturbance or expansion of the area already used for farming. Any person with property in the OS zone can apply for the same use and the same variance. For these reasons, the requested variance to encroach into the yard setbacks cannot be said to constitute a grant of special privileges. It would, instead, allow the continued use of the property for a type of agriculture.)

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 applies to front, rear and side yard setback requirements. The proposed commercial cannabis cultivation use is permitted as a conditional use in the OS Zone.*)

6. The proposed variance is consistent with the Inyo County General Plan
(Affirmative – Evidence: *The requested variance presents no inconsistencies with the General Plan designation of REC as it allows for commercial uses. The project also promotes Goal AG 1.0 that states: Provide and maintain a viable and diverse agriculture industry in Inyo County and Policy AG-1.2 that states: Support and encourage continued agriculture production activities in the County. The applicant is proposing to grow cannabis as a replacement to organic vegetable and egg farming and vineyards, which is consistent with both Goal 1.0 and Policy 1.2 as it diversifies and maintains agriculture production in the County.*)

7. The requirements of the California Environmental Quality Act have been met.
(Affirmative – Evidence: *The requested variance is being considered along with Conditional Use Permit 2021-08/Andracki and has been determined to be an Exemption under CEQA.*)

Findings – Variance 2021-07 – Fence Height

Staff has reviewed the 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: *Inyo County Code (ICC) 18.78.160 limits the height of fences, walls and hedges to 6-feet for the rear and side yards and 3.5-feet for the front. Due to the nature of the activities the applicant will be conducting at the site (cannabis cultivation), there will be a need for extra security. Land within the County that is designated OS is mostly vacant. Some has agriculture and residential uses. Although, these uses can include valuable assets on some land, especially agriculture equipment, and some that could be considered hazardous, the proposed cannabis cultivation has a higher likelihood of theft than most other agriculture type activities. This factor at this location is unique, and warrants the applicants need for a higher, and therefore, more effective fence for security purposes.*)

2. That the result would not be detrimental to the public welfare, or injurious to property in the vicinity.

(Affirmative – Evidence: A higher fence would be more likely to lessen the potential detriment to the public welfare, as it will provide for a safer cannabis cultivation site, and a safer situation for the other properties in the Charleston View area. The higher fence will likely detour theft, and as such, the current variance request to allow an 8-foot fence is not allowing for activities that are detrimental or injurious to either public welfare or other properties 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.

(Affirmative – Evidence: The proposed fence height variance is being requested to keep the project site safe and detour theft. The proposed project area is in a remote location where cannabis will be grown. The location makes safety and security issues more difficult to address as there are fewer eyes on the property. The strict application of a 6-foot fence height could create difficulties/hardships for the applicant in keeping the area safe and free from theft. Granting a variance for an 8-foot fence would still allow the general purposes of Title 18.78 of the Zoning Code to be fulfilled, as 18.78.170., allows for exceptions for protective fencing. Although 18.78.170 addresses public property and swimming pools, the intent is safety; and therefore, granting a variance for protective fencing is within the general purposes of this title.)

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 in a remote location and in the OS zoning designation. Cannabis Cultivation is an allowed conditional use in the OS zone. The variance will allow for a higher fence than is allowed by 18.78.160. Any person with property in the OS zone can apply for the same use and the same variance. 18.78.170., allows for exceptions for protective fencing and although 18.78.170 addresses public property and swimming pools, the intent is safety; and therefore, granting a variance for protective fencing is within the general purposes of title 18.78. For these reasons, the requested variance to allow an 8-foot fence cannot be said to constitute a grant of special privileges. It would, instead, allow the property owners the ability to provide for better safety and security at their cannabis cultivation site, which benefits other properties in the vicinity.)

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 applies to fence height requirements. The proposed cannabis cultivation is permitted as a conditional use in the OS Zone.)

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

(Affirmative – Evidence: The requested variance presents no inconsistencies with the General Plan designation of REC as it allows for commercial uses. The project also

promotes Goal AG 1.0 that states: Provide and maintain a viable and diverse agriculture industry in Inyo County and Policy AG-1.2 that states: Support and encourage continued agriculture production activities in the County. The applicant is proposing to grow cannabis as a replacement to organic vegetable and egg farming and vineyards, which is consistent with both Goal 1.0 and Policy 1.2 as it diversifies and maintains agriculture production in the County.)

7. The requirements of the California Environmental Quality Act have been met. (Affirmative – Evidence: *The requested variance is being considered along with Conditional Use Permit 2021-08/Andracki and has been determined to be an Exemption under CEQA.*)

CONDITIONS OF APPROVAL

1. The applicant shall work with the Inyo County Environmental Health Department and the County Building and Safety Department to obtain all necessary permits for all phases of the project. Failure to comply may cause revocation of CUP 2021-08; VAR 2021-06; and, VAR 2021-07/Andracki.
2. All phases of the project shall be constructed only in areas currently in use for vegetable and egg production and vineyards.

3. Hold Harmless

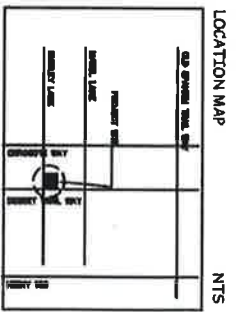
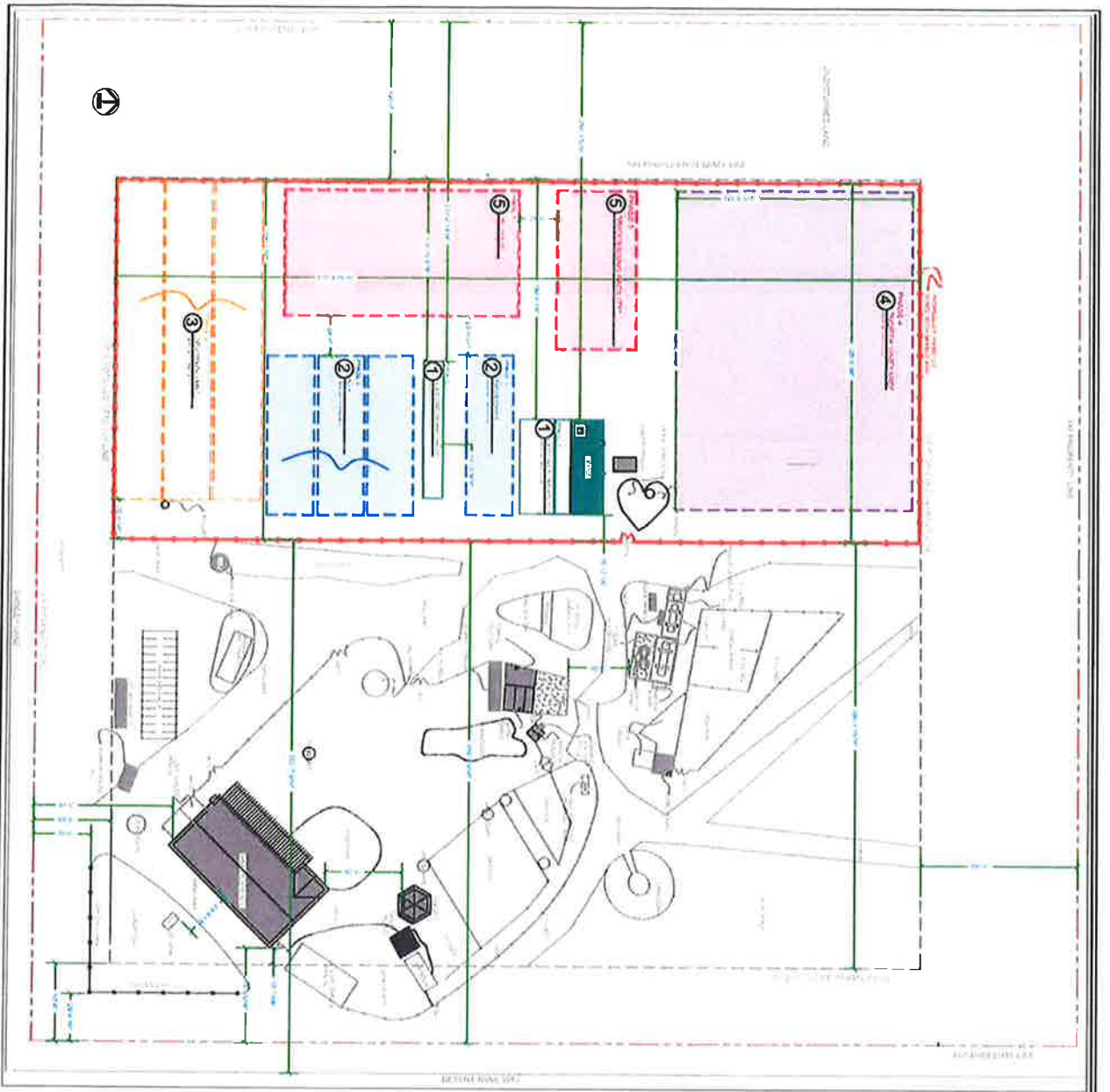
The applicant/developer shall defend, indemnify and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul an approval of the county, its advisory agencies, its appeals board, or legislative body concerning Conditional Use Permit No. CUP 2021-08; VAR 2021-06; and, VAR 2021-07/Andracki. The County reserves the right to prepare its own defense.

4. 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

- Site Plan



1 PHASE 1 - EXISTING (AREAS IN GREEN) - EXISTING "LONGHOUSE" AQUAPONIC GREENHOUSE & EXISTING "BURGE HAUS" AQUAPONIC GREENHOUSE.

2 PHASE 2 - PROPOSED (AREAS IN BLUE)
 (1) PROPOSED "WOODCHIPS" IN-GROUND AQUAPONIC GREENHOUSE 100' X 30'.
 (2) PROPOSED "EU" IN-GROUND HOOP-HOUSES EACH HOOP-HOUSE TO BE 100' X 30'.
 (3) PROPOSED "SOUTH VINEYARD" IN-GROUND HOOP-HOUSES 200' X 30'.

3 PHASE 3 - PROPOSED (AREAS IN ORANGE)
 (1) PROPOSED "NORTH VINEYARD" FUTURISTIC AQUAPONIC GREENHOUSE 200' X 150'.

4 PHASE 4 - PROPOSED (AREAS IN PURPLE)
 (1) PROPOSED "PROCESSING FACILITY" SITE BUILT 100' X 50'.
 (2) PROPOSED "GREENHOUSE" AQUAPONIC GREENHOUSE 150' X 80'.

5 ALL AREAS IN GREY ARE EXISTING. AS IS PHASE ONE IN GREEN. PERIMETER FENCE IS PROPOSED 6' CHAINLINK FENCE WITH BARBED WIRE ALONG TOP AND A PRIVACY SCREEN TO RUN THE ENTIRE LENGTH OF FENCE. APPROXIMATELY 511' X 226' (116,000 sq ft.)

NEVADA GEO-TECH, INC.
 3815 EAST MAIN STREET, SUITE 200, LAS VEGAS, NEVADA 89119
 714.734.0022 (P) 714.734.0020
 www.nvgeotech.com

LICENSED ENGINEER

DATE

REVISION NUMBER

DATE

NOTES

PROPOSED HOOPHOUSE ROW 100' X 30'
 2' 2" CLEARANCE
 2' 2" CLEARANCE

GENERAL NOTES

CONTRACTOR SHALL OBTAIN PERMITS FOR ALL UTILITIES AND ERECTION OF STRUCTURES WITHIN THE FUTURE PHASES. ALL UTILITIES SHALL BE IDENTIFIED AND MARKED PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITIES AND STRUCTURES UNLESS OTHERWISE NOTED. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITIES AND STRUCTURES UNLESS OTHERWISE NOTED.

PROPERTY OWNER: GARDEN OF EDDEN, INC.
 10150 SPECTRUM BLVD.
 SUITE 100
 LAS VEGAS, NV 89138
 702.735.1111
 702.735.1112

PROPOSED SITE PLAN
 PHASE 1-5

SP-1

DATE	TITLE	DATE	TITLE
2/14/20	SP-1	2/14/20	SP-1



Planning Department
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AGENDA ITEM NO.: 7 (Action Item – Public Hearing)

PLANNING COMMISSION MEETING DATE: December 1, 2021

SUBJECT: Conditional Use Permit (CUP) 2021-05/ The Tree Farm

EXECUTIVE SUMMARY

The applicant has applied for a CUP for the cultivation of 8.5 acres of cannabis located at 800 Ekenberg Rd. in the community of Sandy Valley in southeast Inyo County.

PROJECT INFORMATION.

Supervisory District: 5

Project Applicant: The Tree Farm, Chris Teutsch, 800 Ekenberg Rd. Tecopa, CA 923

Property Owner: The Holy Land Trust, Chris Teutsch, 800 Ekenberg Rd. Tecopa, CA 92389

Site Address: 800 Ekenberg Rd. Tecopa, CA 92389

Community: Sandy Valley

A.P.N.: 048-350-25

General Plan: Agricultural (A)

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

Size of Parcel: Approximately 40-acres

Surrounding Land Use:

Location:	Use:	Gen. Plan Designation	Zoning
Site	Private Residence / Cattle / Agriculture	Agricultural (A)	Open Space with a 40-acre minimum (OS-40)
North	Vacant / BLM / Private Residence	Agricultural (A)	Open Space with a 40-acre minimum (OS-40)
East	Agriculture	Agricultural (A)	Open Space with a 40-acre minimum (OS-40)
South	Vacant / Private Residence	Agricultural (A)	Open Space with a 40-acre minimum (OS-40)
West	Vacant	Agricultural (A)	Open Space with a 40-acre minimum (OS-40)

Staff Recommended Action: 1.) Approve the Conditional Use Permit (CUP) 2021-05/The Tree Farm and certify the project as a 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.

