



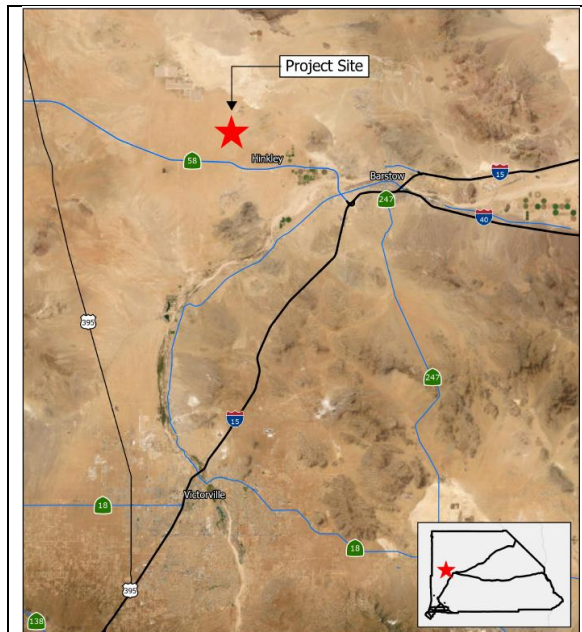
LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

HEARING DATE: November 20, 2025

AGENDA ITEM #3

PROJECT DESCRIPTION

APN: 0496-011-07
Applicant: LCM Development LLC
Community: Hinkley
Location: 3 miles west of Hinkley, CA
18800 Santa Fe Road, Hinkley,
CA 92347
Project No: PROJ-2024-00080
Staff: Derek Newland
Rep: Joe Mathewson
Proposal: Conditional Use Permit to construct and operate a transportation facility consisting of a Burlington Northern and Santa Fe (BNSF) approved rail loop and aggregate loading , on 131 acres of a 640 acre parcel.



Public Hearing Notices Sent on: November 5, 2025

Report Prepared By: Derek Newland, Contract Planner II

SITE INFORMATION

Parcel Size: Approximately 640 acres
Vegetation: Scattered natural vegetation

TABLE 1 – SITE AND SURROUNDING LAND USES AND ZONING

AREA	EXISTING LAND USE	LAND USE CATEGORY	LAND USE ZONING DISTRICT
SITE	Vacant; existing Santa Fe Road	Rural Living	Rural Living, 40-Acre Minimum
North	Vacant desert; BLM-managed public land	Resource/Land Management	Resource Conservation
South	Vacant desert; BLM-managed public land. Proposed “Y” rail connection.	Resource/Land Management	Resource Conservation
East	Vacant desert; BLM-managed public land	Resource/Land Management	Resource Conservation
West	Vacant desert	Resource/Land Management; Rural Living	RC; Rural Living – 5 acre minimum

	<u>Agency</u>	<u>Comment</u>
City Sphere of Influence:	N/A	N/A
Water Service:	Private	Water well from quarry and future onsite water well to be built
Sewer Service:	Private	Portable lavatory

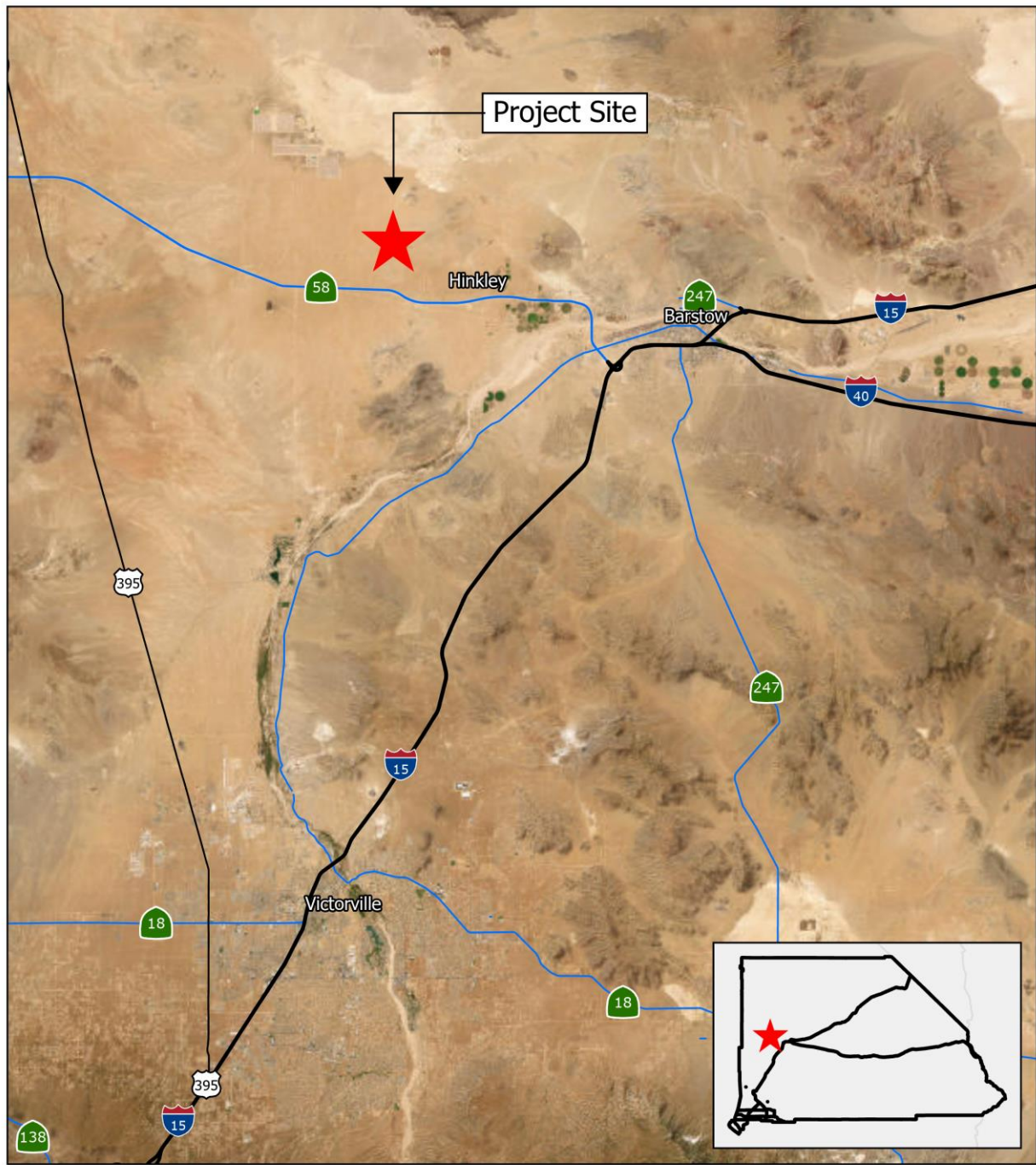
STAFF RECOMMENDATION

That the Planning Commission **ADOPT** the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; **ADOPT** the Findings for approval of the Conditional Use Permit; **APPROVE** the Conditional Use Permit, subject to the Conditions of Approval; and **DIRECT** the Land Use Services Department to file a Notice of Determination in accordance with CEQA.¹

1. In accordance with Section 86.08.010 of the Development Code, the Planning Commission's action may be appealed to the Board of Supervisors.

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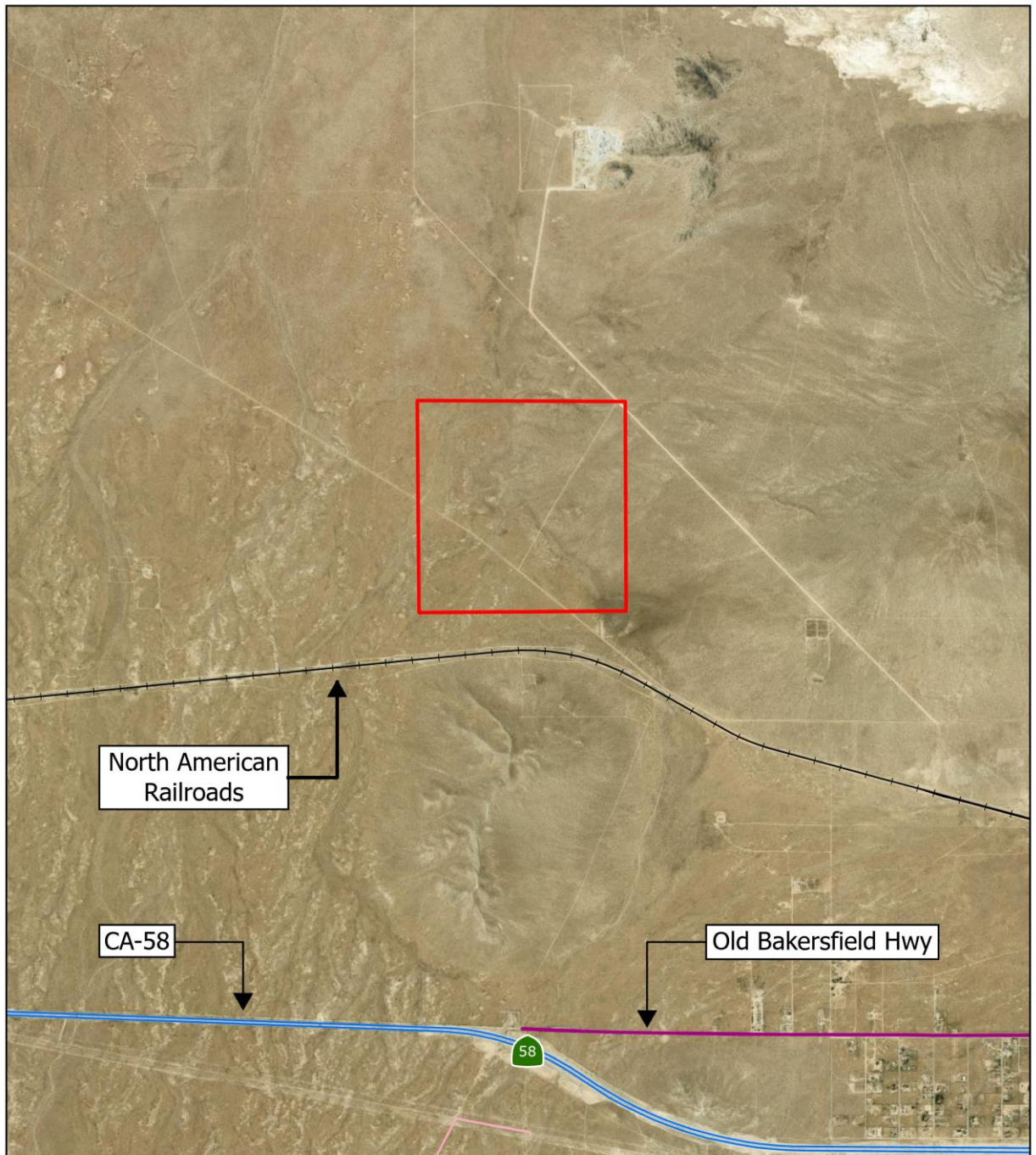
FIGURE 1 - REGIONAL LOCATION MAP