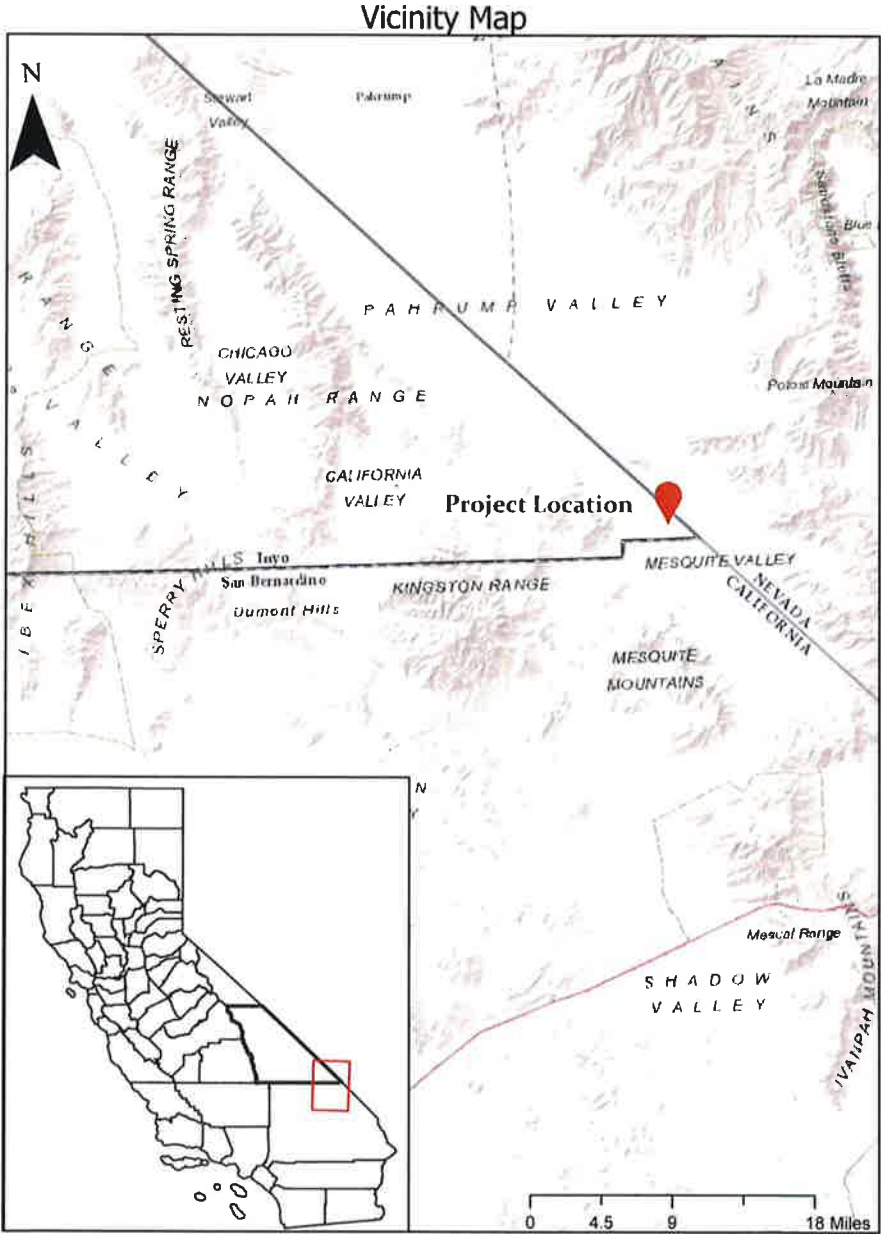
Project Planner: Cathreen Richards

STAFF ANALYSIS

Background and Overview

The applicant is applying for a CUP to operate a cannabis cultivation business located at 800 Ekenberg Rd. in the community of Sandy Valley. This property is zoned OS-40, which allows for cannabis cultivation with a CUP, and is located in an agricultural area of the County surrounded by other similar agricultural uses. The project includes 8.5-acres of cultivation for cannabis, including 0.5 acres in existing hoop houses on a 40-acre parcel. This property has previously been used to grow cantaloupes and most of the agricultural infrastructure is existing and will be used for cannabis cultivation. Proposed new construction includes (1) 12,500-ft² building for drying and processing. The cultivation will be outdoor, and planted directly in the soil, using only organic products and methods. There will be (3) 108,900-ft² cultivation fields, (9) 2,160-ft² hoop houses, and (1) 780-ft² nursery. The cultivation will occur 300-feet back from each property line, per Inyo County Code. The entire cultivation areas have been previously disturbed, as a result of the previous agricultural uses, and two private residential dwelling units are located on the eastern property boundary.

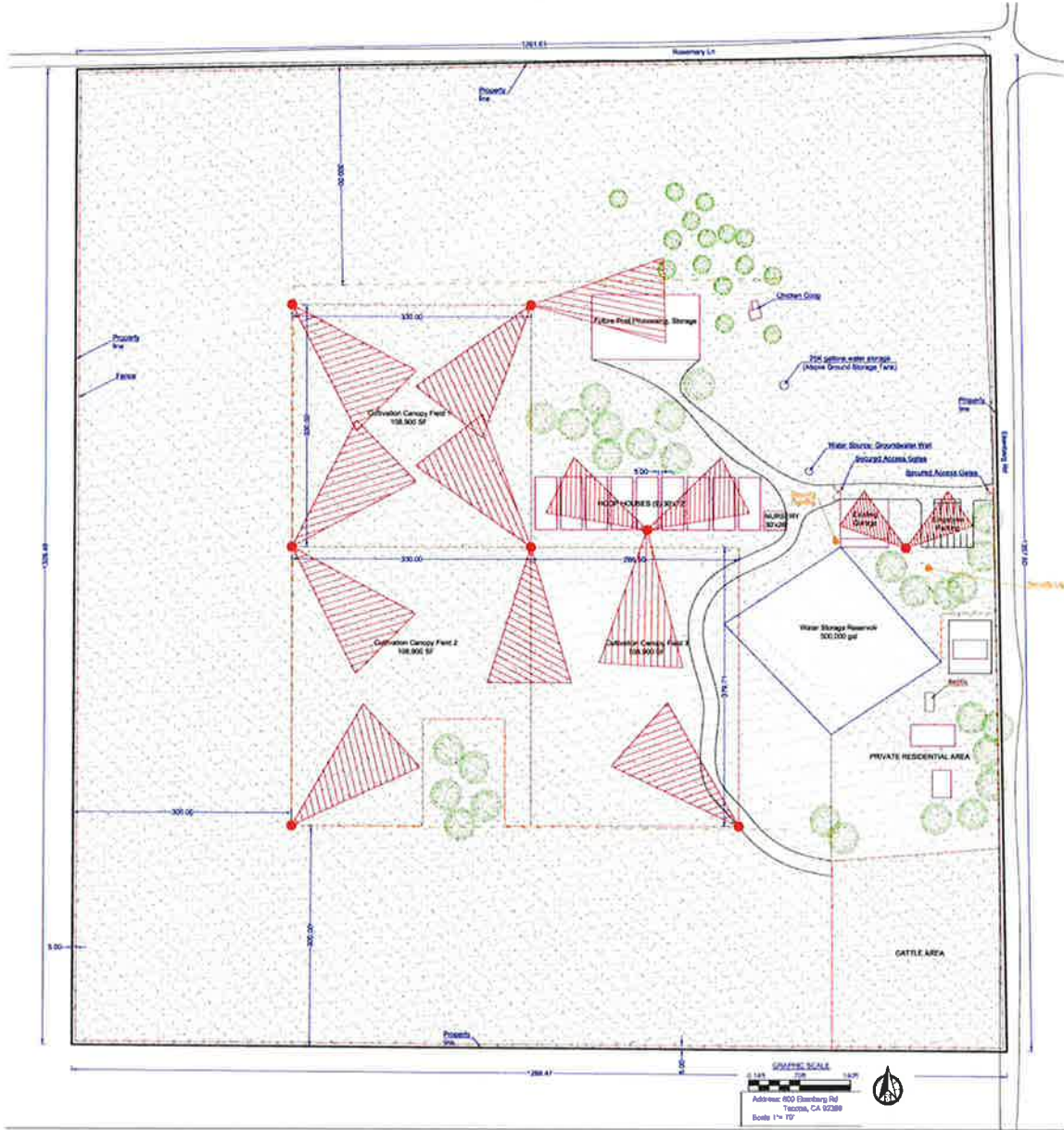
Water is provided for the cultivation from a pre-existing well and a 25,000-gallon above-ground storage tank. This water tank is also available for fire suppression. The water use (with drip irrigation) will be similar to previous agricultural endeavors with approximately 1.2-million gallons used annually. The proposed project is located in the Mesquite Valley Groundwater Basin, which is ranked “very low” priority under the State Sustainable Groundwater Management Act. The applicant will continue to work with the California Water Resources Control Board (Lahontan) to obtain the appropriate permissions for cannabis cultivation.



Site Map



Site Plan



General Plan Consistency

The goal of this project is to allow for a cannabis cultivation operation. The project is consistent with the General Plan designation of Agricultural (A) as it provides for the production of “food or fiber on a regular and sustained basis” with accompanying “agricultural processing facilities.” The (A) General Plan designation is compatible with the existing OS-40 zoning designation. It is also compatible with the General Plan’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. This activity is consistent with Goal AG 1.0, as it provides for a more diverse agriculture land use type than currently exists in the County.

Zoning Ordinance Consistency

The proposed project is a CUP to allow for the commercial cultivation of cannabis. The OS-40 zone allows for commercial cannabis cultivation with a CUP and is required to meet a 300-foot setback requirement. The OS zone, within its purpose statement, states 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 agriculture land use type activities to the county and is proposed to be conducted outdoors, using a drip irrigation system.

ENVIRONMENTAL REVIEW

Conditional Use Permit 2021-05/Tree Farm is a Mitigated Negative Declaration under CEQA. Although this project only includes 8.5-acres of a 40-acre parcel and this area is already disturbed by a similar use (cantalope farming), it incorporates several mitigation measures (listed below) as conditions of approval for the issuance of the CUP. These are primarily being imposed by the California Department of Fish and Wildlife to ensure any species in the general vicinity will not be harmed by the project.

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 31, 2021 about the project and the opportunity for consultation on this project. The Tribes notified were as follows: the Twenty-Nine Palms Band of Mission Indians, the Big Pine Paiute Tribe, the Bishop Paiute Tribe, Cabazon Band of the Mission Indians, the Fort Independence Paiute Tribe, Lone Pine Paiute-Shoshone Tribe, the Timbisha Shoshone Tribe, and the Torres Martinez Desert Cahuilla Indians.

None of the Tribes requested consultation.

NOTICING & REVIEW

The application for 2021-05/The Tree Farm has been reviewed by the following County departments: Environmental Health, Public Works, Inyo/Mono Agricultural Commission, and the Southern Inyo Fire District. The Environmental Health Department recommended that any additional sewage needs for the project utilize a new septic tank and leech field

and that if more than 5 service connections are made to their well then they are considered a State Small Water System and to apply for the appropriate permits.

The Southern Inyo Fire District asked what type of fire suppression the applicants have on site. They responded that they have a 25,000-gallon water tank that can be used for fire suppression.

Public review of the CEQA document was noticed in the Inyo Register and submitted to the CEQA Clearinghouse on October 9, 2021. Comments were received from the California Department of Fish and Wildlife. These comments have been addressed and incorporated into the the Conditions of Approval for this CUP. The public hearing date for this CUP was noticed on November 20, 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 comments have been received to date.

RECOMMENDATION

Planning Department staff recommends the approval of CUP 2021-05/Tree Farm, with the following Findings and Conditions of Approval:

FINDINGS

1. The proposed CUP is a Mitigated Negative Declaration under CEQA guidelines and 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 November 12, 2021. Comments were received by CDFW. Conditions have been added to the project addressing CDFW's comments causing the project to have less than significant impacts.]

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

[Evidence: The goal of this project is to allow for the cultivation of cannabis on a parcel of land with an A General Plan designation. The project is consistent with the A designation as it allows the production of "food or fiber on a regular and sustained basis" with accompanying "agricultural processing facilities." The proposed Tree Farm cannabis project would produce cannabis which is an agriculture type use that is compatible with the A General Plan designation. It is also consistent with the General Plan'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. This activity is consistent with Goal AG 1.0, as it provides for a more diverse agriculture industry than currently exists in the County.]

3. The proposed CUP is consistent with the Inyo County Zoning Ordinance, which permits cannabis cultivation activities, as a conditional use, in the OS-40 zone.

[Evidence: The OS-40 zone allows for commercial cannabis cultivation with a CUP as long as the project can meet the 300-foot setback requirement. 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 agriculture type landuse activities to the county and is proposed to be conducted outdoors, using drip irrigation.]

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 Tree Farm cannabis cultivation project expects to produce plants that will serve both County businesses and others in the State, as inputs to products further down the supply chain. This is a sustainable model, 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 agricultural use. The cannabis cultivation would replace a pre-existing agricultural use (cantelope crops). It is related to the other agricultural activities in the area and will not cause impacts on transportation or service facilities in the vicinity.]
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 CUP is to allow for cannabis cultivation. This agricultural land use type will not change or increase the current level or general type of allowed uses in the Sandy Valley area and the proposed security plan for The Tree Farm was reviewed by the Sheriff's Department as a business license requirement; 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: Cannabis cultivation activities require a conditional use permit per Inyo County Code Section 18.45.030(P) and is therefore necessary for the operation of The Tree Farm.]

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 2021-05/Tree Farm. 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 the California Building Code. Failure to comply may result in the revocation of this conditional use permit. If the use provided by this conditional use permit is not established within one year of the approval date it will become void.

3. Environmental:

- **Aesthetic:** The owner or his agent will 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.
- **Air Quality:** The owner or his agent will be required to follow best management practices to control for dust and odors. The owner or his agent shall consult with the Great Basin Air Pollution Control District to ensure potential dust and odors from cannabis cultivation do not impact surrounding properties. Evidence of approval from the Great Basin Air Pollution Control District shall be submitted to planning department staff prior to any ground disturbing or building activities.
- **Lahonton Water Board:** The owner or his agent shall obtain all necessary permits and follow all necessary requirements per the Inyo County Environmental Health Department and the Lahonton Waterboard. The applicant shall consult the Inyo County Environmental Health Department and the Lahonton Waterboard and provide evidence of their approval to the planning department prior to any ground breaking and/or building activities to ensure the septic system and existing wells are compliant with all State and County codes. The applicant shall also consult with the Inyo County Environmental Health Department and the Lahontoan Water Board if any pesticides or fertilizers end up being used to ensure that storage and disposal conform with all State and County requirements.

4. California Department of Fish and Wildlife conditions

- **Burrowing Owl Pre-construction Clearance Survey**
No less than 14 days prior to the initiation of any Project activities, including any groundbreaking activities, a qualified biologist shall conduct pre-construction surveys in accordance with the Staff Report on Burrowing Owl

Mitigation (Department of Fish and Game, March 2012). If no burrowing owl(s) are observed on site during the pre-construction survey, a letter shall be prepared by the qualified biologist documenting the results of the survey. The letter shall be submitted to CDFW 72 hours in advance of ground disturbing activities. If burrowing owl(s) are observed on site during the pre-construction survey, areas occupied by burrowing owls shall be avoided. If burrowing owls cannot be avoided by the Project, then: 1) the qualified biologist shall contact California Department of Fish and Wildlife (CDFW) and conduct an impact assessment in accordance with Staff Report on Burrowing Owl Mitigation prior to commencing Project activities to determine appropriate mitigation, including the acquisition and conservation of occupied replacement habitat at no less than a 2:1 ratio; 2) the qualified biologist shall prepare and submit a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012) to the CDFW for review/approval prior to the commencement of disturbance activities onsite; and 3) when a qualified biologist determines that burrowing owls are no longer occupying the Project site and passive relocation is complete, construction activities may begin. A final letter report shall be prepared by the qualified biologist documenting the results of the passive relocation. The letter shall be submitted to CDFW.

- Pre-construction Nesting Bird Surveys

If construction occurs during the non-nesting season (typically September 16 through December 31), a pre-construction sweep shall be performed prior to any ground breaking activities to verify absence of nesting birds. If construction activities are scheduled to occur during the nesting season (typically January 1 through September 15), mitigation as described below shall be implemented to avoid potential impacts to birds and their nests.

If construction (including site preparation, staging, or other ground-disturbing activities) or vegetation removal is proposed during the breeding/nesting season for birds (generally, raptor nesting season is January 1 through September 15; and passerine bird nesting season is February 1 through September 1), a qualified biologist shall conduct pre-construction surveys for birds on the Project site, including a 300-foot survey buffer, no more than 3 days prior to the start of ground-disturbing activities in all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures, at the appropriate time of day/night, during appropriate weather conditions. Pre-construction surveys should focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior (e.g., copulation, carrying of food or nest materials, nest building, removal of fecal sacks, flushing suddenly from atypically close range, agitation, aggressive interactions, feigning injury or distraction displays, or other behaviors). If construction is delayed or suspended for more than 3 days after the survey, the

area shall be resurveyed to re-confirm the presence/absence of any active nests.

If an active nest is located during pre-construction surveys, the United States Fish and Wildlife Service (USFWS) and/or the California Department of Fish and Wildlife (CDFW) (as appropriate per agency regulations) shall be notified regarding the status of the nest. Furthermore, construction activities shall be restricted as necessary to avoid disturbance of the nest until nesting activities have concluded, or the qualified biologist deems disturbance potential to be minimal. Restrictions may include, but are not limited to, establishing exclusion zones (no ingress of personnel or equipment at a minimum radius of 300 feet around an active raptor nest and 100-foot radius around an active non-raptor passerine bird nest) or altering the construction schedule.

A qualified biologist shall delineate the buffer using nest buffer signs, environmentally sensitive area fencing, pin flags, and or flagging tape. The buffer zone shall be maintained around the active nest site(s) until the young have fledged and are foraging independently.

- **American Badger**

A qualified biologist shall visually survey the Project area prior to construction to identify any feature/habitats suitable to support American badger (i.e., burrows, dens). Where an identifiable feature is present, the qualified biologist shall mark the potentially occupied feature for avoidance. If avoidance is infeasible, the qualified biologist shall determine whether the burrow or den is inactive or active. If the burrow or den is inactive, the qualified biologist shall excavate the burrow or den by hand and backfill to prevent reuse by badger.

If American badger is present, applicant shall notify CDFW and applicant should develop an American badger-specific avoidance and relocation plan detailing the protective avoidance and relocation measures to be implemented prior to the commencement of Project activities for CDFW review. The use of rodenticides and herbicides shall be restricted to avoid primary and secondary poisoning of badger.

- **Desert Tortoise Pre-Construction Survey**

A qualified biologist shall conduct a protocol level presence or absence survey within the Project area and 50-foot buffer no more than 48 hours prior to Project activities during desert tortoise active season (April to May or September to October), in accordance with the U.S. Fish and Wildlife Service 2019 desert tortoise survey methodology. The survey shall utilize perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign. Results of the survey shall be submitted to CDFW. If the survey confirms absence, the qualified biologist shall ensure desert tortoise do not enter the Project area. If the survey confirms presence, the Project proponent shall submit to CDFW for review and approval a desert tortoise-specific avoidance plan detailing the protective avoidance measures to be implemented to ensure complete avoidance of take to desert tortoise. If

complete avoidance cannot be achieved, CDFW recommends Project proponent not undertake Project activities and Project activities be postponed until appropriate authorization (i.e., CESA ITP under Fish and Game Code section 2081) is obtained.

- **Rare Plant Survey**

Prior to Project implementation, and during the appropriate season, the County shall conduct botanical field survey following protocols set forth in the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW-approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and, in a manner, which maximizes the likelihood of locating special status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status.

If any rare plants or sensitive vegetation communities are identified, the County shall either avoid the occurrence, with an appropriate buffer, or mitigate the loss of the occurrence through the purchase of mitigation credits from a CDFW-approved bank or land acquisition and conservation at a minimum 3:1 (replacement-to-impact) ratio. Note that a higher ratio may be warranted if the proposed mitigation lands are located far away from the Project site (i.e., within a separate watershed) or is not occupied by or available to special status species.

If the Project has the potential to impact a State-listed species, the County should apply for a California Endangered Species Act Incidental Take Permit with the California Department of Fish and Wildlife.

- The applicant shall avoid the mesquite thickets located on the property as indicated in the application.

- **Lake and Streambed Alteration (LSA)**

Prior to construction and issuance of any grading permit, the Project applicant should obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project applicant should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.



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

PLANNING COMMISSION MEETING DATE: December 1, 2021

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

EXECUTIVE SUMMARY

This hearing is a continuation from September 22, 2021 and 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 and on November 3, 2021 (Exhibit 1). At the September 22, 2021 hearing Blair Will, the attorney for Bush Management (Bush), and the Planning Department agreed that 1) the hearing would be continued to the December Planning Commission meeting, 2) Bush would close portals 1 and 6 on or before the December 2021 meeting, and 3) Bush would secure from public access or close portals 3, 4, and 5 on or before the December Planning Commission meeting.

County staff inspected the mine site on October 21, 2021 and found no changes and no steps toward compliance with the agreed upon portal closures. The site remains in the same condition as the last inspection completed in March 2021. However, on November 16, 2021, County staff participated in a meeting with Mr. Will and individuals from Valley Wide Construction, a company that Bush has hired to close the portals. At this meeting, the County outlined the work that needs to be done to comply with the agreement reached on September 22 and County staff scheduled an inspection for November 29, 2021.

Staff is hopeful that Bush will be able to make sufficient progress to comply with the September 22 agreement and that it will be possible to take the upcoming December 1 hearing off calendar. However, as of the writing of the staff report (November 17, 2021), no work has been done on the mine site, and Bush has made no progress toward achieving the requirements of the September 22 agreement.

The Planning Commission approved Conditional Use Permit 2007-05/Pruett Ballarat ("2008 CUP") 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:

Location:	Use:	Gen. Plan Designation	Zoning
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.

History of These Proceedings

As the Commission may recall, this request for revocation of the 2008 CUP first came before the Planning Commission on September 22, 2021. However, on that date, the hearing was continued because Mr. Will stated that Bush would agree to reclaim adits 1 and 6 and either reclaim or fence off from public access adits 2, 3, 4, and 5 (**Exhibit 9**). Although 1.5 years have already passed with no action from Bush on this front, the Planning Commission was amenable to providing Bush with extra time given Mr. Will's firm commitment to have the issues with the adits resolved by December 1, 2021.

Following the September 22 meeting, Planning staff checked in with Bush regularly to assess their progress toward compliance with the September 22 agreement. On October 15, 2021, Mr. Will informed staff that Bush planned to use Valley Wide Construction Service to perform the necessary work. On October 21, Mr. Will stated that he believed that Valley Wide would have the work completed "within the next approximately four weeks" (**Exhibit 10**). However, when Planning staff spoke with Valley Wide personnel on November 3, Valley Wide seemed unaware that Bush was planning to utilize their services.

On November 16, 2021, Planning staff met with Mr. Will and Valley Wide to discuss the plan for closing the adits and removing some junk and debris from the site. The meeting went well, and Valley Wide and Bush seemed amendable to doing the necessary work. However, staff is very concerned that this meeting happened a mere two weeks before the December 1 hearing. As seems to be the pattern, Bush has waited until the last minute to perform complex and expensive work that it could have done at any time over the past 1.5 years. While staff is hopeful that Bush and Valley Wide will manage to complete sufficient work to fulfill the terms of the agreement arrived at on September 22, as of the writing of this staff report, the prospects do not appear optimistic. Therefore, at this time, staff is continuing to recommend revocation of the 2008 CUP.

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, and additionally November 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

- September 22, 2021 Staff Report
- 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 9 – Summary of post-hearing agreement
- Exhibit 10 – Emails regarding progress since September hearing



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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:

Location:	Use:	Gen. Plan Designation	Zoning
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 un-reclaimed. 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

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- 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



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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

Blair Will
Kronick Moskovitz Tiedemann & Girard
1331 Garden Hwy, 2nd Floor
Sacramento, CA 95833
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 / Pruet 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).¹ 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

¹ 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.

Sincerely,



Ryan Smith-Standridge
Associate Planner / SMARA Coordinator

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

Exhibit 1



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PUBLIC HEARING NOTICE

NOTICE IS HEREBY GIVEN the Inyo County Planning Commission will hold public hearings Wednesday, December 1, 2021 at 10:00 a.m. to consider the following:

**CONTINUATION OF VIOLATION AND CONSIDERATION OF REVOCATION OF
CONDITIONAL USE PERMIT (CUP) NO. 2007-05/PRUETT BALLARAT INC.**

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/81159246847?pwd=UFgvZWpsR0hiUTlyZ2hWMFJ0Qlhldz09>

Or by Phone at: 1-669-900-6833

Meeting ID: 811 5924 6847

Passcode: 453984

This item is continued from the September 22, 2021 hearing.

This hearing is being held pursuant to a Notice of Violation in regards to a Radcliff Mine (ID 91-14-0064) the location is on the western flank of the Panamint Range in Pleasant Canyon, approximately 5 miles east of Ballarat. Bush management is in violation of Condition of approval number 2, and 3 and Conditions of rec plan.

Written comments and all questions should be addressed to the Inyo County Planning Department, P. O. Drawer "L", Independence, CA 93526. Please contact the Inyo County Planning Department if you have any questions regarding this project at the Courthouse Annex, in Independence during business hours, or phone (760) 878-0263. Project materials are posted on the Planning Department website at: www.inyoplanning.org under "Current Projects."

Exhibit 2

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



PRUETT BALLARAT, INC.
443 Upper Colony Road
Wellington, Nevada 89444
Phone (775) 465-2240

David L. Pruett - President

Prepared for:

Inyo County Planning Department
Post Office Drawer L
168 N. Edwards Street
Independence, California 93526
Phone: (760) 878-0263
Fax: (760) 878-0382
inyoplanning@inyocounty.us

February 15, 2008

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)

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- 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.

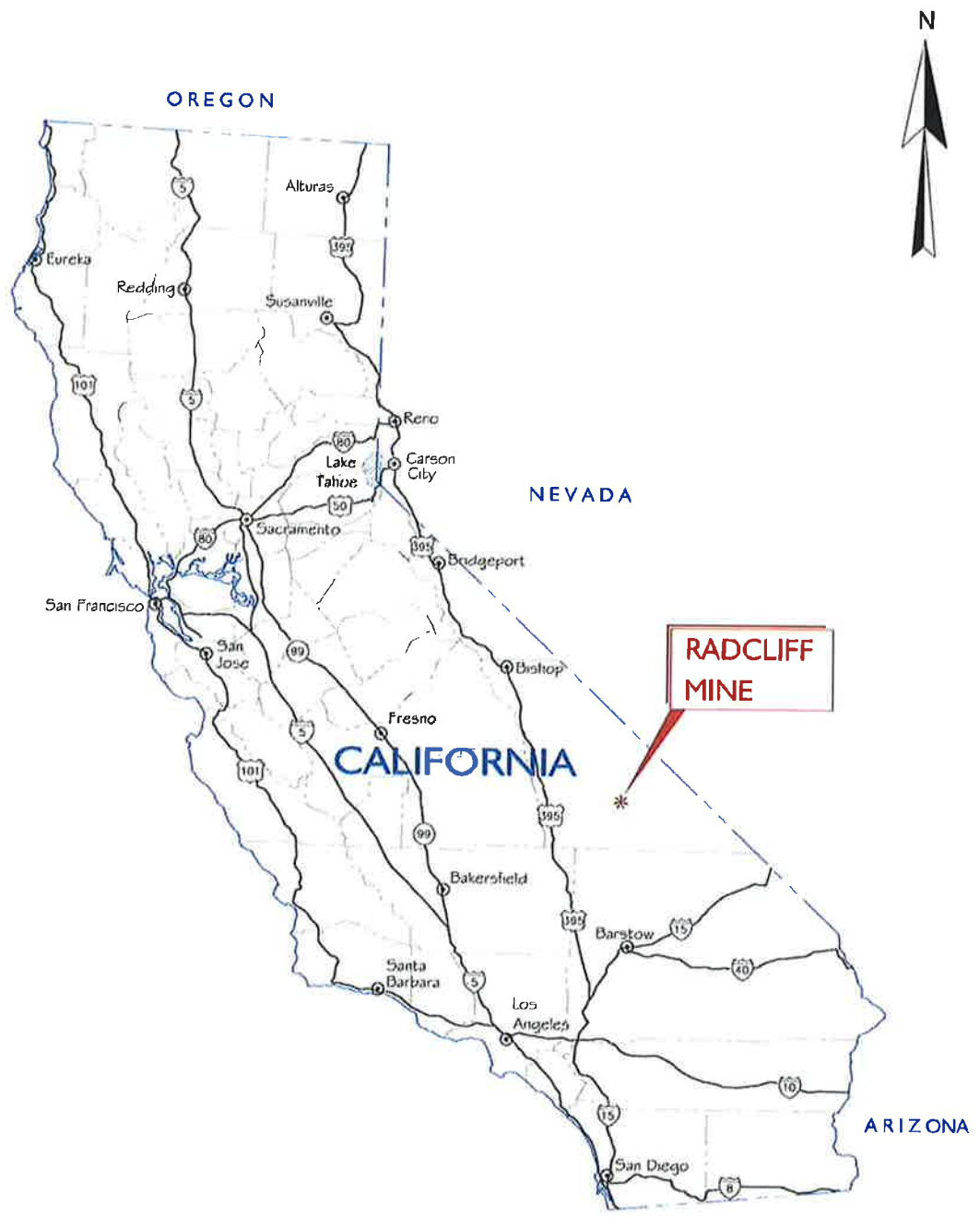
2 Access to Existing Site


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

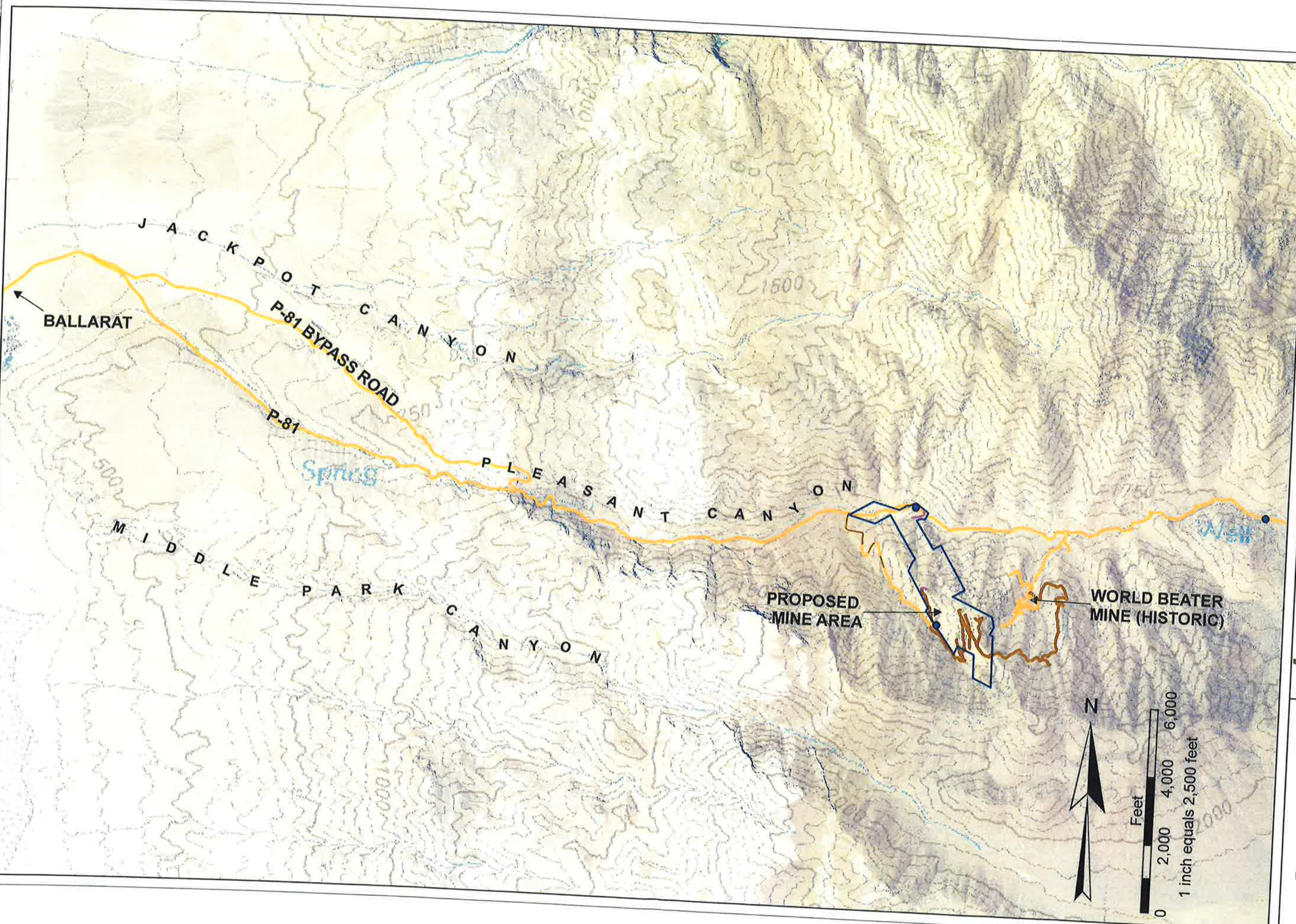


 SRK Consulting Engineers and Scientists			
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REVIEWED:	-	DATE:	02/15/2008