Scale: 1:450,000

- ★ PROJ-2024-00080
- Interstates
- US Highways
- CA Highways

FIGURE 2 - VICINITY MAP



Scale: 1:48,000



FIGURE 3 - LAND USE CATEGORY MAP

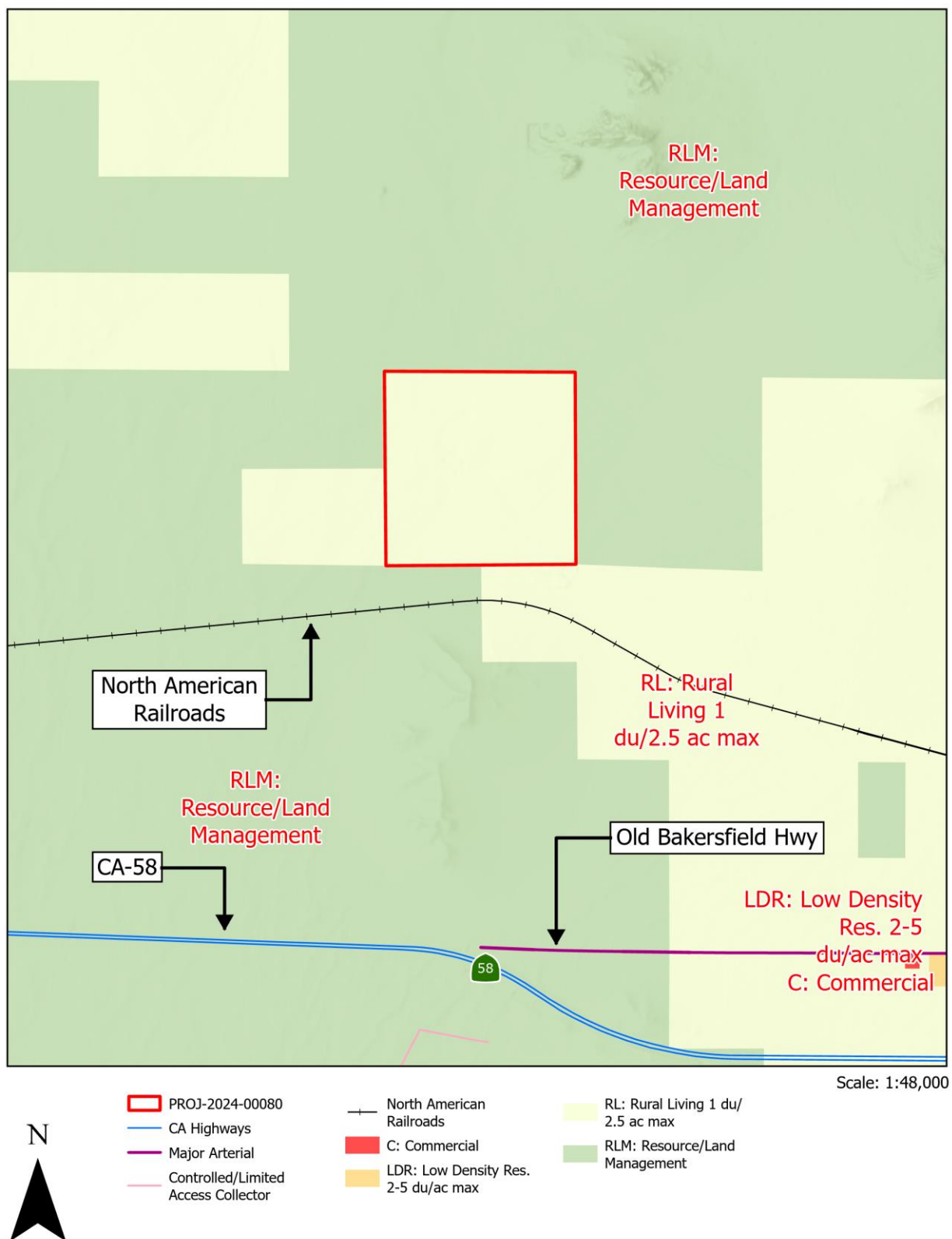
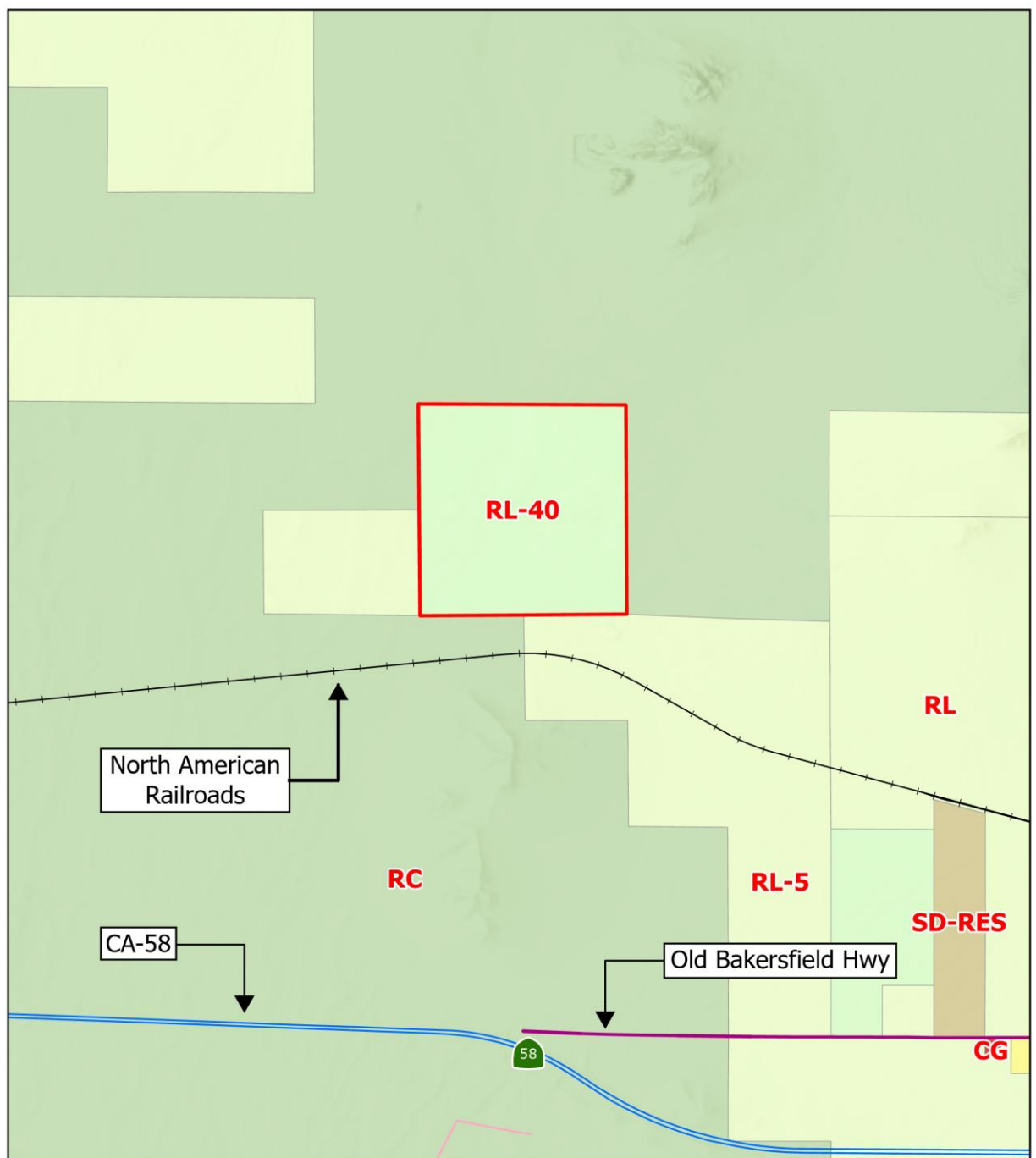


FIGURE 4 - ZONING MAP



Scale: 1:48,000

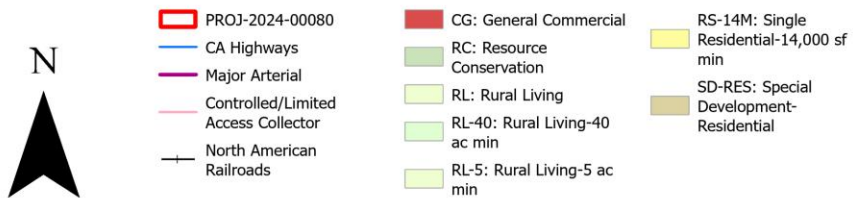


FIGURE 5 - SITE PLAN

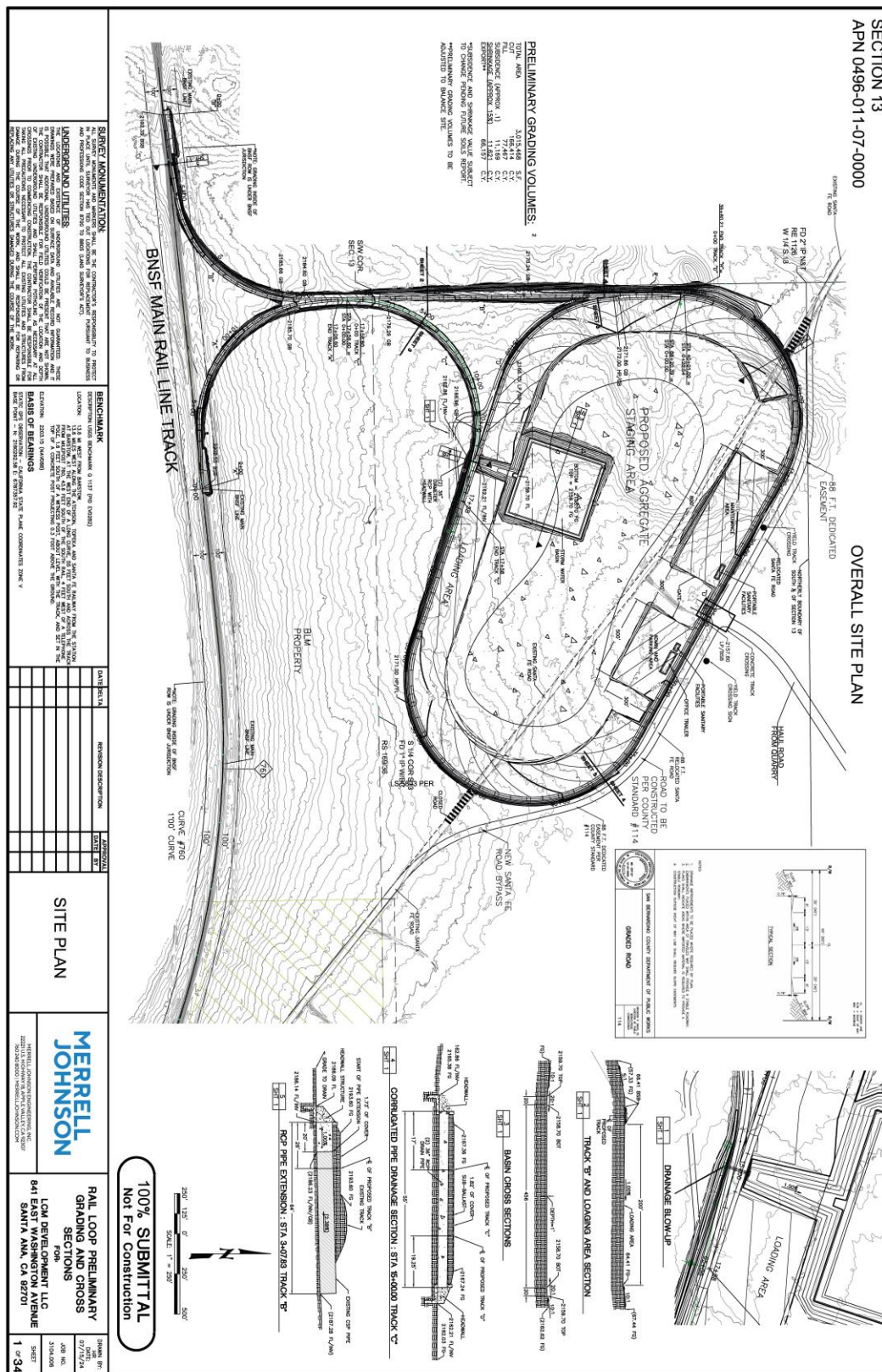
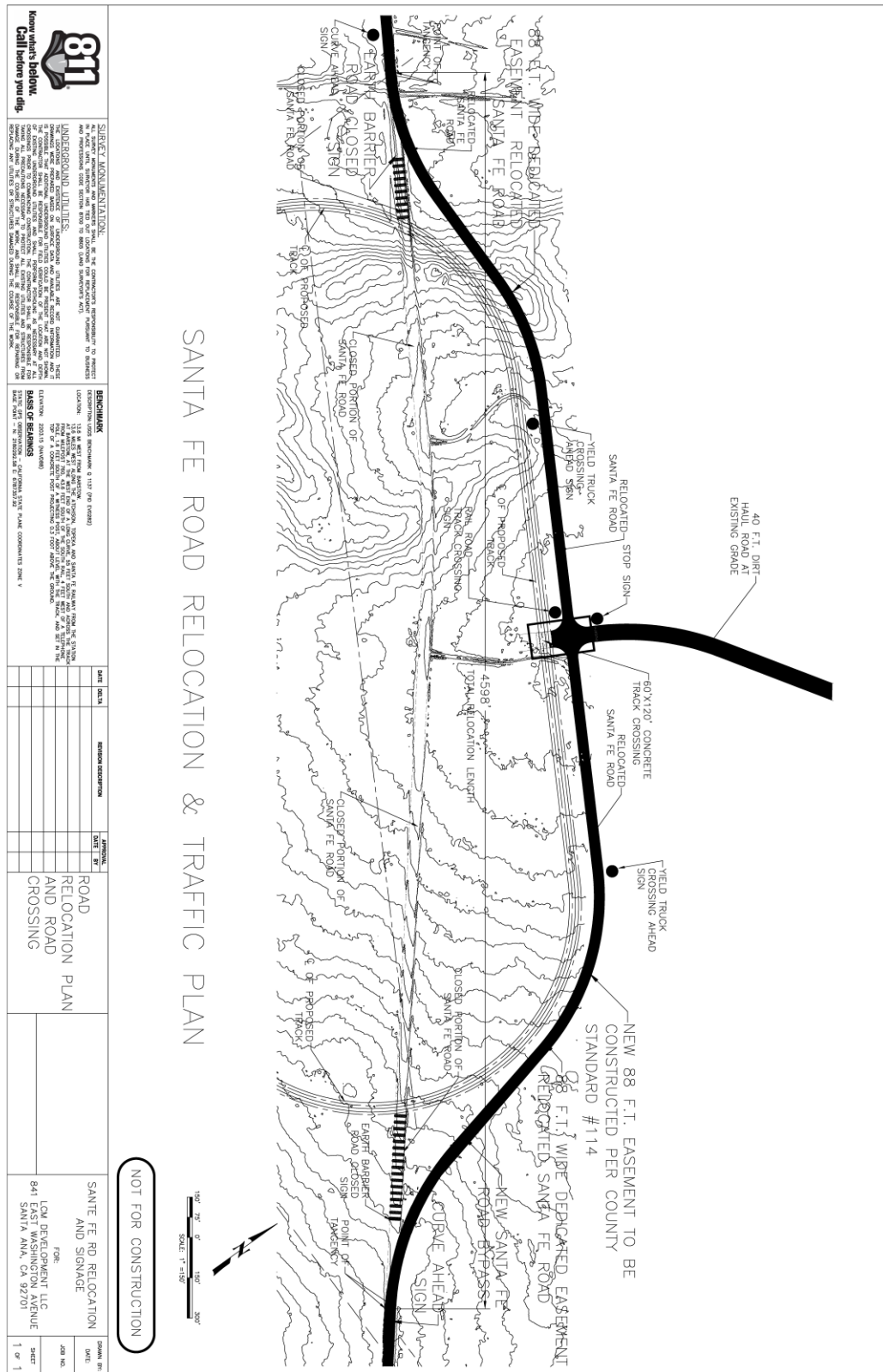


FIGURE 7 – SANTA FE ROAD RECOLOCATION SITE PLAN



PROJECT DESCRIPTION:

The proposed project site is located three (3) miles west of Hinkley located on privately owned land identified as Assessor's Parcel Number 0496-011-07, 18800 Santa Fe Ave., Hinkley, CA 92347. The property is currently vacant from development and contains unpaved Santa Fe Avenue.