PREPARED FOR:	RADCLIFF MINE
	PRUETT BALLARAT INC

DRAWING TITLE:	LOCATION MAP	
DRAWING NO.	FIGURE 1	REVISION NO.
SRK JOB NO.	147602	A

Exhibit 2



EXPLANATION

- Private Property
- Water Well



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RADCLIFF MINE
PRUETT BALLARAT INC

DRAWING TITLE		SHEET	REVISION NO
SITE LOCATION AND ACCESS ROADS			
DRAWING NO		2 OF 3	
FIGURE 2			
SRK JOB NO.		147602	
		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 NOT subject to reclamation by PBI)	1.91	-
1989 – 1994	Existing/ Permitted	Kerr-McGee/ EBX	Exploration road and drill pad construction in Hope Canyon (disturbance NOT 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
Subtotal Historic Disturbance				4.92	1.73
Subtotal Historic Disturbance (subject to reclamation by PBI)				2.47	1.73
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
Subtotal Proposed Disturbance (subject to reclamation by PBI)				0.0	4.36
Total Disturbance (subject to reclamation by PBI)				2.47	6.09

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

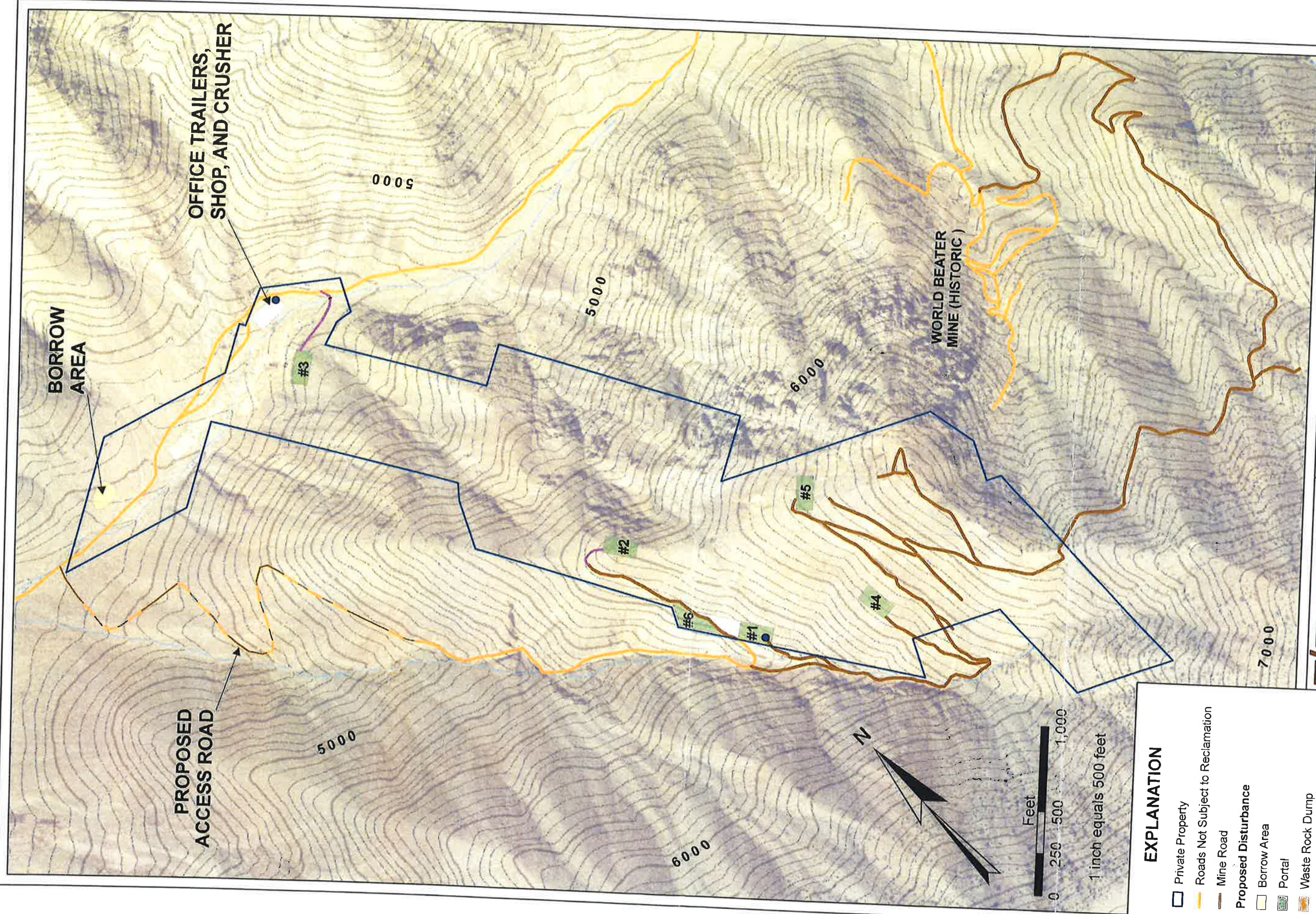
equipment storage and crushing unit, and a small development rock pile (rock dump). This proposed activity would bring total surface disturbance at the Radcliff Project (which is subject to reclamation by Pruett Ballarat Inc. under this plan) to 8.56 acres (Figure 3).

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	
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RADCLIFF MINE
PRUETT BALLARAT INC

DRAWING TITLE	
SITE PLAN	
DRAWING NO	FIGURE 3
SHEET	3 OF 3
SRK-JOB NO.	147602
REVISION NO.	B

Exhibit 2

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 yd³.

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.

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 Ridgcrest 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.

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

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*

*R.P.
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 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 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	Exhibit 2	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 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

Handwritten initials/signature

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.

Handwritten initials/signature

Exhibit 2

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

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

*LLP
OM*

APPENDIX B

Notification of Proposed Post-Reclamation Land Use

Exhibit 2

MEMORANDUM OF AGREEMENT AND OPTION

An Agreement effective as of the 20th 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 B. 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
RPA"*

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 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 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
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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

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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

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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
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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

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

102P

Exhibit 2

Dover	Sec. 11 T. 22S., R. 45E	08-24-1898 01-03-1899	L&W BKA., Pg.8(LN) Vol.B-1, Pg. 458(Deed)	CA MC 6856
Wingfield and Harrison	Sec. 11 T. 22S., R. 45E	08-24-1898 09-07-1898	L&W Vol.I, Pg.650 (LN) Vol.D-1 Pg.64 (Deed)	CA MC 6856
Sales-J.F. Cooper	Sec. 11, T. 22S R.45E	04-22-1897 04-23-1897	So. Park Mining District Records Page 226 (LN) Vol.C-1, Pg. 132(Deed)	CA MC 6856
McNulty	Sec. 11, T.22S R. 45E.	12-17-1898 12-28-1898	L&W BKA, Pg 7 (LN) Vol.C-1 Pg. 178 (Deed)	CA MC 6856
James Wingfield		01-12-1899 02-20-1899	L&W BKA, Pg 13(LN) Vol.C-1 Pg.182 (Deed)	CA MC 6856

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

RLP
1/2/99

APPENDIX C

Statement of Responsibility for Reclaiming the Disturbed Lands

Responsibility for Reclaiming the Disturbed Lands

A. It is understood that should the nature of the Radcliff Project change an Amended or Supplemental SMARA Reclamation Plan and Conditional Use Permit may be required.

B. It is understood that approval of this plan does not relieve me of my responsibility to comply with any other Applicable State or Federal Laws, rules or regulations.

C. It is understood that a Bond Equivalent to the actual cost of performing the agreed upon reclamation measures will be required before this plan can be approved. Bonding amounts will be set on a site-specific basis by the Lead Agency in coordination with the Cooperating Agencies.

PBI have reviewed and agree to comply with all conditions in the SMARA Reclamation Plan and Conditional Use Permit, including the reclamation requirements. PBI understands that the Bond will not be released until Inyo County, the BLM or the State Agency in charge gives written approval of the reclamation work.

David L. Pruett 24 Jan 08
Operator (or Authorized Official) PRINT Date

David L. Pruett
Signature Owner/Agent

Pruett Ballarat Inc.
Company

Subscribed and sworn before me this 24 day of Jan, 2008

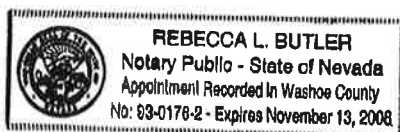
Notary Public in and for the County of Washoe,

State of NV.

My Commission expires 11/13/08.

Rebecca L. Butler
Notary Signature

Notary Seal



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.

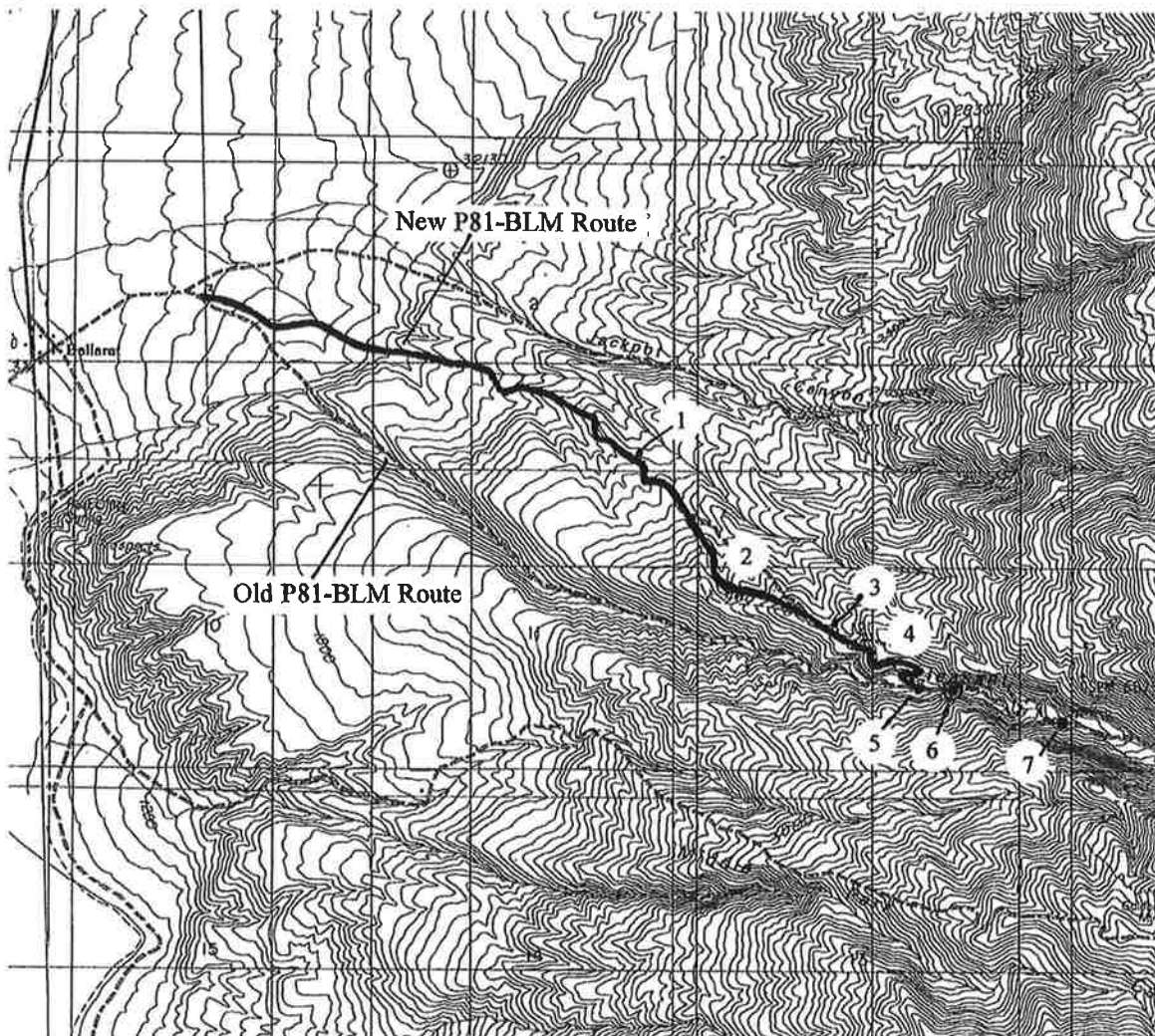
However, where the the new route joins the old P81 BLM route the existing road in the canyon bottom will be rebuilt or repaired in an area extending eastward about 900 meters through a portion of the canyon with flowing water and riparian habitat (Figure 1, between numbers 5 and 7). Elevations along 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

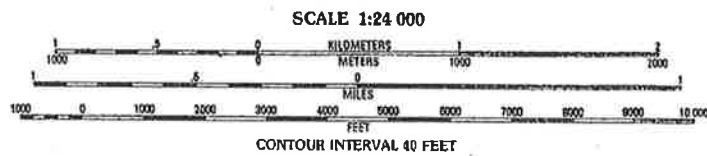
Exhibit 2

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



NORTH

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 (CNDDDB), 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 CNDDDB 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 (Plant Family/Life Form/ Flowering Period)	Rank or Status ¹			Distribution ²	Habitat Types In Calif. ³	Elevational Range and Habitat Preferences
	FWS	DFG	NDDB			
PLANTS RARE, THREATENED, OR ENDANGERED IN CALIFORNIA (CNPS LISTS 1B AND 2)						
<i>Alicia ripleyi</i> Ripley's alicella (Polemoniaceae) herbaceous perennial/ May-July	-	-	S1.3	2.3	Inyo, Last Chance, Panamint, Grapevine, and Funeral mts., Kingston Range; INY, SBD, sw NV.	MCBS, MMWS, DCS 1000-6400 ft (305-1950 m) Crevice on steep limestone or dolomite cliffs, sometimes in loose talus or gravelly slopes below.
<i>Arabis dispar</i> pinyon rock cress (Brassicaceae) herbaceous perennial/ Mar.-June	-	-	S2.3	2.3	Wide ranging, but infrequent. Little San Bernardino and San Bernardino mts. to southern Sierra Nevada and Coso, Argus, Panamint, and White-Inyo mts.; INY, MNO, TUL, SBD, to sw NV.	MDSer, JTWld, GBScr, PJWdl 4000-8000 ft (1200-2450 m) Loose gravelly, stony or rocky slopes and mesas, coarse alluvium, and compact talus; gentle to steep slopes; on granitic rock, sandstone and basalt.
<i>Arctomecon merriamii</i> white bear poppy (Papaveraceae) herbaceous perennial/ Apr.-May	-	-	S2.2	2.2	Death V. region (Dry Mtn., Panamint, Amargosa and Nopah ranges), Silurian Hills, and Clark Mts.; INY, SBD, to sw NV.	MCBS, MMWS, ChScr 1600-6250 ft (490-1900 m) Slopes and ridges, bajadas, washes, flats, old lake beds; shallow gravelly-rocky soils, outcrops, talus, sand or clay; on limestone, dolomite or gypsum rich soil.
<i>Dudleya saxosa</i> ssp. <i>saxosa</i> Panamint dudleya (Crassulaceae)/leaf succulent perennial/ (Apr.) May-Sept	-	-	S3.3	1B.3	Endemic to Panamint Mts.; INY.	MCBS, MMWS, PJWld 3000-7220 ft (900-2200 m) Dry rocky or stoney slopes and in bedrock cracks; on granitic rock, limestone or dolomite.
<i>Enceliopsis covillei</i> Panamint daisy (Asteraceae) herbaceous perennial/ Mar.-June	-	-	S3.3	1B.2	Endemic to west side of Panamint Mts., from Wildrose Cyn. south to just south of Happy Cyn.; INY.	MCBS 1200-6000 ft (375-1850 m) Dry canyon walls, slopes, and washes; clayey, gravelly and rocky soils, talus; on sedimentary and metamorphic rocks.
<i>Eriogonum hoffmannii</i> var. <i>hoffmannii</i> /Hoffmann's buckwheat/(Polygonaceae) annual/ June-Sept.	-	-	S2.3	1B.3	Panamint Mts. and Amargosa Range; INY.	MDSer (MCBS, MMWS) 1500-5580 ft (450-1700 m) Washes and along roadsides, occasionally on dry talus slopes.
<i>Eriogonum infracactum</i> jointed buckwheat (Polygonaceae)/herbaceous perennial/ May-Oct	-	-	S2.3	1B.3	Panamint Range, Grapevine Mts, one site in Funeral Mts.; INY.	MDSer (DCS) 2000-6400 ft (600-1950 m) Rock crevices in carbonate cliffs and canyon walls; less common on steep gravelly or 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 (Plant Family)/Life Form/ Flowering Period	Rank or Status ¹			Distribution ²	Habitat Types In Calif. ³	Elevational Range and Habitat Preferences
	FWS	DFG	NDDB			
PLANTS RARE, THREATENED, OR ENDANGERED IN CALIFORNIA (continued)						
<i>Juncus nodosus</i> knotted rush (Juncaceae)/herbaceous perennial 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	Medws, MshSw, desert oasis woodland below 5600 ft (1700 m) in Calif. Wet places near springs, ponds, streams and seepage areas.
<i>Lupinus magnificus</i> var. <i>magnificus</i> Panamint Mts. lupine (Fabaceae)/herbaceous perennial 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.	2380-8500 ft (1000-2600 m) Dry gravelly or sandy slopes and washes, at higher elevations on rocky or talus slopes.
<i>Penstemon fruticosiformis</i> var. <i>amargosae</i> /Death Valley beardtongue/(Scrophulariaceae) herbaceous perennial Apr.-July (Sept.)	-	-	S2.3	1B.3	Amargosa and Panamint ranges, Argus, Kingston and Avawatz mts.; INY, SBD, NV.	2780-4600 ft (850-1400 m) Gravelly washes, rocky scree slopes, canyons.
<i>Petalonyx thurberi</i> ssp. <i>gilmanii</i> Death Valley sandpaper plant (Loasaceae) shrub/ May-Sept.	-	-	S2.3	1B.3	Death V., Panamint V., and one report in Argus Mts. near Darwin; INY.	200-3500 ft (60-1050 m) Darwin site at 5000 ft (1525 m) Loose sandy-gravelly alluvium, sand; bajada washes, canyon bottoms, dunes; also on cinder slopes at Ubehebe Crater.
<i>Phacelia mustelina</i> Death Valley round-leaved phacelia (Hydrophyllaceae) 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.	2400-8600 ft (730-2620 m) Only 2 sites >7300 ft, one <3000ft. 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 (Plant Family)/Life Form/ Flowering Period	Rank or Status ¹		Distribution ²	Habitat Types In Calif ³	Elevational Range and Habitat Preferences
	FWS	DFG NDDB CNPS			
PLANTS OF LIMITED DISTRIBUTION - A WATCH LIST (CNPS LIST 4)					
<i>Cryptantha holoptera</i> winged cryptantha (Boraginaceae)/annual, sometimes a perennial/ Mar.-Apr.	--	S?	4.3 Panamint Mts., Amargosa Range, and very scattering in the eastern Mojave and Colorado deserts of CA; IMP, INY, RIV, SBD, SDG, to w AZ, NV.	SDScr, MDSr (MCBS)	330-5550 ft (100-1690 m) Moist washes and gravelly or rocky slopes and ridges.
<i>Enceliopsis nudicaulis</i> var. <i>nudicaulis</i> /naked-stemmed daisy (Asteraceae) herbaceous perennial/ Apr.-May	--	S3.3	4.3 Inyo, Saline, Last Chance, Panamint and Clark Mtn. ranges; INY, MNO, SBD, AZ, NV, UT, ID.	MDSr (BBS), GBScr, PjWld	2875-6560 ft (875-2000 m) In clayey soil or sand and gravel, on slopes, cliffs and ridges; in volcanic, carbonate or eypsicolous soils.
<i>Mimulus rupicola</i> rock-midget (Scrophulariaceae) annual/ Feb.-June	--	S3.3	4.3 Last Chance Mts., Amargosa, Panamint and Argus ranges; INY.	MDSr (MCBS, DCS)	1000-6000 ft (300-1830 m) Crevices in carbonate rocks.
<i>Oenothera caespitosa</i> ssp. <i>crinita</i> /caespitose evening- primrose/(Onagraceae) herbaceous perennial/ June-Sept.	--	S3.3	4.2 White-Inyo and Argus ranges, Coso, Panamint, Last Chance, Grapevine, and Clark mts., INY, SBD, to UT.	MDSr, PjWld, SCFr	3800-11,080 ft (1150-3370 m) Carbonate soils, dry rock-crevices and outcrops.
<i>Scleroactis polyacistrus</i> Mojave fish-hook cactus (Cactaceae)/stem succulent perennial/ Apr.-July	--	S3.2	4.2 Wide ranging, but infrequent. From near Victorville, north through the w Mojave and Great Basin deserts of CA, to w NV, INY, KRN, SBD, NV.	MDSr, JTWld, GBScr, PjWld	2000-7610 ft (600-2320 m) Well-drained soils, rocky gravelly mesas, slopes, and outcrops, occasionally on flats below.
<i>Selaginella leucobryoides</i> Mojave spike-moss (Selaginellaceae) herbaceous perennial/ June	--	S3.2	4.3 Panamint and Providence mts., Kingston Range; INY, SBD and Spring Mts., NV, AZ.	MDSr, GBScr, PjWld, LCFr	2000-10,350 ft (600-3150 m) Carbonate rock crevices and in shade among boulders.

¹ 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.

- NDDB (California Natural Diversity Data Base, a section within CDFG) Heritage size 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 ineradicable 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/stands, 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, ChScr = chenopod scrub, DeDns = desert dunes, GBSer = Great Basin scrub, JTWld = Joshua tree woodland; LcFrs = lower montane coniferous forest, MDSer = Mojave Desert scrub (of which MCBS = Mojave creosote bush scrub, wash scrub = Mojave wash scrub, MMWS = Mojave mixed woody scrub, and DCS = desert calcicolous scrub are elements); MedSw = meadows and seeps; MshSw = marshes and swamps; PJWld = piñon-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.

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 (*Psoralea arborescens* var. *minutifolia*), 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 plurisetata*), 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, preceding 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 ¹	Common Name	Project Location ²								Habit ³
		Lower Borrow Pit	Lower Realign- ment	Upper Realign- ment	North Rim Switch -backs	Road Rebuild in Riparian	Rock Removal for Realignment	Upper Borrow Pit		
GYMNOSPERMS (CONIFERS)										
EPHEDRACEAE										
<i>Ephedra nevadensis</i>	Nevada ephedra		X		X					S
DICOT ANGIOSPERMS (FLOWERING PLANTS)										
AMARANTHACEAE										
AMARANTH FAMILY										
<i>Amaranthus</i> sp.	pigweed, amaranth						RS			a
<i>Tidestromia oblongifolia</i>	honeysweet	X								p
APIACEAE										
<i>Berula erecta</i>	cutleaf water-parsnip						RS			p
ASTERACEAE										
SUNFLOWER FAMILY										
<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>	Inyo 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 actoni</i>	Acton encelia	X	X	X	X				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 = 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 Species ¹	Common Name	Project Location ²							Habit ³
		Lower Borrow Pit	Lower Realign- ment	Upper Realign- ment	North Rim Switch -backs	Road Rebuild in Riparian	Rock Removal for Realignment	Upper Borrow Pit	
<i>Gutierrezia microcephala</i>	sticky snakeweed				x	mds	x		s
<i>Perityle emoryi</i>	Emory rock daisy						x		a
<i>Peucephyllum schottii</i>	pigny-cedar				x				s
<i>Pleurocoronis pluriseta</i>	arrow-leaf				x	mds			s
<i>Prenanthes exigua</i>	annual lygodesmia								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	BORAGE FAMILY								
<i>Amsinckia tessellata</i>	devil's lettuce		x					x	a
<i>Cryptantha</i> sp.	forget-me-not, cryptantha		x					x	a
BRASSICACEAE	MUSTARD FAMILY								
<i>Lepidium fremontii</i>	desert alyssum			x					ss
<i>Rorippa nasturtium-aquaticum</i>	water cress						rs		p
CACTACEAE	CACTUS FAMILY								
<i>Echinocactus polycephalus</i> var. <i>polycephalus</i>	clustered barrel cactus		x		x				s
<i>Echinocereus engelmannii</i>	hedgehog cactus		x		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				s
CHENOPODIACEAE	GOOSEFOOT FAMILY							x	
<i>Atriplex confertifolia</i>	shadscale			x					s
<i>Atriplex hymenelytra</i>	desert holly			x					s
<i>Atriplex polycarpa</i>	allscale			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 Species ¹	Common Name	Project Location ²							Habit ³
		Lower Borrow Pit	Lower Realign- ment	Upper Realign- ment	North Rim Switch -backs	Road Rebuild in Riparian	Rock Removal for Realignment	Upper Borrow Pit	
<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								t
<i>Psoralemmus arborescens</i> var. <i>minutifolius</i>	Mojave indigo bush	x				IS			s
LAMIACEAE	MINT FAMILY								
<i>Salazaria mexicana</i>	bladder-sage				x			x	s
<i>Salvia columbariae</i>	chia							x	a
LOASACEAE	LOASA FAMILY								
<i>Eucnide urens</i>	rock nettle		x				mds		p
LYTHRACEAE	LOOSESTRIFE FAMILY								
<i>Lythrum californicum</i>	California loosestrife						IS		p
MALVACEAE	MALLOW FAMILY								
<i>Sphaeralcea ambigua</i>	apricot mallow						mds		p
NYCTAGINACEAE	FOUR O'CLOCK FAMILY								
<i>Amblocaulis 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				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 Species ¹	Common Name	Project Location ²							Habit ³
		Lower Borrow Pit	Lower Realign- ment	Upper Realign- ment	North Rim Switch -backs	Road Rebuild in Riparian	Rock Removal for Realignment	Upper Borrow Pit	
<i>Chorizanthe rigida</i>	rigid spineflower	x	x						a
<i>Eriogonum deflexum</i>	flat-topped buckwheat				x			x	a
<i>Eriogonum inflatum</i> var. <i>inflatum</i>	desert trumpet	x	x	x	x			x	p
<i>Eriogonum rixfordii</i>	Rixford's buckwheat	x							a
<i>Eriogonum</i> sp. 1	wild buckwheat		x		x				a
<i>Eriogonum</i> sp. 2	wild buckwheat		x						a
<i>Eriogonum trichopes</i>	little desert trumpet	x	x		x				a
RANUNCULACEAE	BUTTERCUP FAMILY								
<i>Clematis ligusticifolia</i>	virgin's bower					rs			wv
RUBIACEAE	MADDER FAMILY								
<i>Galium</i> sp.	bedstraw						x		p
RUTACEAE	RUE FAMILY								
<i>Thamnosma montana</i>	turpentine-broom							x	s
SALICACEAE	WILLOW FAMILY								
<i>Salix exigua</i>	narrowleaf willow					rs		x	s
<i>Salix laevigata</i>	red willow					rs			t
SOLANACEAE	NIGHTSHADE FAMILY								
<i>Datura wrightii</i>	Jimson weed							x	p
<i>Lycium andersonii</i>	Anderson box-thorn			x				x	s
<i>Solanum</i> sp.	nightshade								ss
VITACEAE	GRAPE FAMILY								
<i>Vitis girdiana</i>	desert wild grape					rs			wv
ZYGOPHYLLACEAE	CALTROP FAMILY								
<i>Larrea tridentata</i>	creosote bush	x	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 Species ¹	Common Name	Project Location ²							Habit ³
		Lower Borrow Pit	Lower Realign- ment	Upper Realign- ment	North Rim Switch -backs	Road Rebuild in Riparian	Rock Removal for Realignment	Upper Borrow Pit	
CYPERACEAE	SEDGE FAMILY								
<i>Eleocharis</i> sp.	spikerush					IS			P
JUNCACEAE	RUSH FAMILY								
<i>Juncus xiphioides</i>	iris-leaved rush					IS			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			X	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					IS			P
<i>Poa</i> sp.	bluegrass					IS			P
* <i>Polyogon monspeliensis</i>	annual beard grass					IS			P
* <i>Schismus</i> sp.	Mediterranean grass					IS			a
TYPHACEAE	CATTAIL FAMILY								
<i>Typha</i> sp.	cattail								P

Exhibit 2

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APPENDIX E

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* (Determined by the Lead Agency)	\$	_____
Total Estimated Cost of Reclamation	\$	<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) ⁽¹⁾	Total (\$/hr)
D8 ⁽²⁾	8	\$36.51	\$15.82	\$52.33	\$4.00	\$1.57	\$5.63	\$63.53
325C Excavator ⁽²⁾	11	\$37.76	\$15.82	\$53.58	\$4.10	\$1.61	\$5.76	\$65.05
Drill Rig (Heavy Duty) ⁽²⁾	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 ⁽¹⁾	Hourly Rate ⁽²⁾	Fuel/Lube/Wear ⁽³⁾	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