The applicant, LCM Development LLC, is requesting a Conditional Use Permit for a Burlington Northern and Santa Fe (BNSF)-approved rail loop and aggregate loading transportation facility, here in after referred to transportation facility. The transportation facility supports an economically feasible and efficient supply of ballast rock, sub-ballast, and construction aggregates to the BNSF Intermodal Facility to be constructed in Lenwood, CA and the Brightline "Desert Express" Los Angeles to Las Vegas High Speed Rail projects over the next five years, as well as the shipping of product in the future (project).

The transportation facility is proposed to be located entirely on private land on 131 acres of a 640 acre parcel and will consist of an 8,660 foot single track with turnout switches and stockpiling and loading areas located within the rail loop. The connection of the transportation facility to the BNSF main rail line located south of the project will come from a proposed 1,500 foot long "Y" connection that will run through an approved Bureau of Land Management (BLM) Right of Way (ROW) located on BLM property south of the project parcel. The ROW has been obtained by the applicant (EXHIBIT F).

The placement of the project will result in the relocation of the existing unpaved Santa Fe Avenue to the north of the proposed rail loop at the applicant's expense and upon approval from the San Bernardino County Department of Public Works and Land Use Services Development processes. There will be a concrete crossing from a private haul road across the relocated Santa Fe Avenue into the aggregate loading area of the transportation and warning and flashing stop signs will be installed to alert public traffic on the road. Currently, traffic on the existing Santa Fe Avenue is minimal.

The aggregate products will be sourced from the nearby Lynx Cat Mountain Quarry Mine which received an approved three (3) phased quarry expansion Conditional Use Permit and mine operation extension of 50 years by the San Bernardino County Planning Commission on July 17, 2025. The aggregate products will be transported by 65-ton off-road trucks along a private haul road which will be constructed from the quarry to the proposed project site entirely on the applicant's private land. The full specifications for the transport and loading operations are described in the following Table 2:

Table 2: Production Information

	Proposed Operations
Loading	
Trains	110 cars with 100-ton capacity each
Number of trains	50 to 182 (used 182 in AQ inventory)
Rock and Aggregate	0.5 to 2 million tons per year (mtpy) (use 2 mtpy in AQ inventory)
Days/year	200 (allowed 365/24 hrs./day to meet rail scheduling and demand)
Tons/day	11,000
Hours/day	12 (up to 24 hrs./day)
Tons/hour	1,000
Two – three loaders; total 24 hours/day.	24 hours of loader time per operating day; assume one loader can load 4.5 to 5 rail cars/hour.

TRUCKING (off-road truck travel emissions included in the Lynx Cat Mountain Quarry operations)	
65-ton off-road haul trucks	2 mtpy
Days/year	200 to 300
# of trucks/day	103
Miles/year based on 4.5 miles round trip	463.5 miles/day; 92,700 miles/year

PROJECT ANALYSIS:

Code Compliance Summary: The project is located within the Rural Living Land Use Category designation and Rural Living – 40-acre minimum (RL-40) Land Use Zoning District. The proposed transportation facility consists of the rail loop and aggregate loading which is allowed within the RL-40 with an approved Conditional Use Permit and thus it would be required to comply with all applicable Conditions of Approval. In addition to the Conditions of Approval, the project would be subject to all applicable required permitting. Table 3 demonstrates the project’s compliance with the RL District development standards.

TABLE 3: RURAL LIVING (RL) APPLICABLE DEVELOPMENT STANDARDS		
DEVELOPMENT STANDARD	REQUIREMENT	PROJECT COMPLIANCE
Setbacks	Front: 25 feet Rear: 15 feet Side – Interior: 15 feet	Yes. The project proposes an office trailer but no other permanent structures. Both the rail loop and mobile office proposed outside of the required setbacks.
Lot Coverage	Maximum 20 percent of lot may be covered by structures and impervious surfaces.	Yes. The project does not propose any significant structures or impervious surfaces on a 640 acre parcel, bringing the lot coverage well below the 20% maximum.
Height Limit	Maximum 35 feet to the average height of the gable.	Yes. The only proposed structure is an office trailer and below the 35 foot maximum.

Consistency with Countywide Plan: The following is a list of Countywide Plan policies and how the project is consistent with those policies:

- **Policy LU-1.1 Growth**

We support growth and development that is fiscally sustainable for the County. We accommodate growth in the unincorporated county when it benefits existing communities, provides a regional housing option for rural lifestyles, or supports the regional economy

The proposed project supports fiscally sustainable growth and development growth by providing economically and efficiently transported aggregate products for the expansion of rail facilities, future commuter rail and other projects. The utilization of the rail loop would replace truck usage that would otherwise contribute to congestion and road damage on publicly maintained roads.

- **Policy LU-2.1 Compatibility with existing uses**

We require that new development is located, scaled, buffered, and designed to minimize negative impacts on existing conforming uses and adjacent neighborhoods. We also require that new residential developments are located, scaled, buffered, and designed so as to not hinder the viability and continuity of existing conforming nonresidential development.

The proposed project is a transportation facility which is allowed within the current RL-40 zoning district with an approved Conditional Use Permit. The project is surrounded by other RL zoning districts as well as the Resource Conservation (RC) zoning district which also allows for transportation facilities with an approved Conditional Use Permit. In addition, the surrounding lands are a majority vacant desert land.

- **Policy LU-2.4 Land Use Map consistency**

We consider proposed development that is consistent with the Land Use Map (i.e., it does not require a change in Land Use Category), to be generally compatible and consistent with surrounding land uses and a community's identity. Additional site, building, and landscape design treatment, per other policies in the Policy Plan and development standards in the Development Code, may be required to maximize compatibility with surrounding land uses and community identity.

The proposed project is a transportation facility which is allowed within the current RL-40 zoning district as well as the surrounding RL and RC zoning districts with an approved Conditional Use Permit.

TRIBAL CONSULTATION AB52 / COMMENTS

In accordance with AB-52, the following Indian Tribes received Notices of Opportunity to Consult with the County on September 27, 2024, concerning the proposed transportation facility:

- Twenty-Nine Palms Band of Mission Indians
- Chemehuevi Indian Tribe
- Colorado River Indian Tribes
- Fort Mojave Indian Tribe
- Fort Yuma Quechan Tribe
- Kern Valley Indian Community
- Morongo Band of Mission Indians
- Serrano Nation of Mission Indians
- Yuhaaviatam of the San Manuel Nation

A request for more information was received from the Yuhaaviatam of San Manuel Nation Cultural Resources Management Department (YSMN) on October 31, 2024. After receiving the requested information a comment letter was received by the County on February 11, 2025, stating there were no concerns with the project, however, mitigation measures were provided and requested to be added to the Mitigated Negative Declaration and the project. The requested mitigation measures were incorporated into the environmental document prior to being routed to the State Clearinghouse for circulation.

CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE

In compliance with the California Environmental Quality Act (CEQA), an Initial Study (IS) was completed and routed to the State Clearinghouse for circulation (SCH# 2025090950) and posted on the County's environmental website for review (Exhibit A). Notices of Intent and Notices of Availability were also mailed to property owners and responsible agencies to inform them of the initiation of the environmental posting. The 30-day comment period commenced on September 22, 2025, and concluded on October 24, 2025. The Initial Study concludes that the project will not have a significant adverse impact on the environment with the implementation of specific mitigation measures related to Biological, Cultural and Tribal Cultural Resources. These mitigation measures have been incorporated in the Project's Mitigation Monitoring and Reporting Program (MMRP) attached as (EXHIBIT B).

IS/MND Comment Letters

During the IS/MND comment period, the County received four comment letters. On October 14, 2025, a comment letter from the California Public Utilities Commission (CPUC) (EXHIBIT G) was received requesting information regarding whether the rail crossing was public or private and construction scheduling. The letter also stated that if the crossing is private no authorization from CPUC is required. On October 29, 2025, staff responded via email that the crossing will be private into the stockpiling and loading area of the loop and construction would be sometime during early 2026.

On October 21, 2025, a comment letter was received from the California Department of Fish and Wildlife (CDFW) (EXHIBIT G), proposing modified language to nesting bird mitigation (BIO-3) as well as a recommendation for pre-construction surveys for American badger and desert kit fox (*new* BIO-21). The applicant provided a response to CDFW's letter on November 6, 2025 (EXHIBIT H) and the County has accepted the revision to nesting bird mitigation (BIO-3) as well as the new mitigation for American badger and desert kit fox (BIO-21). The modification to MM BIO-3 and addition of MM BIO-21 does not require recirculation of the IS/MND since the changes and addition of the mitigation are

in response to comments on environmental impacts already identified in the IS/MND. The County has incorporated the changes into the final MMRP and included a condition for pre-construction surveys for both American badger and desert kit fox to the Conditions of Approvals for the project. As the project already is mitigated to conduct pre-construction surveys for other species, no new significant impact was created, and the IS/MND was not recirculated.

On October 23, 2025, a comment letter was also received from the Desert Tortoise Council, and on October 24, 2025, from the Mohave Ground Squirrel Conservation Council (EXHIBIT G). The letters stated concern for desert tortoise, American Badger and Mohave ground squirrel as well as how the surveys were conducted and lack of Intentional Take Permit (ITP) requirements. On November 6, 2025, the applicant provided response letters to both councils responding to each of their comments (EXHIBIT H). No changes to the IS/MND have been incorporated as a result of these comment letters.

The project applicant has applied for ITPs for desert tortoise and Mohave ground squirrel with CDFW and received approval pending the adoption of the IS/MND and subsequent fees and filing of the Notice of Determination. As the applicant has applied for the ITPs the County did not make it a requirement of the project.

PUBLIC COMMENTS

On September 4, 2024, Project Notices were mailed to the surrounding property owners within 1,300 feet of the project site, as required by Section 85.03.080. No public comments were received.

RECOMMENDATION: That the Planning Commission:

- 1) **ADOPT** the Mitigated Negative Declaration (EXHIBIT A) and Mitigation Monitoring and Reporting Program (EXHIBIT B),
- 2) **ADOPT** the Findings for approval of the Conditional Use Permit (EXHIBIT C);
- 3) **APPROVE** Conditional Use Permit to construct and operate a BNSF approved rail loop and aggregate loading facility on 131 acres of a 640 acre parcel, subject to the Conditions of Approval (EXHIBIT D); and
- 4) **DIRECT** the Land Use Services Department to file the Notice of Determination in accordance with the California Environmental Quality Act.

ATTACHMENTS:

EXHIBIT A: PROJ-2024-00080 Mitigated Negative Declaration link:
<https://lus.sbcounty.gov/planning-home/environmental/desert-region/>

EXHIBIT B: PROJ-2024-00080 Mitigation Monitoring and Reporting Program (MMRP)

EXHIBIT C: PROJ-2024-00080 Findings

EXHIBIT D: PROJ-2024-00080 Conditions of Approval

EXHIBIT E: PROJ-2024-00080 Plan of Operations

EXHIBIT F: PROJ-2024-00080 BLM ROW Approval and Temporary Permit

EXHIBIT G: PROJ-2024-00080 IS/MND Comment Letters

EXHIBIT H: PROJ-2024-00080 Applicant Response to Comments

EXHIBIT A

Mitigated Negative Declaration link:

<https://lus.sbcounty.gov/planninghome/environmental/desert-region/>

**SAN BERNARDINO COUNTY
INITIAL STUDY/MITIGATED NEGATIVE DECLARATION
ENVIRONMENTAL CHECKLIST FORM**

This form and the descriptive information in the application package constitute the contents of Initial Study pursuant to County Guidelines under Ordinance 3040 and Section 15063 of the State CEQA Guidelines.

PROJECT LABEL:

APNs:	0496-011-07	USGS Quad:	Hinkley
Applicant:	LCM Development, LLC 841 E Washington Ave. Suite B Santa Ana, CA 92701	T, R, Section:	T10N, R4W, Section 13
Location	3 miles west of Hinkley, CA 1880 Santa Fe Road, Hinkley, CA	Thomas Bros	Map F; San Bernardino and Riverside Counties (2013)
Project No:	PROJ-2024-00080	Community	None
Rep	Joseph Mathewson	LUC: Zone:	Rural Living Rural Living – 40 acre minimum (RL-40)
Proposal:	To construct and operate a rail loop and aggregate loading facility on a 131-acre privately owned parcel that connects with the BNSF main line track	Overlays:	

PROJECT CONTACT INFORMATION:

Lead agency: San Bernardino County
Land Use Services Department
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415-0182

Contact person: Derek Newland, Planner II
Phone No: 909-387-4387 Fax No: (909) 387-3223
E-mail: derek.newland@lus.sbcounty.gov

PROJECT DESCRIPTION:

Summary

LCM Development LLC (LCMD) is requesting approval of a Conditional Use Permit (CUP) to construct a railway track loop and aggregate loading facility located three miles west of Hinkley, San Bernardino County (see Figure 1 – Regional location). The property is currently zoned Rural Living – 40 acre minimum (RL-40) within the land use category (LUC) of Rural Living. The Proposed Project is a transportation facility that would be an allowable use within the Rural Living zoning, subject to a use permit. The proposed rail loop and aggregate loading facility would occur within the 640-acre Assessor's Parcel Number 0496-011-07-000, approximately 1.5 miles north of State Route (SR) 58 (see Figure 2 – Subject Parcel). The Proposed Project would occur on 131 acres of the 640-acre private property owned by the applicant (see Figure 3 – Project Site). The track alignment would consist of two parallel separate single standard rail tracks approximately 8,758 feet in length (outer loop) converging as a "Y" into a single track across public lands managed by the Bureau of Land Management (BLM) in Section 24. The "Y" rail line will extend south approximately 1,500 linear feet long and 100 feet in width to tie into the BNSF

mainline. (see Figures 4 and 5 – Site Plans). Figures 6 and 7 are photographs of the project site and planned haul road.