Job Condition Correction Factors - Bulldozers	
OPERATOR	
Average	0.75
MATERIAL ⁽¹⁾	
Loose stockpile	1.2
Normal	1
Hard to cut; frozen — with tilt cylinder	0.8
Hard to drift; "dead" (dry, non- cohesive material) or very sticky material	0.8
Rock, ripped or blasted	0.6
SLOT DOZING OR SIDE BY SIDE DOZING	1.2
VISIBILITY	
Good conditions	1
JOB EFFICIENCY	
50 min/hr	0.83
Source: Caterpillar Performance Handbook Edition 35	

Excavators

Track Excavator Specifications	
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
Total Cycle Time	0.25
Job Efficiency	0.83
Operator Efficiency	0.75
Corrected Productivity (LCY/hr)	299 cy
Exploration Road Cycle Time ⁽¹⁾ (min)	0.40
Exploration Road Corr Prod (LCY/hr)	187 cy

1. Exploration bucket time assumes feathering and smoothing.

Exhibit 2

Track Excavator w/Hammer Specifications	
Description	325C
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

Wheel Loader Specifications	
Description	928G
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

Drill Hole Plugging Productivity		
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)		
4-inch	240 ft/hr	
6-inch	240 ft/hr	
8-inch	200 ft/hr	
12-inch	150 ft/hr	
18-inch	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
Total			\$3,588.64		\$4,739.03	\$250.00	\$8,577.67

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
Total			\$1430.60		\$1642.47		\$3073.07

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 ground¹. 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

¹ 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:

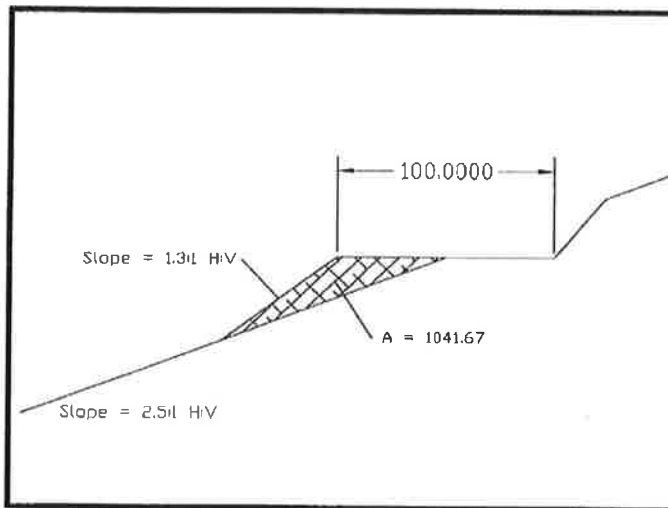
Task	Hours	Labor rate (Hourly)	Total Labor (\$)	Equipment Rate (Hourly)	Total Equipment (\$)	Total for Task (\$)
Backfill Portal Entrances	6	\$63.53	\$381.18	\$77.96	\$467.76	\$848.94

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 = $1042 \text{ feet} \times 150^2 \text{ feet} / 27 \text{ cu.ft./cy} = 5,788 \text{ cy per pad.}$

² 150 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 acre³.

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
Totals			\$9,779.32		\$11,927.88	\$900.00	\$22,607.20

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.

³ 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
Totals			\$154.93		\$155.92	\$240.00	\$550.85

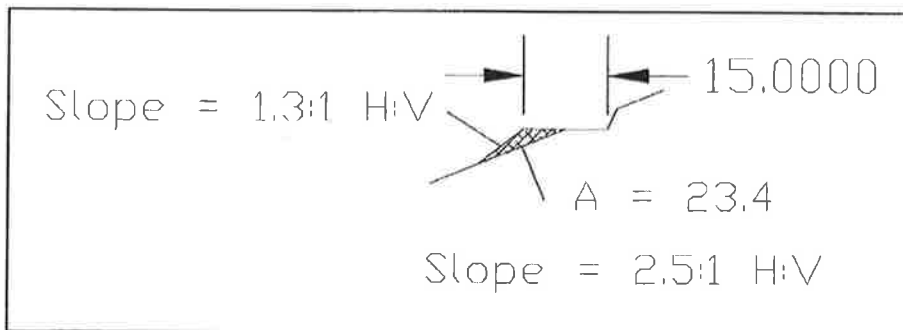
Roads

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 ⁴	\$34.84	\$418.08			\$3,600	\$4,018.08
Totals			\$6,942.91		\$6,225.28	\$3,600	\$16,768.19

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.

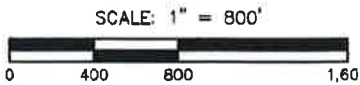
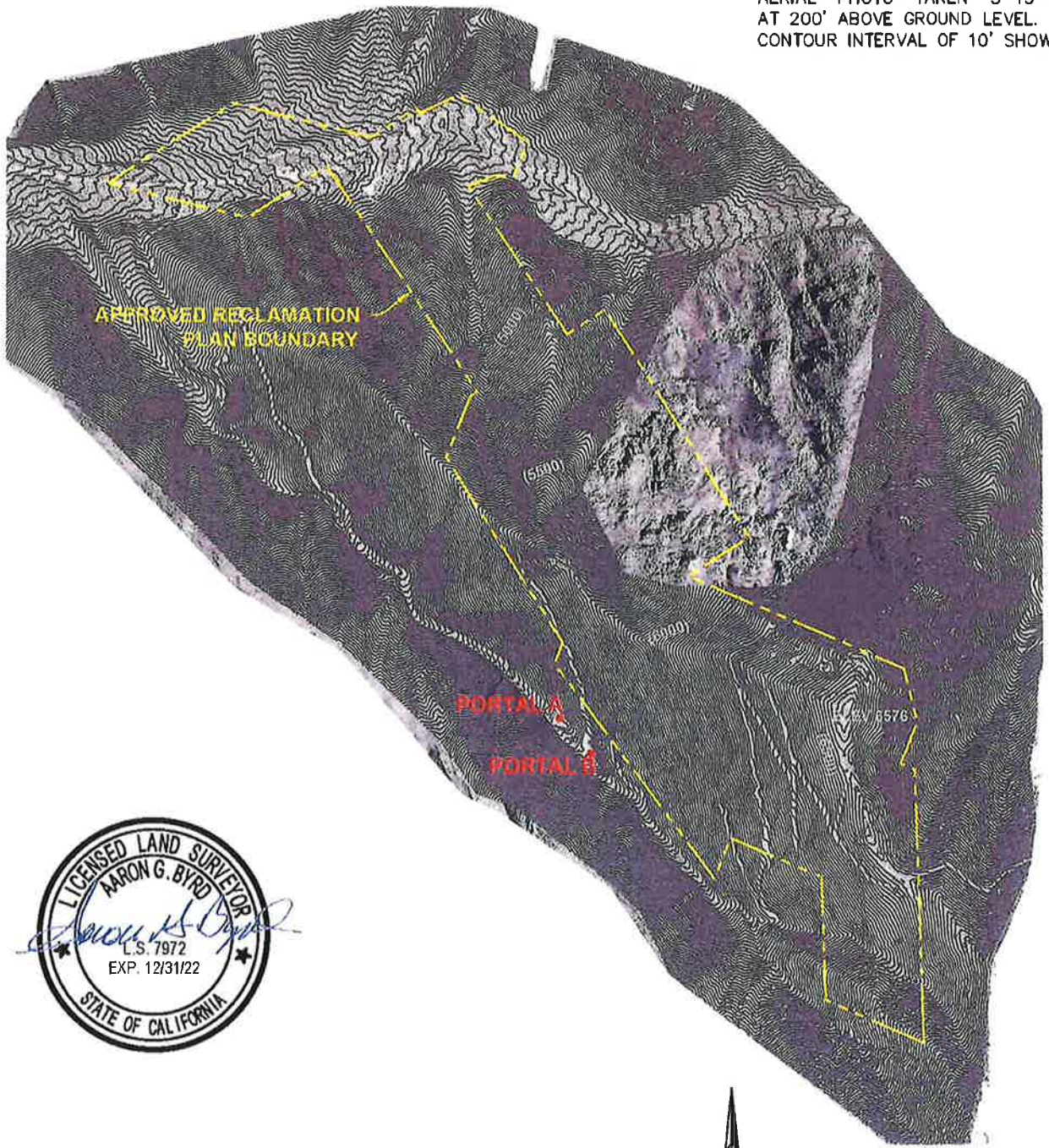
Mobilization/Demobilization of Equipment

Equipment will be mobilized from Ridgecrest, California.

⁴ 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.



 **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.

Sincerely,
**CARL
SYMONS**
Carl B. Symons
Field Manager

Digitally signed by CARL
SYMONS
Date: 2020.08.19 11:33:11
-0700'

cc:

(1) Ryan Smith-Standridge, Inyo County SMARA Coordinator

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>
Sent: Monday, August 23, 2021 3:23 PM
To: Blair Will <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>
Sent: Friday, April 23, 2021 11:31 AM
To: Porter, Randall K <rporter@blm.gov>
Cc: Bickauskas, Thomas V <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 Pruett 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 | www.pioneerlawgroup.net

From: Porter, Randall K <rporter@blm.gov>
Sent: Wednesday, April 14, 2021 6:45 PM
To: Blair Will <blair@pioneerlawgroup.net>
Cc: Bickauskas, Thomas V <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:

Exceptions		
1. Have significant impacts on public health or safety.		
Yes	No X	<p>Rationale: <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.		
Yes	No X	<p>Rationale: <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 X	Rationale: <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> <i>The effects of mine closures are well known and not controversial.</i>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		
Yes	No X	Rationale: <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>
5. Establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects.		
Yes	No X	Rationale: <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>
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		
Yes	No X	Rationale: <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>
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.		

Exhibit 6

Yes	No X	Rationale: <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 X	Rationale: <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 X	Rationale: <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 X	Rationale: <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 X	Rationale: <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>		
Yes	No	<p>Rationale: <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>
	X	

Land Use Plan Conformance and Categorical Exclusion Review Record

Resource	Assigned Specialist Signature	Date
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' 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.

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 LIST¹

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
Total: 9.5 Pounds PLS per Acre	

Notes: PLS= Pure Live Seed.

¹ 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"

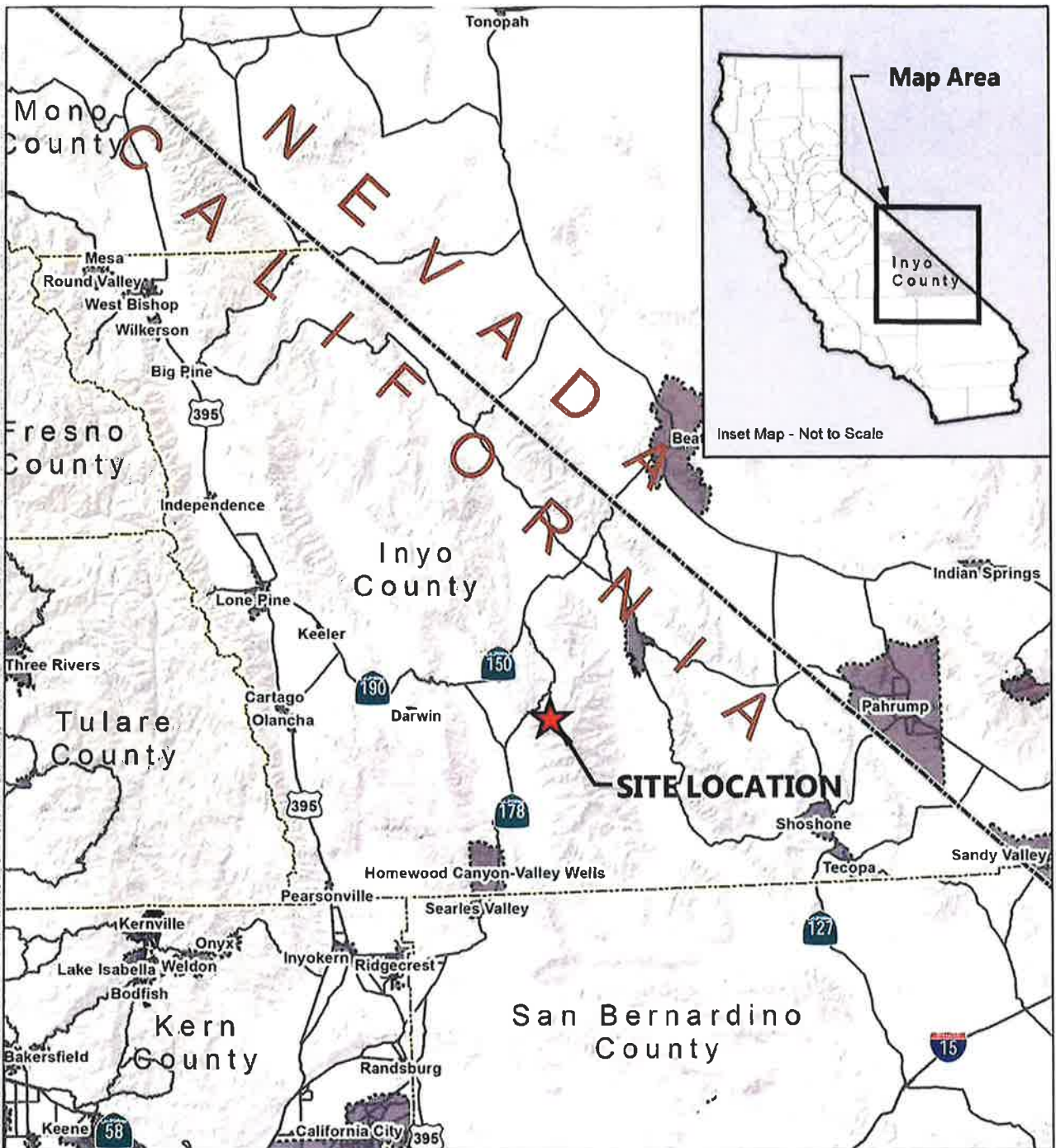
Attachment A "Site Survey"

Attachment B, "Wildlife Exclusion Report"