The proposed project also includes the realignment of an approximately 4,000-foot section of the unpaved County-maintained Santa Fe Road and the construction of a private unpaved haul road extending from the Lynx Cat Mine Road southwest to the rail loadout facility. The relocated Santa Fe Road will be approximately 4,500 feet in length and 60 feet wide; 300 feet north of its present alignment. The realigned road will be constructed in a curved alignment on approximately four acres entirely on the applicant's private land in Section 13 similar to the current road per County Road Planning and Design Standards. San Bernardino County will be granted an easement for this relocation and realignment of the existing Santa Fe Road which currently has no formal easement across the Section 13 property that is owned by the applicant.

The private unpaved haul road will also be entirely within the applicant's private land in Section 13. It will be approximately 4,750 feet long and 40 feet wide including shoulders (approximately 6.5 acres). A 60 ft. wide X 60 ft. long concrete rail crossing capable of supporting the 65-ton rock trucks delivering the aggregate from the quarry to the facility will be constructed across both Santa Fe Road and the rail loop track. Flashing stop signs, curve signs, truck crossing signs, and warning signs will be posted in numerous locations in both directions on the private haul road and along the relocated Santa Fe Road to alert the minimal public traffic that utilizes this roadway.

The Lynx Cat Mountain Quarry is a fully Surface Mining and Reclamation Act (SMARA) County permitted, operating granite rock quarry that is located three miles north of the BNSF main line. This operation produces a variety of granite rock, construction aggregate, paving stone, and railroad ballast rock products to various customers and projects. Haul trucks would deliver aggregates from the quarry to the proposed rail loading facility, where it would be stored in stockpiles, loaded by 2 - 3 loaders into hopper rail cars with 100 to 110-ton capacities (typical), and then transported by rail to various projects in the high desert and across the southwest region.

The main line BNSF track currently crosses the north part of Section 24, which is BLM-managed public land, and this track serves as the main east-west corridor between the BNSF rail yard and intermodal facilities located in Barstow and to the west through Mojave, CA to their operations in the Central Valley of California. The rail loop is being designed to accommodate 100 to 120-car unit trains to enter the loop from two directions from the BNSF main rail line in order to access the planned aggregate loading facility.

The expected train travel volume utilizing the planned "Y" track access and rail loadout facility track would typically consist of approximately four-to-five-unit trains per month depending on demand. Each unit train would have a capacity of approximately 11,000 tons and can be loaded within a 24-hour period. This is a production rate of approximately 550,000 tons/year. The proposal requests a production rate of two million tons/year which would load 10-to-15-unit trains per month. Operating speed on the "Y" track entering and leaving the aggregate loading facility loop track would range from 3 to 5 miles per hour (mph). BNSF operates both the eastbound and westbound traffic on the main line. Connection to the "Y" track access to the rail loop would be controlled by BNSF-installed switches. The new facility would employ 4 to 6 employees and expand as needed.

The rail spur transition "Y" track across BLM-managed public lands is to be used solely to facilitate the ingress and egress of various BNSF and UPRR rail cars and unit trains (up to 120 cars) to

the proposed centralized rail line loop. No other operations are proposed in the BLM-managed lands. A separate Right-of-Way (ROW) application for this section of the rail connection is being processed by the BLM.

Surrounding Land Uses and Setting

The proposed facility is to be constructed on a 131-acre portion (Project Site) of a 640-acre property owned by LCMD. The entire facility and rail loop would be constructed on the privately owned property. The 640-acre property is unimproved, desert land with BLM-managed land on three sides of the project. There are no structures, neighbors, or development of any kind in the vicinity. The land use designations, zoning, and existing land uses for the Project Site and adjacent properties are listed below.

Existing Surrounding Land Use, Land Use Category, and Zoning			
Location	Existing Land Use	Land Use Category	Zoning
Subject Parcel (640-acre)	Vacant; existing Santa Fe Road	Rural Living	Rural Living – 40 acre minimum (RL-40)
North	Vacant desert; BLM-managed public land	Resource/Land Management	Resource Conservation (RC)
South	Vacant desert; BLM-managed public land. Proposed “Y” rail connection.	Resource/Land Management	Resource Conservation
East	Vacant desert; BLM-managed public land	Resource/Land Management	Resource Conservation
West	Vacant desert	Resource/Land Management; Rural Living	RC; Rural Living – 5 acre minimum (RL-5)

ADDITIONAL APPROVALS REQUIRED BY OTHER PUBLIC AGENCIES

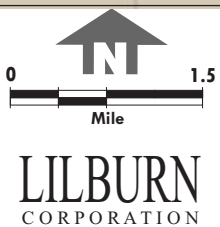
Federal: Bureau of Land Management ROW, U.S. Fish and Wildlife Service Incidental Take Permit (as applicable)

State of California: California Department of Fish and Wildlife Incidental Take Permit (as applicable)

San Bernardino County: Land Use Services Department CUP

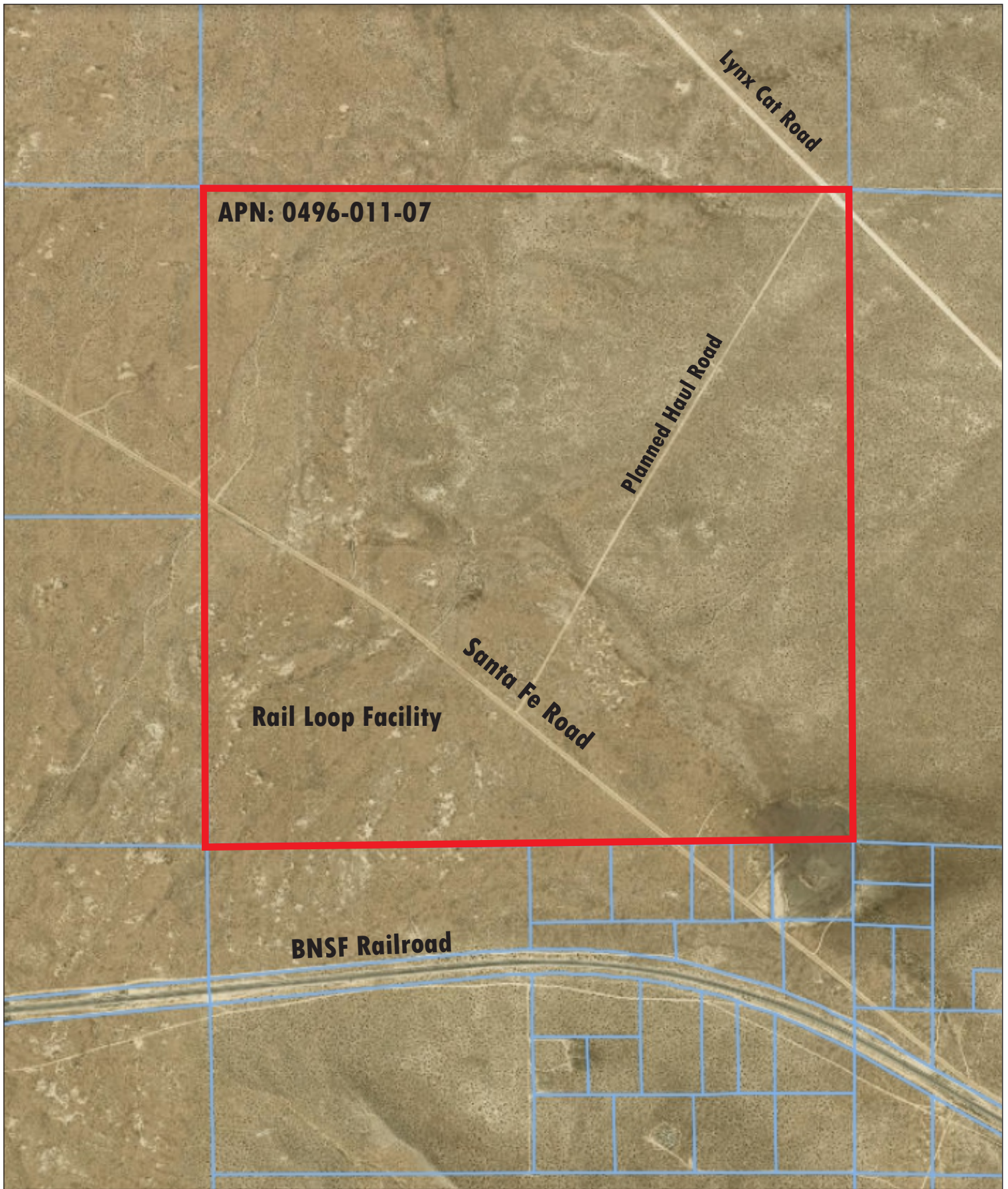
Regional: None known

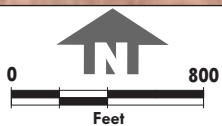
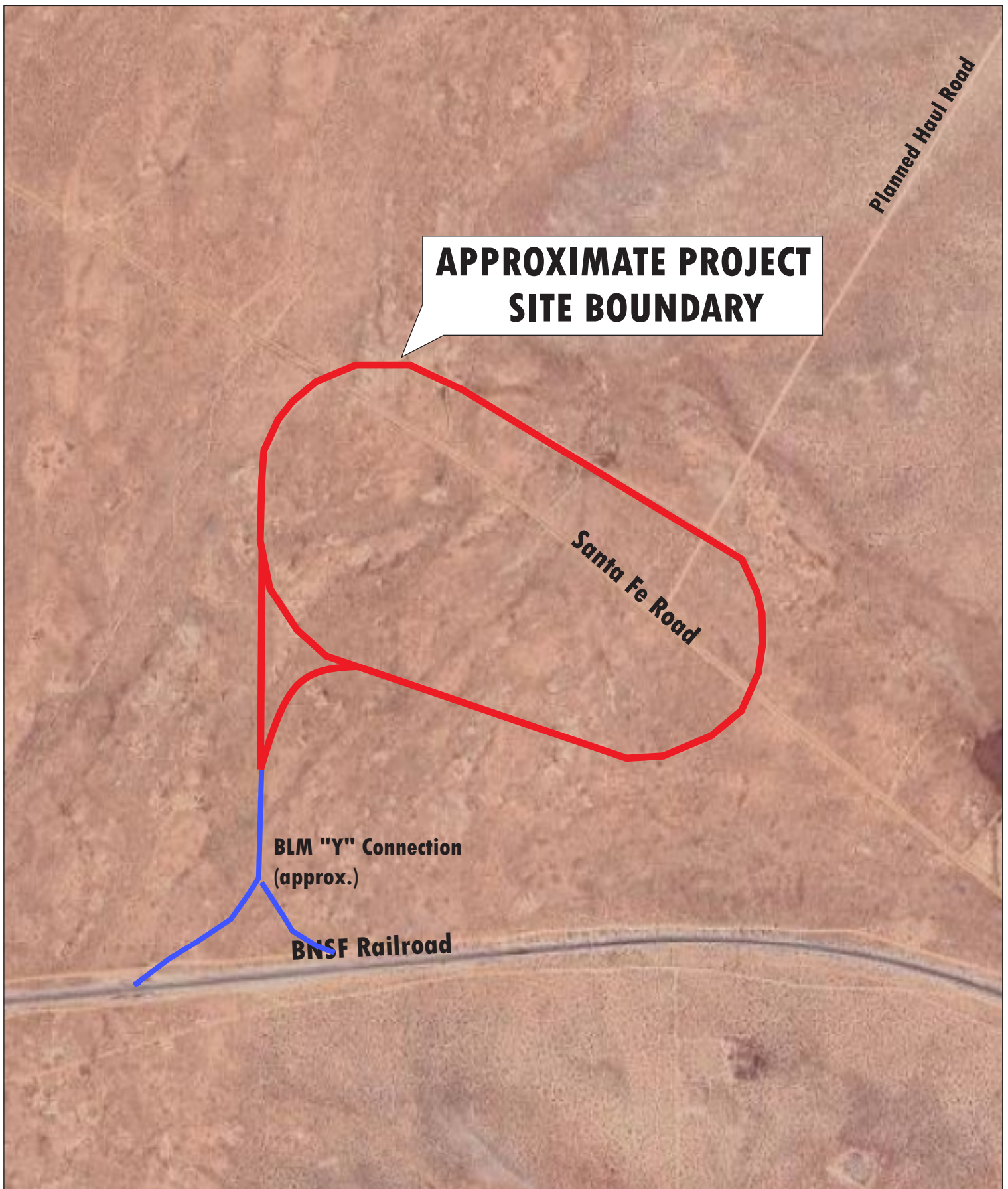
Local: None known



REGIONAL LOCATION
Rail Loop Aggregate Loading Facility
San Bernardino County, California