Exhibit 6

FIGURES

Exhibit 6



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







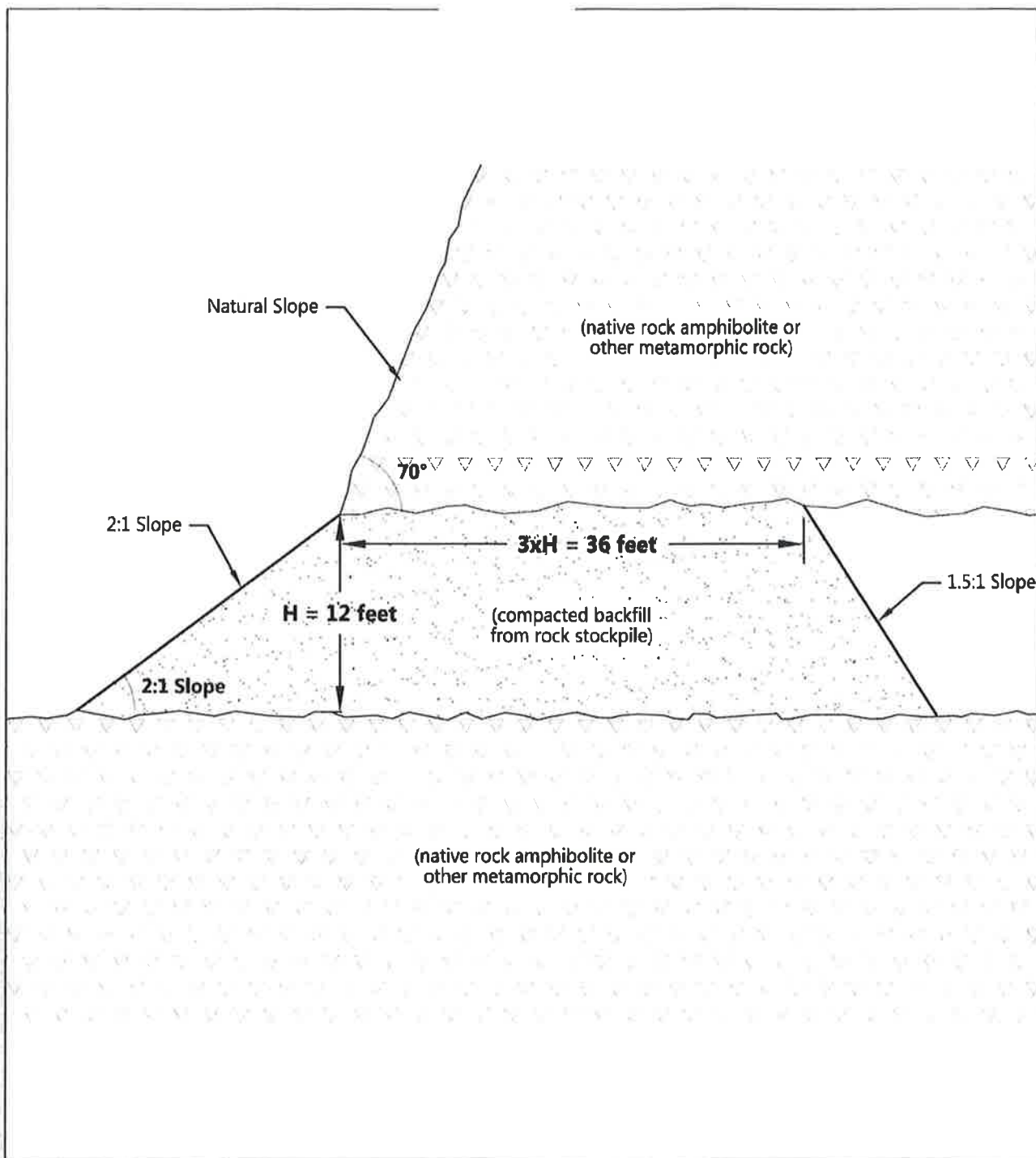
-  Site Location
-  California State Boundary
-  County Boundary
-  Highway
-  City
-  Water Body

Exhibit 6



SOURCE: compiled by Benchmark Resources in 2021.

NOTES:

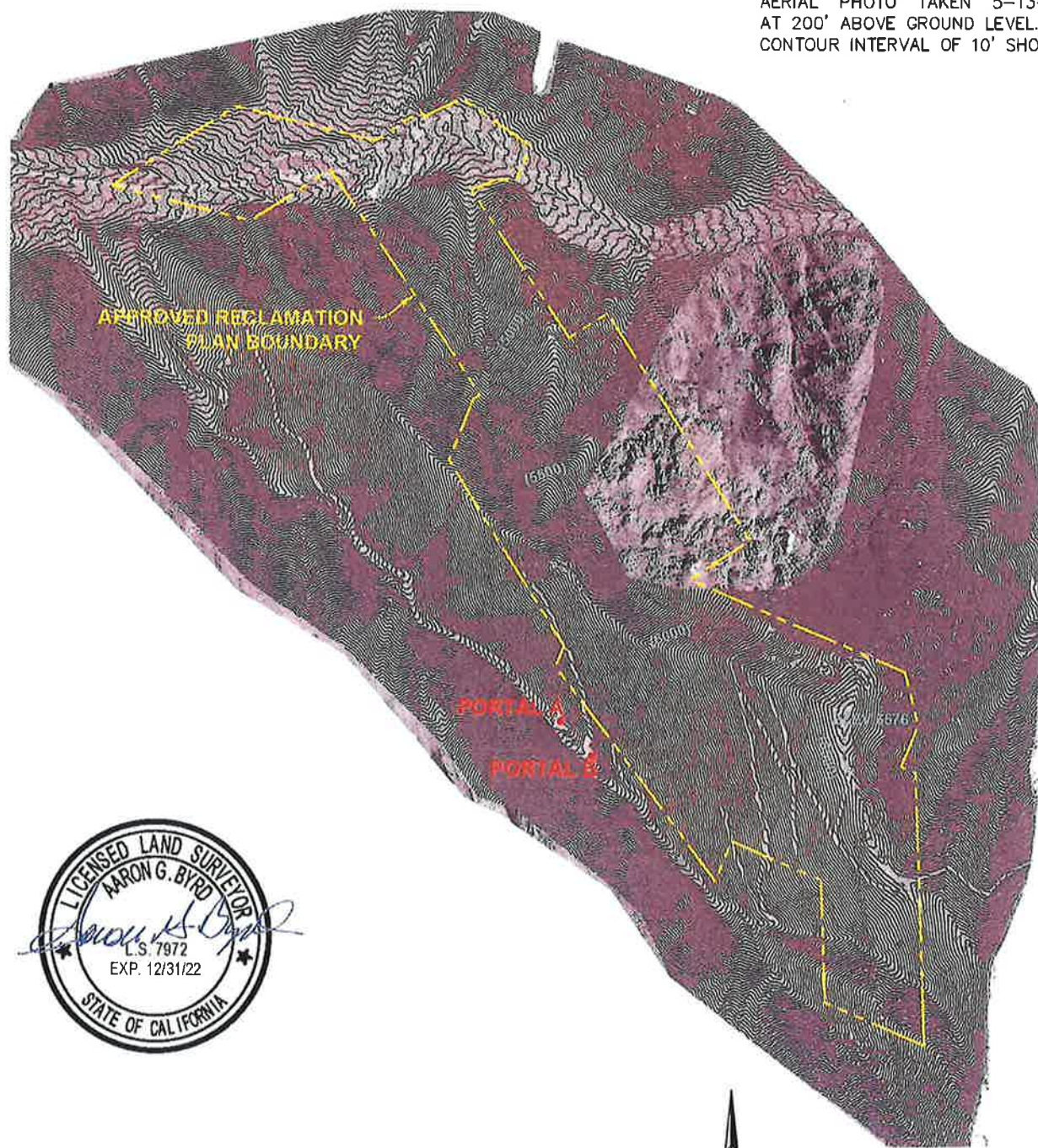
- 1. Figure not to scale.

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

Exhibit 6

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

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

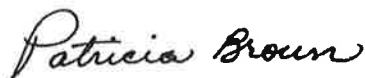
Exhibit 6

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



28

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: **04 - 05839**

2. Operating Company Name: PRUETT BALLARAT INC

3. Mine or Mill Name: RADCLIFF MINE

3a. Mine Emergency Phone No.	4. Type of Operation COAL <input type="checkbox"/> Metal / Non-Metal <input type="checkbox"/>	5. Portable Operation <input type="checkbox"/>	6. Primary Mine Type Underground <input type="checkbox"/> Surface <input type="checkbox"/> Facility <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 Culf 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: Electroplating 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 Materials (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 Abbreviation _____

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

0.9

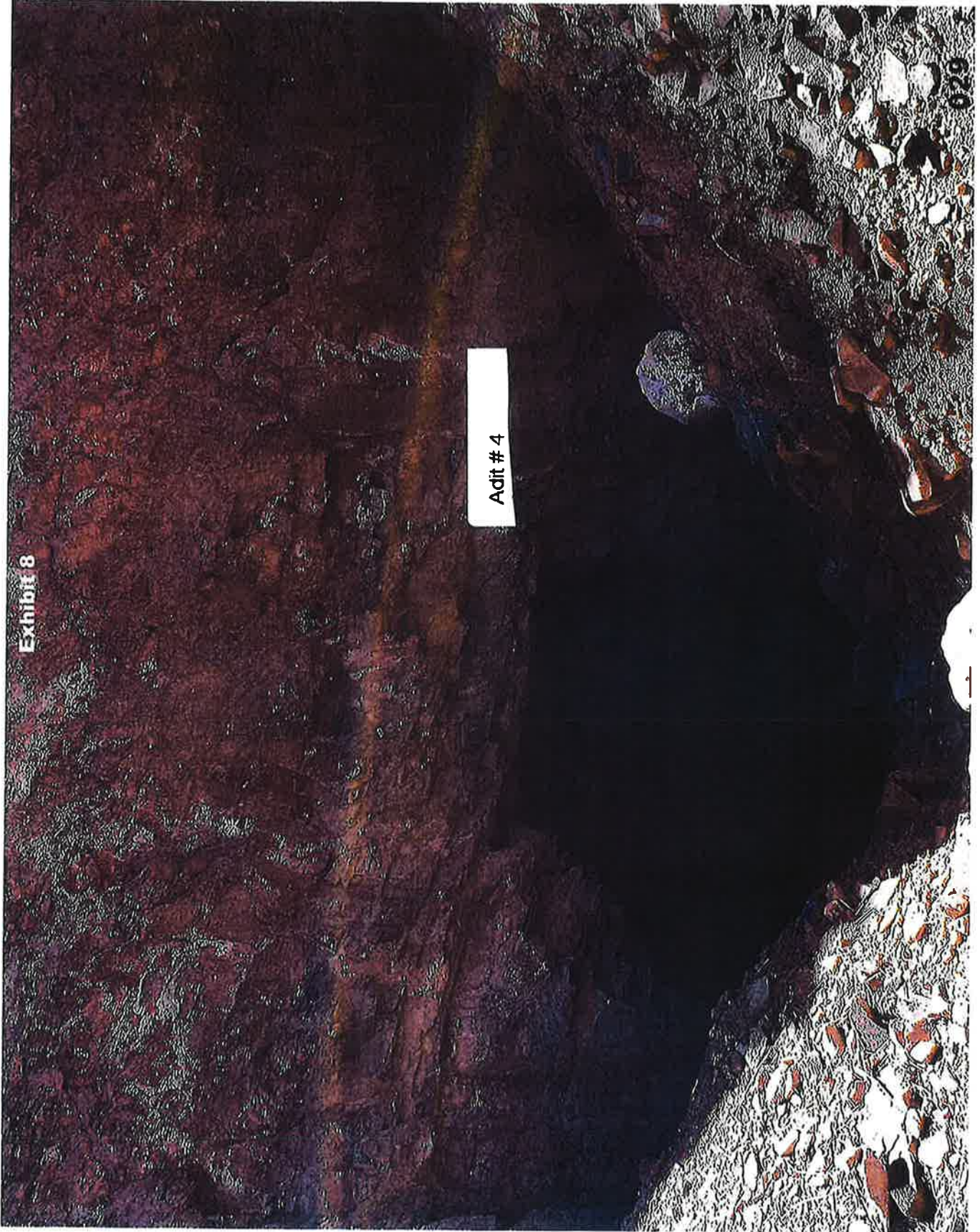
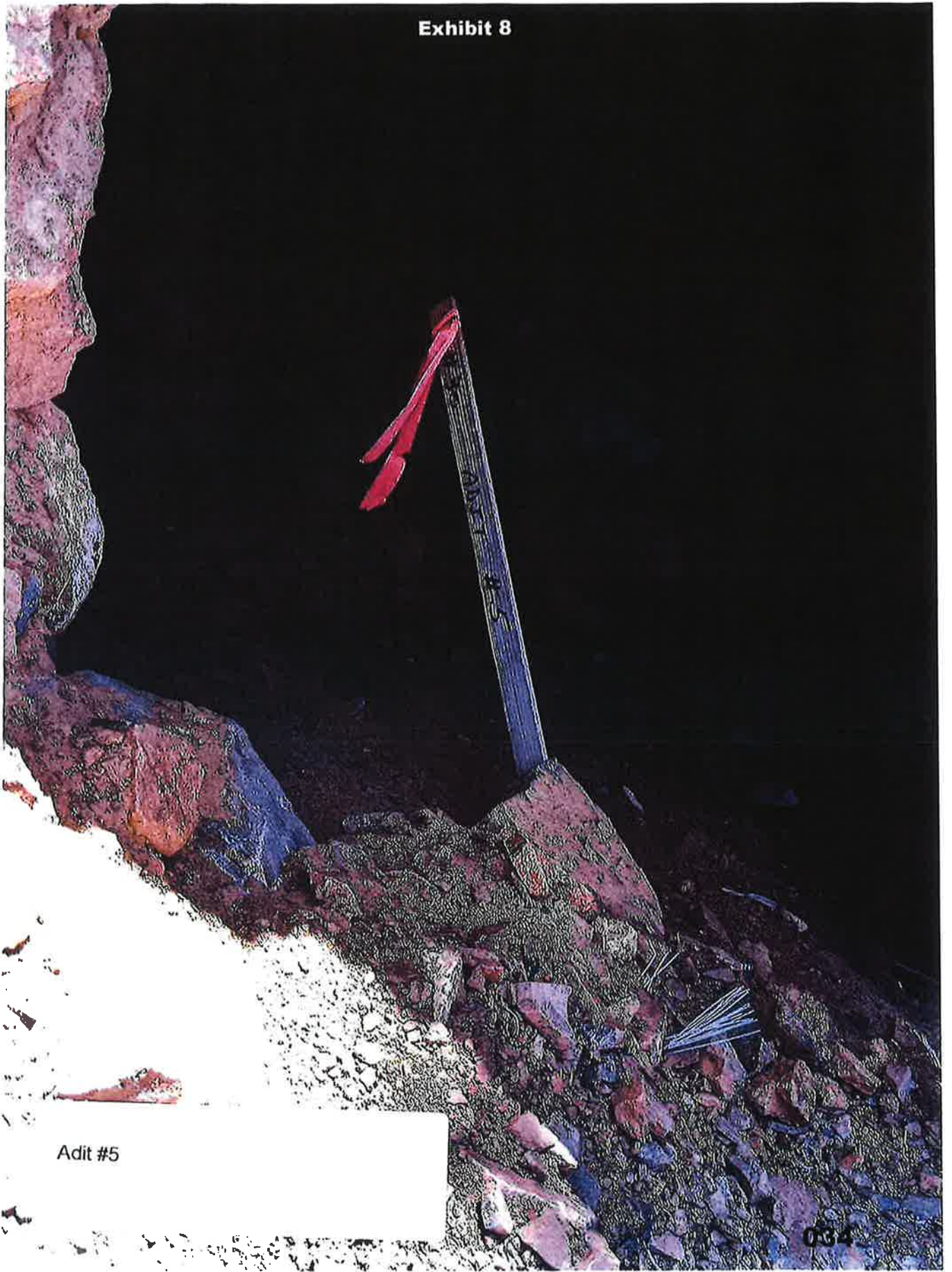




Exhibit 8

Adit #5

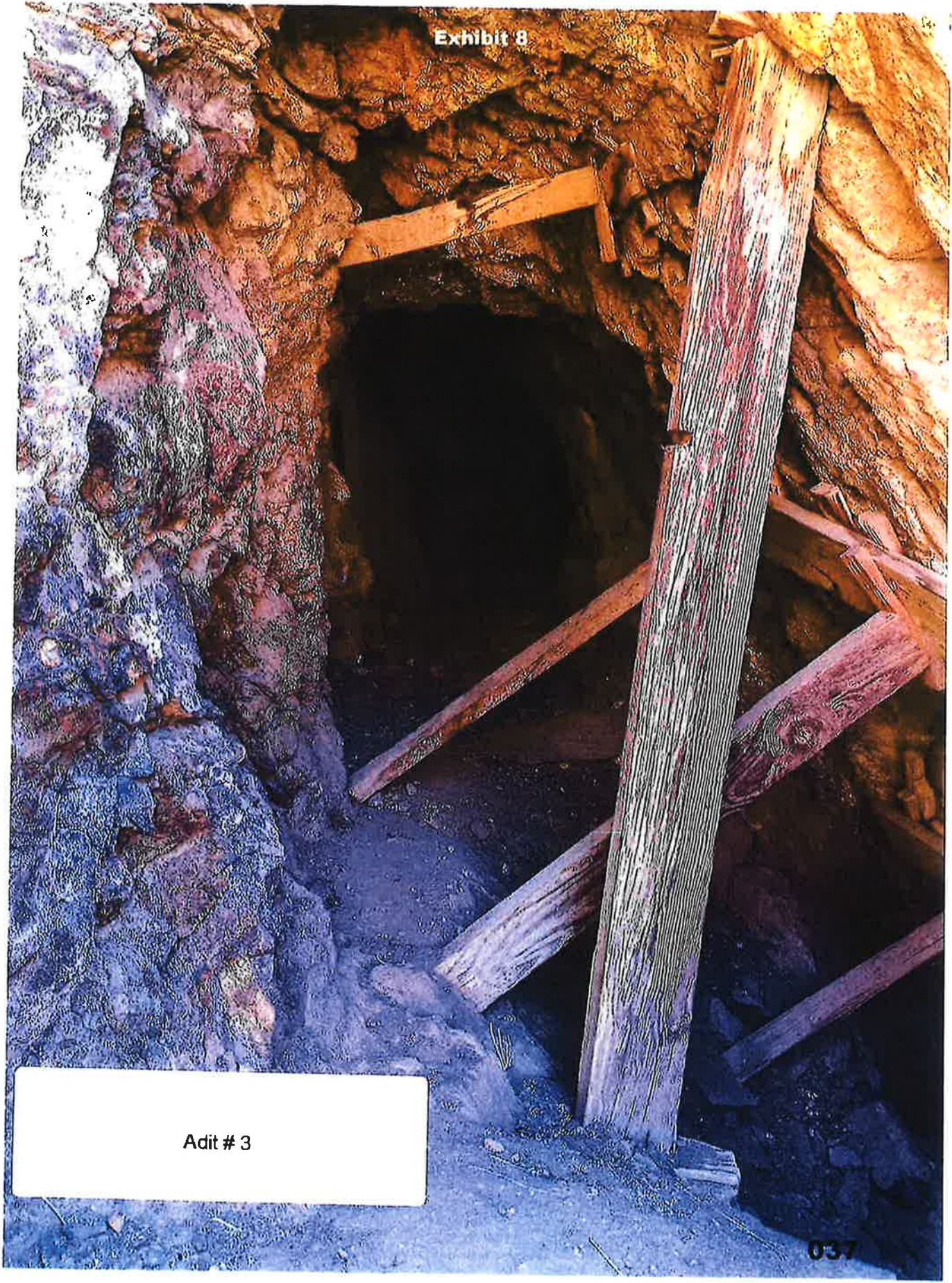
Exhibit 8



Adit #5

034

Exhibit 8



Adit # 3

037

Exhibit 8

Adit # 3

038

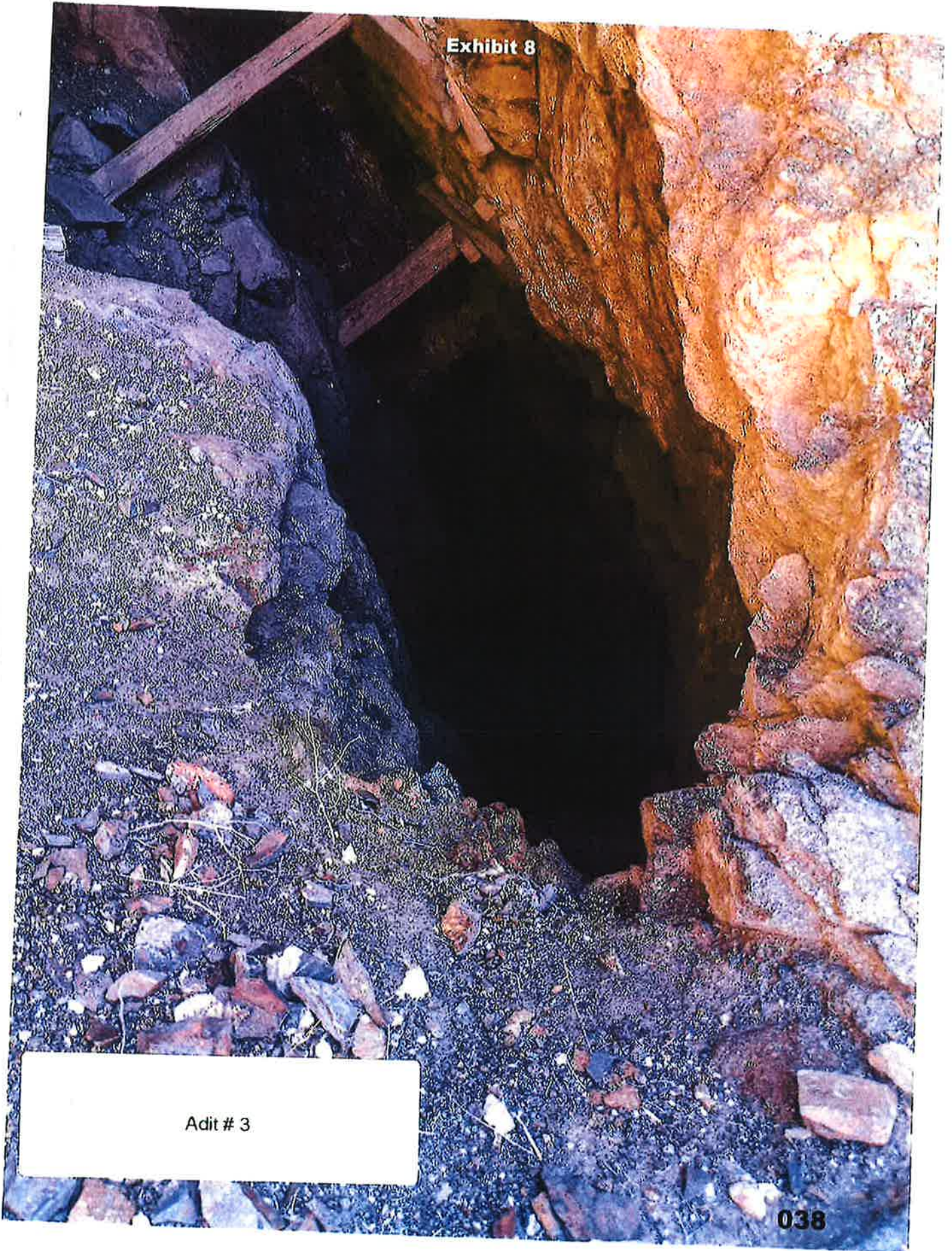


Exhibit 9

Grace Chuchla

From: Will, Blair <bwill@kmtg.com>
Sent: Wednesday, September 22, 2021 1:43 PM
To: Grace Chuchla
Cc: Ryan Smith-Standridge; Cathreen Richards; Porter, Randall K
Subject: RE: Radcliff Mine - Planning Commission Hearing

Hello Grace, Ryan and Cathreen,

It was nice to speak with you today as well. BMC agrees to the closure of Portals 1 and 6 in conformance with the plan approved by BLM. Doug Clair is teed up to do it as soon as he is available, early November at the latest. If you know some recommended excavators who might be available sooner, please forward contact information.

I just got off the phone with John and Andrew. BMC agrees to close or fence the historical portals. Closing Portal 3, the one closest to Clair Camp, should be the easiest, and it will most likely be done with an excavator. Machine access to some of the other portals may be more challenging. It is possible that fencing material may have to be hand-carried to those locations. Andrew is going to go down there and take a look to get a better understanding how to proceed.

I understand your contention regarding the old portals and the Site Plan reference, but I still have the view that those old portals, which were clearly installed prior to enactment of SMARA, do not become subject to the Reclamation Plan simply by a reference on the Site Plan. Had Dave Pruett installed modern portals at those locations (aka "there will be"), then those portals would obviously be subject to SMARA. But the old diggings, no. Those are pre-SMARA site conditions. However, let's not quibble about that, because I don't think we have to. BMC will secure the old adits from public entry and that should resolve the issue.

Best regards,
Blair



Blair W. Will | Attorney
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From: Grace Chuchla <gchuchla@inyocounty.us>
Sent: Wednesday, September 22, 2021 10:06 AM
To: Will, Blair <bwill@kmtg.com>
Cc: Ryan Smith-Standridge <rstandridge@inyocounty.us>; Cathreen Richards <crichards@inyocounty.us>; Porter, Randall K <rporter@blm.gov>
Subject: Radcliff Mine - Planning Commission Hearing

Hi Blair:

Good to talk to you today. As we discussed, we'll agree to continue the CUP revocation hearing to the December 8, 2021 Planning Commission meeting. By that date, Radcliff will have portals 1 and 6 fully closed and reclaimed. By that date, Radcliff will also have portals 2, 3, 4, and 5 either 1) closed and fully reclaimed or 2) locked and fenced in a manner that prevents public access to the portals. If both of those things have occurred by December 8, we can take the hearing off calendar. If they haven't both occurred, the Planning Department will pursue revocation of the CUP on December 8.

Exhibit 9

While we didn't discuss this on the call, I wanted to provide you with some additional information about portals 2, 3, 4, and 5 and the county's basis for believing that those portals fall within BMC's reclamation responsibilities. In the 2007 reclamation plan (attached), section 9.5 calls out the areas not subject to reclamation. That section explains that the historic World Beater mine is not within your reclamation responsibilities and further refers you to Figure 3 (p. 12 of the PDF), which is a map showing areas that do and do not need to be reclaimed. Figure 3 shows that portals 2, 3, 4, and 5 are not within the historic World Beater Mine area, but rather are within the patented land for the Radcliff Mine. Furthermore, the 2007 reclamation plan includes a FACE that was prepared and submitted on February 15, 2008. Under the "Portal Sites" section of that FACE (p. 70 of the PDF), the document state "There *will be* up to five portal sites. The locations are shown on Figure 3." The use of the future tense suggests that, as of the preparation of that FACE, the portals shown on Figure 3 did not exist. Therefore, those portals cannot be pre-SMARA.

Best,
Grace

Grace Chuchla
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Independence, CA 93526
gchuchla@inyocounty.us
760-872-0933 (Direct)
760-878-0229 (Main)

Exhibit 10

Grace Chuchla

From: Will, Blair <bwill@kmtg.com>
Sent: Thursday, November 4, 2021 11:23 AM
To: Ryan Smith-Standridge; jhagestad@sares-regis.com
Cc: Grace Chuchla
Subject: RE: radcliff closure

Hello Ryan,

I have spoken with Kyle about this several times and it was my understanding that he was aware we are moving forward with his proposal. I was also under the impression that he knows time is of the essence. I am trying to track him down today to confirm, and find out when he can get out there and do the work. Did you have a chance to tag the debris that you want removed from the site? Thanks.

Regards,
Blair

From: Ryan Smith-Standridge <rstandridge@inyocounty.us>
Sent: Wednesday, November 3, 2021 3:46 PM
To: Will, Blair <bwill@kmtg.com>; jhagestad@sares-regis.com
Cc: Grace Chuchla <gchuchla@inyocounty.us>
Subject: RE: radcliff closure

Blair,

I have talked with Shawn Barker, Kyle's Business partner, since I could not get through to Kyle, and they have not spoken with you. You will need to coordinate with Valley Wide; they were unaware you had chosen to move forward. I wanted to send you a copy of the Public Notice published for the Public hearing. The Planning Department could pull the item depending on if you meet the closure requirement. You are running out of time, and I wanted to keep you moving in the right direction.

From: Ryan Smith-Standridge
Sent: Tuesday, October 26, 2021 5:01 PM
To: 'Will, Blair'
Subject: RE: radcliff closure

Blair,

Yes, please have the check made out to Inyo County Planning. Also, since John has decided to do a surety bond, I have attached the State's newest forms to process the bonds. You will need to submit a rough Draft to DMR-Submittals@conservation.ca.gov while you submit it to Inyo County for approval before the Bonding Company can complete the actual bond. I will include you in the email to DMR when the FACE is approved.

From: Will, Blair [<mailto:bwill@kmtg.com>]
Sent: Tuesday, October 26, 2021 3:57 PM
To: Ryan Smith-Standridge
Cc: Grace Chuchla
Subject: RE: radcliff closure

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Exhibit 10

Hello Ryan and Grace,

Kyle Mohr, info below. I have made him aware that BMC is under deadline on this and I am trying to get him to commit to a date certain to go to the site, ASAP.

I will speak to John about the inspection fee. Is a check made out to the County ok?

Please let me know if/when you approve the revised FACE. BMC plans to use a surety bond for the new amount, rather than a CD, because (as you may recall) Union Bank is such a pain to deal with.

Best,
BW

Kyle Mohr

Valley Wide Engineering & Construction, Inc.

82740 Trona Rd, Trona, CA 93562

PO Box 907, Trona, CA 93592

P: 970-646-1935

E: kmohr@vwconstructionservices.com

From: Ryan Smith-Standridge <rstandridge@inyocounty.us>

Sent: Tuesday, October 26, 2021 11:41 AM

To: Will, Blair <bwill@kmtg.com>

Cc: Grace Chuchla <gchuchla@inyocounty.us>

Subject: RE: radcliff closure

Blair,

I am sorry for the delayed response. I have been out in the field. I have gone up and inspected with the Deputy Director of Public works. The 2021 Inspection fee of \$450 is due; please submit payment. Would you please provide a contact name and number? I will start marking items the first day Valley Wide plans to arrive at the site.

Also, I wanted to acknowledge that I have received the FACE. Thank you

From: Will, Blair [<mailto:bwill@kmtg.com>]

Sent: Thursday, October 21, 2021 11:29 AM

To: Ryan Smith-Standridge

Cc: Grace Chuchla

Subject: RE: radcliff closure

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Hello Ryan,

BMC is using Valley Wide Engineering and Construction to close the portals at Radcliff and do the general clean up. Valley Wide plans to get this work completed within the next approximately four weeks. However, I was unfortunately unable to organize a representative from Valley Wide to attend today's site visit. I appreciate your effort

Exhibit 10

to identify the specific debris that needs to be cleaned up. Please let me know if the site visit revealed any other items of concern that I should instruct Valley Wide to address when onsite to close the portals etc. Thanks.

Best regards,
Blair