FIGURE 1

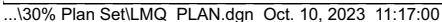


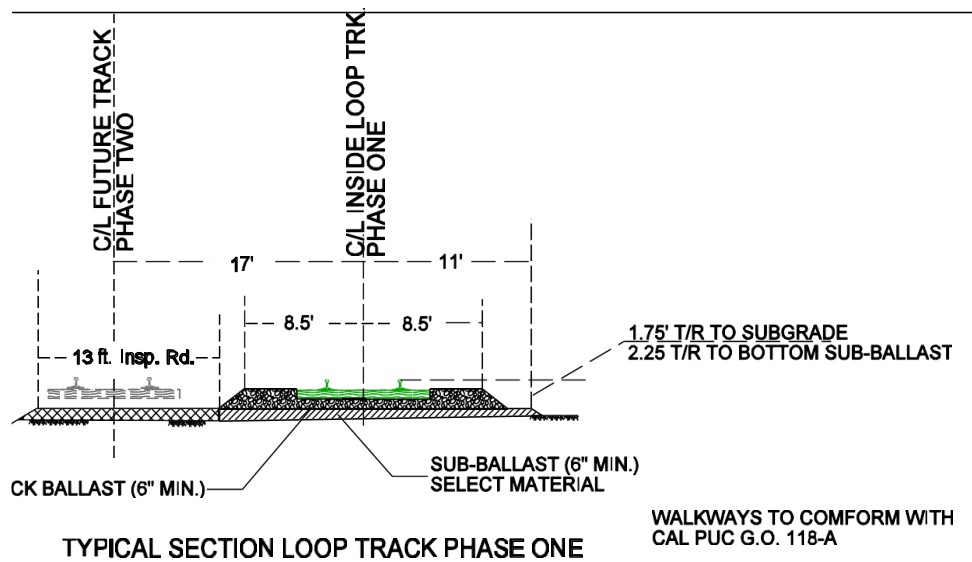
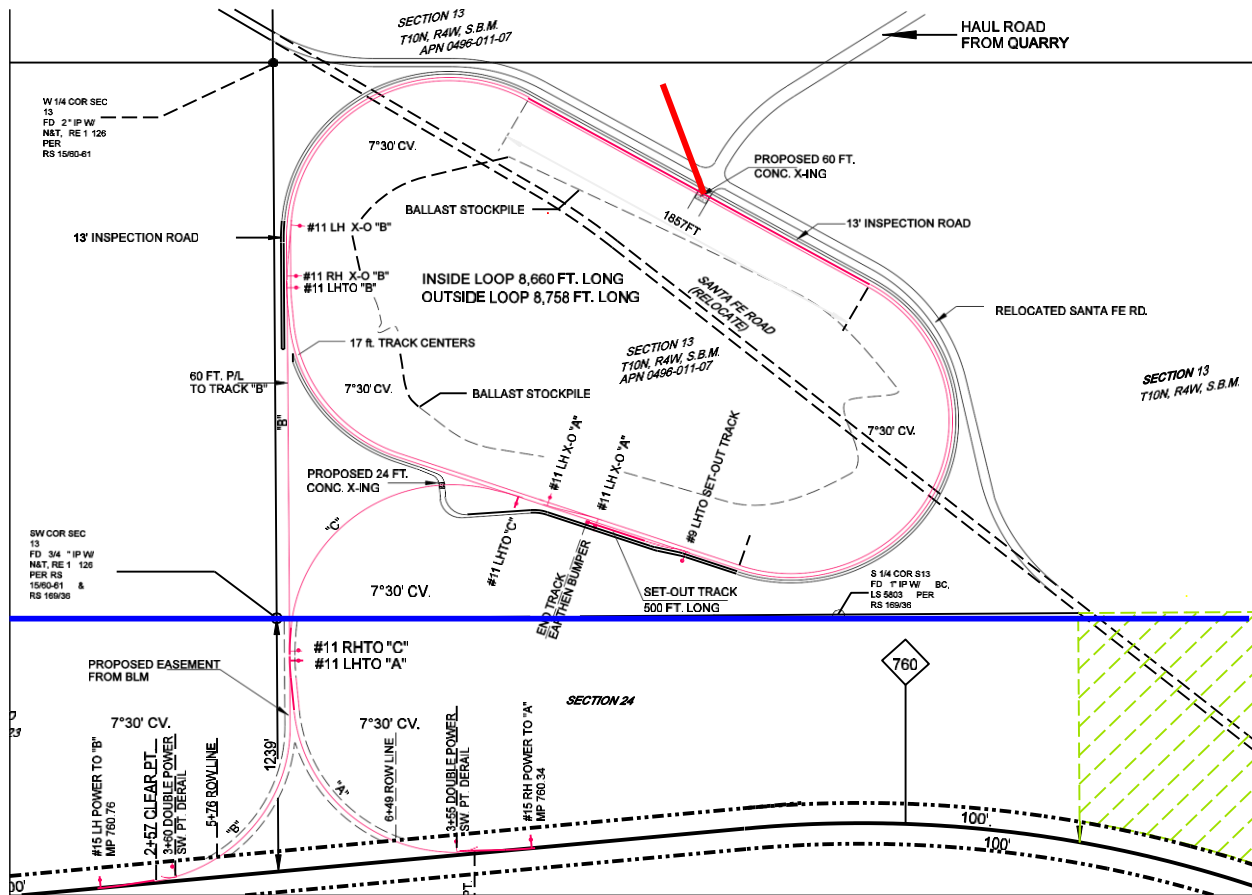


LILBURN
CORPORATION

PROJECT SITE
Rail Loop Aggregate Loading Facility
San Bernardino County, California

FIGURE 3





PROJECT DESIGN Rail Loop Aggregate Loading Facility San Bernardino County, California

FIGURE 5

CENTER OF SITE LOOKING NORTH



CENTER OF SITE LOOKING EAST



FIGURE 6: PHOTOGRAPHS OF RAIL LOOP

RCA Assoc.
June 2024

CENTER OF SITE LOOKING SOUTH



CENTER OF SITE LOOKING WEST



FIGURE 6, cont: PHOTOGRAPHS OF RAIL LOOP

RCA Assoc.
June 2024

CENTER OF SITE LOOKING NORTHWEST



CENTER OF SITE LOOKING NORTHEAST



FIGURE 7: PHOTOGRAPHS OF HAUL ROAD

RCA Assoc.
June 2024

CENTER OF SITE LOOKING SOUTHEAST



CENTER OF SITE LOOKING SOUTHWEST



FIGURE 7, cont: PHOTOGRAPHS OF HAUL ROAD

CONSULTATION WITH CALIFORNIA NATIVE AMERICAN TRIBES

Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, is there a plan for consultation that includes, for example, the determination of significance of impacts to tribal cultural resources, procedures regarding confidentiality, etc.?

On September 27, 2024, the San Bernardino County mailed notification pursuant to AB52 to the following tribes: Twenty-Nine Palms Band of Mission Indians, Chemehuevi Indian Tribe Colorado River Indian Tribes, Fort Mojave Indian Tribe, Fort Yuma Quechan Tribe, Kern Valley Indian Community, Morongo Band of Mission Indians, Serrano Nation of Mission Indians, and Yuhaaviatam of the San Manuel Nation. . Requests for consultations were due to the County by October 27, 2024. The table below shows a summary of comments and responses.

AB 52 Consultation

Tribe	Comment Letter Received	Summary of Response	Conclusion
Yuhaaviatam of San Manuel Nation Cultural Resources Management Department (YSMN)	February 11, 2025	No concerns with project; requested that language be added to conditions	Requested language incorporated as mitigation measures

Note: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public Resources Code section 21083.3.2.) Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code section 5097.96 and the California Historical Resources Information System administered by the California Office of Historic Preservation. Please also note that Public Resources Code section 21082.3(c) contains provisions specific to confidentiality.

EVALUATION FORMAT

This Initial Study is prepared in compliance with the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21000, et seq. and the State CEQA Guidelines (California Code of Regulations Section 15000, et seq.). Specifically, the preparation of an Initial Study is guided by Section 15063 of the State CEQA Guidelines. This format of the study is presented as follows. The project is evaluated based on its effect on 20 major categories of environmental factors. Each factor is reviewed by responding to a series of questions regarding the impact of the project on each element of the overall factor. The Initial Study checklist provides a formatted analysis that provides a determination of the effect of the project on the factor and its elements. The effect of the project is categorized into one of the following four categories of possible determinations:

Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less than Significant	No Impact
--------------------------------	--	-----------------------	-----------

Substantiation is then provided to justify each determination. One of the four following conclusions is then provided as a summary of the analysis for each of the major environmental factors.

1. **No Impact:** No impacts are identified or anticipated, and no mitigation measures are required.
2. **Less than Significant Impact:** No significant adverse impacts are identified or anticipated, and no mitigation measures are required.
3. **Less than Significant Impact with Mitigation Incorporated:** Possible significant adverse impacts have been identified or anticipated and the following mitigation measures are required as a condition of project approval to reduce these impacts to a level below significant. The required mitigation measures are: (List of mitigation measures)
4. **Potentially Significant Impact:** Significant adverse impacts have been identified or anticipated. An Environmental Impact Report (EIR) is required to evaluate these impacts, which are (List of the impacts requiring analysis within the EIR).

At the end of the analysis the required mitigation measures are restated and categorized as being either self- monitoring or as requiring a Mitigation Monitoring and Reporting Program.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below will be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|---|--|--|
| ☐ <u>Aesthetics</u> | ☐ <u>Agriculture and Forestry Resources</u> | ☐ <u>Air Quality</u> |
| ☒ <u>Biological Resources</u> | ☒ <u>Cultural Resources</u> | ☐ <u>Energy</u> |
| ☐ <u>Geology/Soils</u> | ☐ <u>Greenhouse Gas Emissions</u> | ☐ <u>Hazards & Hazardous Materials</u> |
| ☐ <u>Hydrology/Water Quality</u> | ☐ <u>Land Use/Planning</u> | ☐ <u>Mineral Resources</u> |
| ☐ <u>Noise</u> | ☐ <u>Population/Housing</u> | ☐ <u>Public Services</u> |
| ☐ <u>Recreation</u> | ☐ <u>Transportation</u> | ☐ <u>Tribal Cultural Resources</u> |
| ☐ <u>Utilities/Service Systems</u> | ☐ <u>Wildfire</u> | ☐ <u>Mandatory Findings of Significance</u> |

DETERMINATION: Based on this initial evaluation, the following finding is made:

☐	The proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION shall be prepared.
☒	Although the proposed project could have a significant effect on the environment, there shall not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION shall be prepared.
☐	The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
☐	The proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
☐	Although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature: Derek Newland, Planner II

Date

Signature: Gina Gibson-Williams, Planning Manager

Date

Issues	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
I. AESTHETICS – Except as provided in Public Resources Code Section 21099, would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
b) Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☒	☐
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐
d) Create a new source of substantial light or glare, which will adversely affect day or nighttime views in the area?	☐	☐	☒	☐
SUBSTANTIATION: (Check ☐ if project is located within the view-shed of any Scenic Route listed in the Countywide Policy Plan): San Bernardino Countywide Policy Plan, approved October 27, 2020, adopted November 27, 2020; San Bernardino Countywide Policy Plan Draft EIR; LCM Development, LLC, Plan of Development – Conditional Use Permit for Rail Loop Aggregate Loading Facility, May 10, 2024				

a) Have a substantial adverse effect on a scenic vista?

The Project Site is within the North Desert Region of San Bernardino County. The region provides numerous scenic vistas; however, no residences, commercial development or recreation areas have visibility to the site. The nearest publicly dedicated road is Santa Fe Road, which passes through the Project Site but would be relocated to the north side of the rail loop. Santa Fe Road is the primary potential viewpoint by the greatest number of individuals in the immediate vicinity. It is a dirt road that is lightly traveled, so only a small number of individuals would have the potential to view the facility and it would be fleeting. Furthermore, the existing BNSF main track and current rail traffic pass through and presents the same visual impact in this undeveloped area. Therefore, less than

significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

- b) *Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?*

The Project Site is located approximately two miles north of recently re-constructed SR-58. SR-58 is a County Scenic Route and Eligible State Scenic Highway.¹ Due to the area topography, distance to SR-58, and intervening BNSF mainline, the proposed facility would not be viewable from SR-58. Furthermore, there are no known scenic resources on or near the Project Site that would be impacted by the proposed facility. Therefore, less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

- c) *In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?*

The Project Site is located in a non-urbanized area. The nearest publicly dedicated road is Santa Fe Road, which passes through the Project Site but would be relocated to the north of and around the rail loop. The proposed rail loop would connect to the existing BNSF rail to the south and would be designed to the same standards as the existing rail. Only minor structures and improvements are proposed, such as the storm water basin, portable sanitary facilities, office trailer, and a maintenance area all to be located within the rail loop itself. As stated previously, only a small number of individuals would have the potential to view the facility, and it would be fleeting. There are no residences, commercial developments or developed recreation areas in the vicinity of the Project Site. Less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

- d) *Create a new source of substantial light or glare, which will adversely affect day or nighttime views in the area?*

The facility would operate up to 24 hours per day. As a standard for unit train/loop facilities, adequate lighting will be provided for train crews working at night. Work areas near switches, gates, doors, pits and buildings would be illuminated to prevent walking/tripping hazards and allow crewmen riding rail cars to see without reliance upon a flashlight. The operator shall comply with the requirements outlined in the San Bernardino County Development Code, Section 83.07.040(a) Glare and Outdoor

¹ San Bernardino County. Policy Plan web maps. NR-3 "Scenic Routes and Highways." Accessed August 2, 2024.

Lighting – Mountain and Desert Regions, permitted lighting for new construction, unless exempt. The purpose is to preclude light pollution or light trespass on an abutting residential land use zoning district, a residential parcel, or public right-of-way. Proposed light sources are anticipated to be local in nature, loop interior focused, and would not impact the region's overall light environment. Therefore, less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

Less than significant adverse impacts are identified or anticipated, and no mitigation measures are required.

	Issues	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
II.	AGRICULTURE AND FORESTRY RESOURCES - In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:				
a)	Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b)	Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
c)	Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒

- | | | | | | |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) | Result in the loss of forest land or conversion of forest land to non-forest use? | ☐ | ☐ | ☐ | ☒ |
| e) | Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? | ☐ | ☐ | ☐ | ☒ |

SUBSTANTIATION: (Check ☐ if project is located in the Important Farmlands Overlay):

Countywide Policy Plan; San Bernardino Countywide Policy Plan web maps

- a) *Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?*

No prime farmland, unique farmland, or farmland of statewide importance occurs at the Project Site or within the immediate vicinity.² The nearest farmland to the Project Site occurs approximately 4 miles southeast of the property.³ The Proposed Project would not convert farmland to a non-agricultural use. No impacts are identified or are anticipated, and no mitigation measures are required.

No Impact

- b) *Conflict with existing zoning for agricultural use, or a Williamson Act contract?*

The Project Site is not under a Williamson Contract.⁴ It has a current zoning of Rural Living – 40 acre minimum (RL-40). The Proposed Project is an allowable use within the RL-40 zoning district. It would not conflict with existing zoning for agricultural uses or a Williamson Contract. Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

No Impact

- c) *Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?*

The Project Site is currently zoned RL-40. Implementation of the Proposed Project would not conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned for Timberland Production. Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

No Impact

² San Bernardino County. Policy Plan web maps. NR-5 "Agricultural Resources." Accessed September 20, 2024.

³ San Bernardino County. Policy Plan web maps. NR-5 "Agricultural Resources." Accessed September 20, 2024.

⁴ San Bernardino County Assessor. "Parcels Under Open Space Contract Report." Accessed September 20, 2024.

d) *Result in the loss of forest land or conversion of forest land to non-forest use?*

The Project Site does not support forest land. Implementation of the Proposed Project would not result in loss of forest land or conversion of forest land to non-forest use. Therefore, no impacts are identified or are anticipated, and no mitigation measures are required.

No Impact

e) *Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?*

The Project Site contains no agricultural resources or farmland that would be converted as a result of the Proposed Project. The Project Site is currently zoned RL-40; it is not zoned for agriculture or forestland. It is considered neither farmland nor forestland. No impacts are identified or are anticipated, and no mitigation measures are required.

No Impact

No impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>		<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
III. AIR QUALITY - Where available, the significance criteria established by the applicable air quality management district or air pollution control district might be relied upon to make the following determinations. Would the project:					
a)	Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐
b)	Result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☒	☐
c)	Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒
d)	Result in other emissions (such as those leading to odors adversely affecting a substantial number of people?	☐	☐	☐	☒

SUBSTANTIATION: *(Discuss conformity with the Mojave Desert Air Quality Management Plan, if applicable):*

San Bernardino Countywide Policy Plan; LCM Development, LLC, Plan of Development – Conditional Use Permit for Rail Loop Aggregate Loading Facility, May 10, 2024; Lilburn Corporation, Air Quality Emission Inventory for Lynx Cat Rail Loadout Facility, December 2024

a) Conflict with or obstruct implementation of the applicable air quality plan?

The Project Site is within the Mojave Desert Air Basin (MDAB) and under the jurisdiction of the Mojave Desert Air Quality Management District (MDAQMD). The MDAB encompasses the desert portion of San Bernardino County. The MDAQMD has jurisdiction over air quality issues and regulations within the MDAB. To assist local agencies in determining if a project's emissions could pose a significant threat to air quality, the MDAQMD has adopted the California Environmental Quality Act (CEQA) and Federal Conformity Guideline (February 2020) which is a policy document intended to assist preparers of environmental analysis or review documents for projects within the jurisdiction of the MDAQMD by providing background information and guidance on the preferred analysis approach. The air and dust emissions from the construction and operational use of the Proposed Project were evaluated and compared to the MDAQMD air quality thresholds to determine significance.

The Proposed Project is the construction and operation of a railway track loop and aggregate loading facility. The Countywide Policy Plan Land Use Category (LUC) designation for the Project Site is Rural Living with a zoning of Rural Living – 40 acre minimum (RL-40). The Proposed Project would occur on 131 acres of the 640-acre private property

The Proposed Project would not require a zone change nor a general plan amendment. Furthermore, the Proposed Project would not exceed MDAQMD thresholds, as demonstrated below. In addition, greenhouse gas emissions generated by the Proposed Project would not exceed the County's screening threshold of 3,000 MTCO₂e per year (Refer to Section VIII: GHG for additional information). Therefore, less than significant impacts are identified or are anticipated, and no mitigation measures are required.

Less Than Significant Impact

b) Result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard?

The Proposed Project's construction emissions were estimated using CalEEMod version 2022.1 (see Appendix A). The criteria pollutants estimated are reactive organic gases (ROG), nitrogen oxides (NO_x), carbon monoxide (CO), sulfur dioxide (SO₂), and fugitive particulates (PM₁₀ and PM_{2.5}). Two of the analyzed pollutants, ROG and NO_x, are ozone precursors. Both summer and winter season emission levels were estimated.

Construction Emissions

Construction emissions are considered short-term, temporary emissions and were modeled with the following construction parameters: grubbing and land clearing; grading and excavation; drainage, utilities, and subgrade; and paving. It should be noted that although the model includes paving as those are automatically included in linear-type projects in CalEEMod, the Proposed Project does not involve paving. The Proposed Project only includes construction of the rail loop and Y-track, and relocation of the unpaved Santa Fe Road. Construction is anticipated to begin in 2025 and be completed in 2026. The resulting emissions generated by construction of the Proposed Project are shown in Table 1 and Table 2, which represent summer and winter construction emissions, respectively.

Table 1
Maximum Summer Construction Emissions
(Pounds per Day)

Source/Phase	ROG	NO _x	CO	SO ₂	PM ₁₀	PM _{2.5}
2025	6.79	62.8	66.8	0.17	7.92	3.34
MDAQMD Threshold	137	137	548	137	82	65
Significant	No	No	No	No	No	No

Source: CalEEMod.2022.1 Summer Emissions.

Table 2
Maximum Winter Construction Emissions
(Pounds per Day)

Source/Phase	ROG	NO _x	CO	SO ₂	PM ₁₀	PM _{2.5}
2025	6.71	63.3	64.8	0.17	7.92	3.34
2026	5.06	42.6	50.0	0.11	4.57	1.94
MDAQMD Threshold	137	137	548	137	82	65
Significant	No	No	No	No	No	No

Source: CalEEMod.2022.1 Winter Emissions.

As shown in Tables 1 and 2, construction emissions during either summer or winter seasonal conditions would not exceed the MDAQMD thresholds.

An Air Quality Emission Inventory report was prepared for the Proposed Project operational emissions in December 2024 (see Appendix B).

Proposed Operational Assumptions for Air Quality Assessment

Operational Hours:

The loading of train cars would take place on approximately 200 days per year and 12 hours per day. Loading would be allowed up to 365 days per year and 24 hours per day depending on train scheduling and demand.

Production: up to 2.0 million tons per year (mtpy)

- 2 mtpy transported to the site and loaded into 100-ton rail cars; 166,667 tons per month; 11,000 tons per day for approximately 200 days per year.
- 50 to 182 trains per year with 110 cars (typical) depending on train scheduling and product demand;
- 103 - 65-ton off-road trucks to transport material from Lynx Cat Mountain Quarry to rail loading facility;
- Round trip distance from mine and back is 4.5 miles; 463.5 miles per day; 92,700 miles per year.

Rail Loadout Facility Equipment

Typical mobile equipment types and numbers were provided by Lynx Cat and are listed in Table 3. These are estimated equipment types, numbers, and usage. All equipment would meet the Tier 4 Final emission standards.

Table 3
Production Information

	Proposed Operations
Loading	
Trains	110 cars with 100-ton capacity each
Number of trains	50 to 182 (used 182 in AQ inventory)
Rock and Aggregate	0.5 to 2 million tons per year (mtpy) (use 2 mtpy in AQ inventory)
Days/year	200 (allowed 365/24 hrs./day to meet rail scheduling and demand)
Tons/day	11,000
Hours/day	12 (up to 24 hrs./day)
Tons/hour	1,000
Two – three loaders; total 24 hours/day.	24 hours of loader time per operating day; assume one loader can load 4.5 to 5 rail cars/hour.
TRUCKING (off-road truck travel emissions included in the Lynx Cat Mountain Quarry operations)	
65-ton off-road haul trucks	2 mtpy
Days/year	200 to 300
# of trucks/day	103
Miles/year based on 4.5 miles round trip	463.5 miles/day; 92,700 miles/year

Source: Lynx Cat Rail Loop Operator, 2024

For the Proposed Project, on-site mobile criteria and dust emissions were screened using CalEEMod App. G, Version 2022, 1.1.3, Table G-13, Off-Road Equipment Emissions Factors; the MDAQMD Emissions Inventory Guidance; SCAQMD “Air Quality Handbook”; Emission Factors for On-Road Heavy-Duty Diesel Trucks (EMFAC2021(v1.0.2) California Air Resources Board (CARB) website (October 2024); AP-42 Chapters 11.19 and 13.2.2; and SCAQMD Particulate Matter Emission Factors.

Proposed operational emissions were analyzed with the following assumptions:

- All mobile equipment would meet Tier 4 Final diesel emission standards.
- Annual emissions were estimated based on 200 working days per calendar year.
- Equipment would operate approximately as estimated in Table 3 and Table 4 subject to change on occasion due to train scheduling and construction demand.
- Off-road 65-ton capacity haul trucks would transport material to the rail loadout 16 hours/day - 103 trips per day. The exhaust emissions of the off-road haul trucks were evaluated in the Lynx Cat Mountain Quarry revision project.
- MDAQMD process plant dust control requirements including Rule 403.1 for fugitive dust control measures are included in the emissions' estimates.

Table 4
Lynx Cat Rail Loadout Facility Mobile Equipment List (Typical)

Number	Equipment Description	Hrs/day (total)	Load Factor	HP	Net HP	Equipment Uses
2 - 3	CAT 988 with 18 cy bucket	24 hrs. total/operating day	0.36	538	194	2-3 load rail cars at 24 total hrs./operating day.
3	CAT 773 Off-Road Trucks (65-ton capacity typ.)	Up to 24 hrs./day	0.39	727	283.5	Transportation of excavated material to the rail loadout. Exhaust emissions included as part of Lynx Cat Mtn. Quarry operations.
1	CAT 416 loader	12	0.37	78	29	Clean-up at facility and maintenance of roads.
1	CAT 730 6000-gal. Water Pull or Truck-	6	0.38	370	141	Water spray haul roads, stockpiles, and general dust control.
1	Service Truck	---	---	---	---	Servicing and fueling onsite equipment.
1	25kW gen set	24	0.74	15	11	Trailer and lights

Source: Lynx Cat Operations; December 2024
 HP - horsepower

The estimated operational air pollutant emissions of the Proposed Project as compared to the thresholds are summarized in Table 5. As shown, the air emissions from the Proposed Project are less than the annual thresholds of significance. With implementation of the MDAQMD rules, CARB's Off-Road diesel Vehicle regulations, and measures to limit emissions listed below, air quality impacts are expected to be less than significant.

Table 5
Lynx Cat Rail Loadout Facility
Estimated Air Pollutant Emissions and Significance (Proposed)
Tons/Year

	ROG	NO_x	CO	PM₁₀	PM_{2.5}
Site Equipment	0.09	0.38	3.79	0.10	0.09
Off-Road Haul Trucks road dust	---	---	---	6.67	1.39
Fugitive Dust (loading, un-loading, & stockpiles)	---	---	---	2.49	0.52
Vendors & Employees Exhaust (on and off-site)	0.05	0.09	0.44	0.01	0.01
Emissions Totals	0.14	0.47	4.23	9.27	2.01
MDAQMD CEQA Thresholds (Tons/year)	25	25	100	15	12
Significant	No	No	No	No	No

Scenario Year for Emissions: Proposed (2025 and thereafter) depending on train scheduling and demand.
 Emission Sources: EMFAC2021(v1.0.2) CARB website (October 2024) for off-road equipment including off-road trucks; SCAQMD Emission Factors for on-road mobile vehicles; Particulate Matter Emission Factors SCAQMD, July 2010); and AP-42 Section 13.2.2 EPA, November 2006)

The following air quality regulations and measures will be required to be implemented by the Lynx Cat Rail Loadout Facility operations:

1. To limit dust production, the Project proponent must comply with Rules 402 nuisance and 403 fugitive dust, which require the implementation of Best Available Control Measures for each fugitive dust source. Compliance with Rules 402 and 403 are mandatory requirements and thus not considered mitigation measures.
2. Water would be sprayed on unpaved haul and access roads, active operational areas, and material stockpiles.
3. Roads would be treated with EPA approved dust suppressants to prevent dust as needed.
4. Speed limits on unpaved roads shall be 25 mph.
5. Loading activities shall be suspended when winds exceed 25 mph.
6. Production shall be scheduled to minimize daily equipment operations;
7. Trucks in loading queues would have their engines turned off when not in use for more than 5 minutes to reduce idling and vehicle emissions in compliance with Title 13, California Code of Regulations, Section 2485 (Anti-Idling Policy);

8. All equipment used for transporting and loading materials must be tuned and maintained to the manufacturer's specification to maximize efficient burning of vehicle fuel.
9. The operator shall comply with all existing and future CARB and MDAQMD regulations related to diesel-fueled trucks, which may include among others: (1) meeting more stringent emission standards; (2) retrofitting existing engines with particulate traps; (3) use of low sulfur fuel; and (4) use of alternative fuels or equipment.
10. The operator shall obtain permits to construct and annually renew permits to operate the generator(s) from the MDAQMD as applicable and be in compliance with such permits.

Less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

c) Expose sensitive receptors to substantial pollutant concentrations?

The Proposed Project is located in the desert region within a remote area of San Bernardino County with no residences or recreational areas in the immediate vicinity. No schools, hospitals or public facilities are located anywhere near the site and the nearest residence is located approximately 1.3 miles southeasterly of the site. Therefore, no impacts are identified or are anticipated, and no mitigation measures are required.

No Impact

d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

The generation of objectionable odors is not associated with train operations nor with the loading and unloading of aggregates. Moreover, there are no sensitive receptors in the immediate vicinity. Therefore, no impacts are identified or are anticipated, and no mitigation measures are required.

No Impact

Therefore, less than significant adverse impacts are identified or anticipated, and no mitigation measures are required.

Issues	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
IV. BIOLOGICAL RESOURCES - Would the project:				
a) Have substantial adverse effects, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☒	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☐	☐	☒
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☒
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?	☐	☐	☐	☒
SUBSTANTIATION: (Check if project is located in the Biological Resources Overlay or contains habitat for any species listed in the California Natural Diversity Database ☒):				
RCA Associates, Inc. General Biological Resources Assessment – Rail Loop Project, June 24, 2024				

-
- a) *Have substantial adverse effects, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?*

A General Biological Assessment report, dated June 24, 2024, was prepared for the Proposed Project by RCA Associates, Inc. (see Appendix C). As part of the environmental process, California Department of Fish and Wildlife (CDFW) and U.S. Fish and Wildlife Service (USFWS) data sources were reviewed. Following the data review, surveys were performed on the site on May 14, 2024, during which the biological resources on the site and in the surrounding areas were documented by biologists from RCA Associates, Inc. As part of the surveys, the property and adjoining areas were evaluated for the presence of native habitats which may support populations of sensitive wildlife species. The property was evaluated for the presence of sensitive habitats including wetlands, vernal pools, riparian habitats, and jurisdictional areas. Focused surveys were conducted for both desert tortoise and burrowing owl and a habitat evaluation was performed for the Mohave ground squirrel. Based on the California Natural Diversity Database review, it was determined that eight sensitive wildlife species and two sensitive plant species have been documented within the Twelve Guage Lake and Hinkley quadrangles of the property.

Federal and/or State Listed Species

Desert Tortoise (*Gopherus agassizii*) (Federal and State threatened): The Project Site does not support suitable habitat for the desert tortoise. Only the northern most ¼-mile of the one-mile haul road zone of influence was found to be suitable as it is a creosote bush habitat. The habitat in the area of and inside the planned rail loop is not considered suitable nor was there any sign of desert tortoise observed. During the field investigations there were two potential burrows found that had not been used in recent years along with two active burrows, one of which was occupied by an adult desert tortoise, all on the east side of the proposed haul road. The two potential burrows were identified as class 2 and class 3 burrows while the two active burrows were identified as class 1 burrows. A class 1 burrow is a burrow that has a living tortoise occupying it or one that shows tracks and scats around it that is being clearly utilized. A class 2 burrow is one that is tortoise shaped and shows no signs of structural degradation internally or at the mouth of the burrow. Class 3 burrows show signs of heavy degradation of the burrow and typically are burrows that may have been tortoise burrows at one time but have been abandoned and partially caved in, not allowing tortoises to go inside. In addition to the burrows, one adult desert tortoise carcass was found to the west of the haul road that was not intact. The adult tortoise was in its burrow located along the eastern side of the haul road. Due to the presence of tortoises and tortoise sign on site, consultation with the USFWS and CDFW to determine the best methods to protect and mitigate impacts to this species and if incidental take permits (ITP) are required. Therefore, Mitigation Measure BIO-1 shall be implemented to reduce potential impacts to a less-than-significant level with mitigation.

Mohave Ground Squirrel (*Xerospermophilus mohavensis*) (State threatened): There are no recent observations of Mohave ground squirrels within the area or zone of influence within the last 10 years. The most recent sighting occurrence of the species is

occurrence 491 which happened a mile and a half to the south in the Twelve Guage Lake USGS Quadrangle. It is the opinion of RCA Associates, Inc. that the habitat is not prime Mohave ground squirrel habitat and is very unlikely to support populations of the species based on the following criteria:

1. No recent documented observations in the general region.
2. No connectivity with critical habitat which may support the species.
3. Project Site not having crucial habitat for survival.

Western Burrowing Owl (*Athene cunicularia*) (State candidate species): In October 2024, the burrowing owl was officially designated as a State Candidate Species under the California Endangered Species Act (CESA) by the California Fish and Game Commission. For the next 12-18 months, while the CDFW assesses whether this species should be officially listed at the State level, the burrowing owl has all of the same CESA protections as any other State listed species.

A habitat assessment (Phase 1) was conducted for the burrowing owl to determine if the site supports suitable habitat for the species on May 14, 2024. The habitat assessment determined that the site does support suitable habitat for the burrowing owl, but no owls or sign were observed. After the field investigations it was determined that there was no owl sign (e.g. whitewash, feathers, or castings) or inhabiting owls due to the lack of many suitable burrows on site or in the immediate vicinity. However, a pre-construction survey is required per CDFW protocol prior to new ground disturbance (see Mitigation Measure BIO-2).

Species of Special Concern

Sensitive Plants: There are two plant species that are species of special concern documented within the Twelve Guage Lake and Hinkley quadrangles, these are the: Barstow woolly sunflower and desert cymopterus. Of the two sensitive plant species, the Barstow woolly sunflower has the potential to occur given the presence of creosote bush scrub habitat. No sign of this species was observed during the field surveys. The desert cymopterus does not occur on site due to the lack of crucial habitat present on the property.

Sensitive Wildlife: There are four wildlife species that are considered species of special concern: arroyo toad, loggerhead shrike, American badger, and the Mojave fringe-toed lizard. Two of the five species have a nominal chance to occur on-site: the American badger and Mojave fringe-toed lizard. The site shows very little suitable habitat for these species, and they are most likely not to occur on site. The remaining two species, arroyo toad and loggerhead shrike, do not have the potential to occur on-site and will not occur on-site given their specific habitat requirements. None of these species were observed on-site or in the surrounding area during the May 2024 survey.

Nesting Birds

Nesting birds are protected under the Migratory Bird Treaty Act (MBTA) and Section 3503 of the California Fish and Game Code. The site vegetation provides suitable foraging and nesting habitat for year-round and seasonal avian residents, as

well as migrating songbirds that have adapted to conditions in the Mojave Desert. It is recommended that construction activities and/or the removal of any shrubs or any other potential nesting habitat shall be conducted outside the avian nesting season of February 1 and September 15. During the nesting season, prior to ground distributing activities a pre-construction nesting bird clearance survey shall be conducted in accordance with Mitigation Measure BIO-3 to ensure that less than significant impacts occur:

Protected Plants

As of July 10, 2023, California legislature passed and signed the Western Joshua Tree Conservation Act (WJTCA, Senate Bill 122) into effect listing the western Joshua tree (*Yucca brevifolia*) as an endangered species. During the May 2024 field investigations, no western Joshua trees were observed on the site or in the surrounding areas. The Proposed Project would not require an ITP for this species.

The desert tortoise-specific Conservation and Management Actions, listed below as Mitigation Measures BIO-4 to BIO-20, are additional measures which shall be required by BLM based on consultation with USFWS and CDFW. These measures shall be included as Stipulations to the Right-of Way issued by BLM.

Mitigation Measure BIO-1 (desert tortoise):

- *A pre-construction clearance survey be conducted thirty (30) days prior to ground disturbing activities in undeveloped areas to confirm the absence of desert tortoise within the boundaries of the survey area. Survey transects shall be spaced at 5-meter (16-foot) intervals throughout the undeveloped portions of the project area to provide 100 percent visual coverage and increase the likelihood of locating desert tortoise and/or sign. All burrows, if present, will be thoroughly inspected for the presence of desert tortoise or evidence of recent use using non-intrusive methods (i.e., mirror, digital camera).*
- *If desert tortoise are found on-site during the pre-construction clearance survey, coordination will be required with the USFWS and CDFW to determine if avoidance and minimization measures can be implemented to avoid any direct or indirect impacts to desert tortoise, or if an ITP will need to be prepared, and approved by the USFWS and CDFW.*
- *A Workers' Education and Awareness Program for desert tortoise protection shall be completed by all workers/drivers/employees prior to working on-site and reviewed annually;*
- *Disturbance shall be confined to the smallest practical areas within the planned disturbance areas;*
- *Vehicle speeds shall not exceed 25 miles per hour on-site and on the access road;*
- *Vehicles must remain on established roads at all times outside the project site and cross-country travel with motorized vehicles outside of the Project Site by project personnel is prohibited;*

- Vehicles and equipment parked shall be inspected immediately prior to being moved;
- To the extent possible, new disturbances on undisturbed areas shall be scheduled when tortoises are inactive (November 1 – February 28);
- All trash and food items shall be promptly contained within closed, common raven-proofed containers; and
- Firearms, dogs, or other pets shall be prohibited at the work site.

Mitigation Measure BIO-2 (burrowing owl):

A pre-construction survey is required to be conducted per CDFW protocol to determine if any burrowing owls have moved on to the site since the May 2024 survey. As per CDFW Staff Report (2012) on Burrowing Owl Mitigation protocol, the most effective method of completing a pre-construction survey (take avoidance survey) should be performed no less than 14 days prior to ground disturbance, followed by a final pre-construction survey within 24 hours of breaking ground. If borrowing owl are observed, consultation with CDFW is required to determine if avoidance and minimization measures can be implemented to avoid any direct or indirect impacts to burrowing owl, or if an ITP will need to be prepared and approved by the CDFW.

Mitigation Measure BIO-3 (nesting birds)

If construction occurs between February 1st and September 15th, a pre-construction clearance survey for nesting birds shall be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction. The biologist conducting the clearance survey should document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur. If an active avian nest is discovered during the pre-construction clearance survey, construction activities should stay outside of a no-disturbance buffer. The size of the no-disturbance buffer will be determined by the wildlife biologist based on on-site conditions (a 250-foot buffer shall be marked around songbird nests. Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed on the sensitivity of nest areas. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur.

Mitigation Measure BIO-4

Temporary exclusion fencing will be installed around the rail loop disturbance area and a pre-construction clearance survey will be conducted that is supervised by an authorized biologist - any desert tortoises found in this fenced area shall be translocated a short distance, not more than 300 meters, outside of the fenced area to a site with cover (i.e., at the mouth of a burrow or under a shrub). Fence installation must be overseen by an authorized biologist or desert tortoise monitor. This provision may be modified based on the Translocation Plan which shall be developed as part of the CDFW Incidental Take Permit (ITP) process.

Mitigation Measure BIO-5

Permanent exclusion fencing with appropriately spaced shade structures shall be installed along both sides of the haul road followed by a pre-construction clearance survey within the haul road area by an authorized biologist. Fence installation must be overseen by an authorized biologist or desert tortoise monitor. Any tortoises found during the pre-construction clearance survey shall be translocated a short distance (i.e., not more than 300 meters) to either side of the fenced area to a site with cover (i.e., at the mouth of a burrow or under a shrub) or consistent with the Translocation Plan.

Mitigation Measure BIO-6

The project shall submit the names and statements of qualifications of all proposed authorized biologists to the BLM for review and approval by USFWS at least 30 calendar days prior to initiation of any ground-disturbing activities and pre-activity surveys. An authorized biologist will be present on site and directly oversee clearance surveys, and the capture and handling of desert tortoises for short-distance translocation.

Mitigation Measure BIO-7

The Applicant shall install at least two culverts in the 'straight section' of the rail extension that runs from the main BNSF rail line to the rail loop. Culverts shall be at least 36 inches diameter (per the Desert Renewable Energy Conservation Plan).

Mitigation Measure BIO-8

The Applicant shall include two tortoise escape channels on the rail lines allowing escape to the west side of the project. The placement and design of these escape channels must be approved by BLM. USFWS can provide schematics.

Mitigation Measure BIO-9

The Applicant shall promptly remove and dispose of any roadkill found along the haul route or rail loop during operation to minimize subsidies for desert tortoise predators (i.e., common raven, coyotes, etc.).

Mitigation Measure BIO-10

All personnel working at the project will attend a Worker Environmental Awareness Program conducted by an authorized biologist (or desert tortoise monitor with approval by an authorized biologist) prior to the commencement of construction activities and each calendar year until the end of construction. This program will include at a minimum information on desert tortoise biology and identification and the protective measures required by the BLM of any personnel working at the project.

Mitigation Measure BIO-11

In the event a desert tortoise is found injured at the project, the project is responsible for notifying BLM and the USFWS immediately so that they can determine if further action is required and provide guidance on veterinary care. Written follow-up notification and a brief report will be submitted via email to the BLM within two calendar days of the incident. All veterinary care costs shall be the responsibility of the Applicant.

Mitigation Measure BIO-12

In the event a desert tortoise is found dead at the project, the project is responsible for securing the carcass (i.e., putting a tarp over it) and notifying BLM and the USFWS within 24 hours so that they can determine if further action is required. Written follow-up notification and a brief report will be submitted via email to the BLM within two calendar days of the incident.

Mitigation Measure BIO-13

Ballast size for the base of rail lines shall be sized large enough to deter passage of desert tortoises. Size of this ballast will be discussed with the Applicant, BLM and USFWS.

Mitigation Measure BIO-14

Prior to the installation of desert tortoise exclusion fencing and whenever a vehicle or construction equipment is parked outside of the desert tortoise exclusion fence at the project, personnel will inspect underneath any parked vehicle and equipment before moving them to check for desert tortoise.

Mitigation Measure BIO-15

Any construction pipe, culvert, or similar structure outside of the desert tortoise exclusion fencing with a diameter greater than 3 inches and stored less than 8 inches aboveground for one or more days will be inspected for desert tortoise before the material is moved, buried, or capped. As an alternative, all such structures may be capped or placed on pipe racks to prevent animal entry.

Mitigation Measure BIO-16

If a desert tortoise is found under vehicle, equipment, or within construction materials, an authorized biologist will be contacted to capture and translocate the animal a short distance (not more than 300 meters) to a site with cover (i.e., at the mouth of a burrow or under a shrub).

Mitigation Measure BIO-17

Personnel are prohibited from bringing pets to the project during construction, operation, and decommissioning.

Mitigation Measure BIO-18

The Applicant shall implement predator abatement measures to reduce the attraction of the project to common ravens, coyotes and roaming dogs. Specifically, the Applicant will reduce attraction and implement appropriate measures including timely removal of trash, limiting available food and water subsidies and inadvertently creating habitat (e.g., creation of perch/roost sites and nesting or denning sites) within the project area. All trash items and food waste shall be kept in closed containers.

Mitigation Measure BIO-19

The Applicant shall be responsible for contributing to the Raven Management Fee as prescribed in the DRECP. This shall be accomplished by applying the current fee per acre (\$105/acre) of permanent disturbances on BLM-managed lands (the fee does not apply to the private lands associated with this project). This shall be done prior to initiation of construction activities.

Mitigation Measure BIO-20

Compensation for impacts to the Fremont-Cramer ACEC and tortoise habitat shall be accomplished through the implementation of the BLM approved Habitat Restoration Plan.

Less than Significant with Mitigation

- b) *Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?*
- c) *Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

The United States Army Corps of Engineers (USACE) regulates discharges of dredged or fill material into waters of the United States, and the State of California also regulates waters of the State and streambeds under the preview of regional water quality boards and CDFW jurisdiction. These waters include wetlands and non-wetland bodies of water that meet specific criteria. No riparian habitats, streambeds, or drainages were observed during the field investigations on the Project Site or in the immediate surrounding area. Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

No Impact

- d) *Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

As stated in the General Biological Assessment report, no distinct wildlife corridors were identified on the site or in the immediate area. There is vacant open desert land surrounding the Project Site that could still facilitate wildlife movement. No impacts are identified or anticipated, and no mitigation measures are required.

No Impact

- e) *Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

The San Bernardino County Development Code Section 88.01.060 provides regulations for the removal or harvesting of specified desert native plants in order to preserve and protect the plants and to provide for the conservation and wise use of desert resources. Per Section 88.01.060 of the San Bernardino County Development Code, the following desert native plants or any part of them, except the fruit shall not be removed, except under a Tree or Plant Removal Permit:

- The following desert native plants with stems two inches or greater in diameter or six feet or greater in height:
 - *Dalea spinosa* (smoke tree).
 - All species of the genus *Prosopis* (mesquites).
- All species of the family *Agavaceae* (century plants, nolinias, yuccas).
- Creosote Rings, ten feet or greater in diameter.
- All Joshua trees.
- Any part of any of the following species, whether living or dead:
 - *Olneya tesota* (desert ironwood).
 - All species of the genus *Prosopis* (mesquites).
 - All species of the genus *Cercidium* (palos verdes).

The vegetation community on-site is native desert scrub encompassing mainly native plants and a few non-native grasses. The site is dominated by Mexican bladder sage (*Scutellaria mexicana*), water jacket (*Lycium andersonii*), white bursage (*Ambrosia dumosa*), pincushion flower (*Chaenactis fremontii*), turkshead (*Chorizanthe rigida*), creosote bush (*Larrea tridentata*), redstem stork's bill (*Erodium cicutarium*), Menzies fiddleneck (*Amsinckia menziesii*) and kelch grass (*Schismus barbatus*). Species present on the site included Asian mustard (*Brassica tournefortii*), big saltbush (*Atriplex lentiformis*), white bursage (*Ambrosia dumosa*), desert sand verbena (*Abronia villosa*) and rattlesnake weed (*Euphorbia albomarginata*). No desert native plants regulated under Section 88.01.060 of the San Bernardino Development Code are present on the site. No conflicts with local policies or ordinances are expected. No impacts are identified or anticipated, and no mitigation measures are required.

No Impact

- f) *Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?*

The Project Site is not located within an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan. Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

No Impact

Therefore, no significant adverse impacts are identified or anticipated with the implementation of mitigation measures.

<i>Issues</i>		<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
V. CULTURAL RESOURCES - Would the project:					
a)	Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?	☐	☒	☐	☐
b)	Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☐	☒	☐	☐
c)	Disturb any human remains, including those outside of formal cemeteries?	☐	☒	☐	☐

SUBSTANTIATION: (Check if the project is located in the Cultural ☐ or Paleontologic ☐ Resources overlays or cite results of cultural resource review):

BCR Consulting LLC, Cultural Resources Inventory - Lynx Cat Mountain Quarry Expansion Rail Loop Project, October 23, 2024

- a) *Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?*

A Cultural Resources Inventory report, dated October 23, 2024, was prepared for the Proposed Project by BCR Consulting, LLC (see Appendix D). A cultural resources records search, intensive-level pedestrian field survey, and Native American Heritage Commission (NAHC) Sacred Lands File Search were conducted for the Proposed Project in partial fulfillment of CEQA requirements. The literature review and background research included a one-mile radius for prehistoric and historic-period archaeological sites and for historic-period architectural resources. The literature review was completed at the South-Central Coastal Information Center. The research also reviewed known cultural resources reports completed in the vicinity. The literature review revealed that

three cultural resource studies have taken place within one mile of the Project Site, resulting in five cultural resources recorded in that radius. Of the previous studies, none have assessed any portion of the Project Site, and no cultural resources have been previously recorded within its boundaries.

The survey resulted in the recordation of five cultural properties within the Project Site, two of which are historic-period archaeological sites and one of which is a historic-period isolate. Temporary site designations have been assigned for the newly recorded cultural properties. None of the cultural properties are eligible for the California Register of Historical Resources. As such, they do not qualify as historical resources and are not considered significant under CEQA. Therefore, the five cultural properties identified during the study do not merit further consideration. BCR Consulting concludes that the Proposed Project would not result in a significant adverse effect on a historical resource.

However, because there is always a potential for buried cultural resources, Mitigation Measures CUL-1 and CUL-2 shall be implemented to avoid potential significant impacts to cultural resources.

Mitigation Measure CUL-1:

In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 100-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed within TCR-1, regarding any pre-contact finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.

Mitigation Measure CUL-2

If significant pre-contact cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to YSMN for review and comment, as detailed within TCR-1. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.

Less than Significant with Mitigation

- b) *Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?*

A Sacred Lands File (SLF) search was requested from the NAHC to search for the presence of any recorded Native American sacred sites or locations of religious or ceremonial importance within one mile of the Project Site. The SLF search was returned with negative results. The field survey resulted in the recordation of five cultural properties within the Project Site, two of which are prehistoric isolates. As stated

previously, none of the cultural properties are eligible for the California Register of Historical Resources.

Mitigation Measure CUL-1 and CUL-2 identified above shall be implemented to avoid potential significant impacts to cultural resources.

Less than Significant with Mitigation

c) *Disturb any human remains, including those outside of formal cemeteries?*

Construction activities could potentially disturb human remains outside of a formal cemetery. Thus, the potential exists that human remains may be unearthed during implementation of the Proposed Project. Therefore, Mitigation Measure CUL-3, defined below, shall be implemented to ensure that less than significant impacts regarding human remains occur.

Mitigation Measure CUL-3:

If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.

With implementation of Mitigation Measure CUL-3, the Proposed Project would not have a significant impact on human remains.

Less than Significant with Mitigation

Therefore, less than significant adverse impacts are identified or anticipated with the implementation of mitigation measures.

Issues		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
VI. ENERGY – Would the project:					
a)	Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☒	☐
b)	Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☒	☐

SUBSTANTIATION: *Lilburn Corporation, Air Quality Emission Inventory for Lynx Cat Rail Loadout Facility, December 2024*

- a) *Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?*

The operation and use of the rail loop and aggregate loading facility would be dependent upon the volumes of aggregates needed for construction projects. It is expected that the rail loop and loadout facility would see daily to weekly usage that would be market-driven and rail companies' directed. Electricity for small office facilities would be provided by on-site generators. Operational activities would be limited to consumption of fuel.

Tables 6 and 7 show the modeled fuel consumption for all operational activities. The loading facility's operational activities would consume an estimated 607,650 gallons of fuel per year.

Table 6
Mobile Equipment Fuel Consumption Estimates

Equipment	#	Hours per Day	Fuel Used / Day (gallons)	Fuel Used / Year (gallons)
CAT 988 with 18 cy bucket	3	24	246	221,307
CAT 773 Off-Road Trucks (65-ton capacity typ.)	3	24	360	323,973
CAT 416 loader	1	12	20	6,109
CAT 730 6000-gal. Water Pull or Truck	1	6	45	13,388
25kW gen set	1	24	14	4,699
Total Fuel			685	569,476

- (1) United States Environmental Protection Agency. 2018. Exhaust and Crankcase Emission Factors for Nonroad Compression-Ignition Engines in MOVES2014b. July 2018. Available at: <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100UXEN.pdf>.
- (2) Federal Highway Administration. Highway Statistics 2018, Table VM-1. Accessed 1/30/23 at fhwa.dot.gov/policyinformation/statistics/2018/pdf/vm1.pdf. Worksheet available at afdc.energy.gov/data. Last updated 02/11/2020
- (3) CAT Performance Handbook Edition 48, June 2018.

Table 7
Worker and Truck Trips

Operational Phase	MPG	Trips	Trip Length (miles)	Fuel Used (gallons/day)	Total (gallons/yr)
Employee Trips	24.0	12	60.0	30.00	9,000
Off-Road Haul Truck Trips	6.0	103	4.5	77.25	23,175
Vendor Trucks	6.0	2	60.0	20.00	6,000
			Total	127.25	38,175

- (1) United States Environmental Protection Agency. 2018. Exhaust and Crankcase Emission Factors for Nonroad Compression-Ignition Engines in MOVES2014b. July 2018. Available at: <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100UXEN.pdf>.
- (2) Federal Highway Administration. Highway Statistics 2018, Table VM-1. Accessed 1/30/23 at fhwa.dot.gov/policyinformation/statistics/2018/pdf/vm1.pdf. Worksheet available at afdc.energy.gov/data

All fuel would be provided locally. Less than significant adverse impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

As stated previously, the Proposed Project activities would consume an estimated 607,650 gallons of fuel annually. The Proposed Project's demand for fuel would not be significant. In addition, the Proposed Project would not be connecting to electric power or natural gas lines and would therefore not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Less than significant impacts are anticipated, and no mitigation measures are recommended.

Less Than Significant Impact

Therefore, less than significant impacts are identified or anticipated, and no mitigation measures are required.

Issues	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
VII. GEOLOGY AND SOILS - Would the project:				

a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:

i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map Issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☒	☐
ii. Strong seismic ground shaking?	☐	☐	☒	☐
iii. Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv. Landslides?	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as	☐	☐	☒	☐

a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

- | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property? | ☐ | ☐ | ☒ | ☐ |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? | ☐ | ☐ | ☐ | ☒ |
| f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | ☐ | ☐ | ☐ | ☒ |

SUBSTANTIATION: (Check ☐ if project is located in the Geologic Hazards Overlay District):

Countywide Policy Plan

- a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:
- i) *Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map Issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42*
 - ii) *Strong seismic ground shaking?*

The nearest fault zone is Mount General Fault Zone,⁵ located approximately 7 miles east of the Project Site. Accordingly, on-site surface fault rupture is not anticipated. Moderate to severe seismic shaking of the site can be expected to occur during the lifetime of the Proposed Project. The only structures proposed are an office trailer and portable sanitation facilities. No permanent, habitable structures are proposed. As such, less than significant adverse impacts are identified or are anticipated, and no mitigation measures are required.

Less Than Significant Impact

- iii) *Seismic-related ground failure, including liquefaction?*

As stated previously, moderate to severe seismic shaking of the site can be expected to occur during the lifetime of the Proposed Project. Although the susceptibility to liquefaction is unknown, no permanent, habitable structures are proposed. Therefore,

⁵ San Bernardino County. Policy Plan web maps. HZ-1 "Earthquake Fault Zones." Accessed October 24, 2024.

less than significant impacts are identified or are anticipated, and no mitigation measures are required.

Less Than Significant Impact

iv) Landslides?

Seismically induced landslides and other slope failures are common occurrences during or soon after earthquakes. The Project Site is located in a relatively flat desert area. Therefore, no impacts are identified or are anticipated, and no mitigation measures are required.

No Impact

b) Result in substantial soil erosion or the loss of topsoil?

Approximately 131 acres of grading or vegetation removal would occur during the installation of the new tracks and development of the loading facility. The Project Site is relatively flat, and vegetation is sparse. Best management practices (BMPs) would be implemented during construction to control erosion and runoff. Less than significant adverse impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

Moderate to severe seismic shaking of the site can be expected to occur during the lifetime of the Proposed Project. The Project Site is located in a relatively flat area, so the Proposed Project would not be susceptible to landslides or lateral spreading. As discussed above, no permanent, habitable structures are proposed. Less than significant adverse impacts are identified or are anticipated, and no mitigation measures are required.

Less Than Significant Impact

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

The Project Site consists of cajon sand with less than 5% clay content.⁶ Therefore, the Project Site soils are considered to have low expansive potential. Moreover, no permanent structures are on or planned for the site. Therefore, less than significant adverse impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

⁶ Natural Resources Conservation Service. Web Soil Survey. Accessed December 6, 2024.

- e) *Are soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?*

Septic tanks and/or alternative wastewater supply systems do not exist at the Project Site. Portable toilets are supplied for use by employees and are located on-site in the operations area. Therefore, no impacts are identified or are anticipated, and no mitigation measures are required.

No Impact

- f) *Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

BCR Consulting LLC's Cultural Resources Inventory report includes a paleontological overview. The geologic units underlying the Project Site are mapped as mixed-aged Holocene and Pleistocene units, along with a portion of a Miocene-aged unit of avalanche breccia. Pleistocene units are considered to be highly paleontologically sensitive. Excavation activity could impact the paleontologically sensitive Pleistocene alluvial units. However, the proposed project does not entail any excavation; therefore, no impacts are expected for paleontological resources.

No Impact

Therefore, less than significant impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
VIII. GREENHOUSE GAS EMISSIONS – Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐

SUBSTANTIATION:

Lilburn Corporation, Air Quality Emission Inventory for Lynx Cat Rail Loadout Facility, December 2024

- a) *Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?*

Per CEQA guidelines, new project emissions are treated as standard emissions, and air quality impacts are evaluated for significance on an air basin. Greenhouse gas

emissions are treated differently, in that the perspective is global, not local. Therefore, emissions for certain types of projects might not necessarily be considered as new emissions if the project is primarily population driven. Many gases make up the group of pollutants that are believed to contribute to global climate change. However, three gases are currently evaluated carbon dioxide (CO₂), methane (CH₄) and nitrous oxide (N₂O). Nitrous oxide is not of concern due its very low emissions from this type of operation and methane is included but is also a very minor contributor.

The Proposed Project's GHG construction emissions were estimated using CalEEMod version 2022.1. Construction is anticipated to begin in 2025 and be completed in 2026. Other parameters which are used to estimate construction emissions such as those associated with worker and vendor trips, and trip lengths were based on the CalEEMod defaults. The greenhouse gas emissions from project construction equipment and worker vehicles are shown in Table 8. The emissions are from all phases of construction. The total construction emissions amortized over a period of 30 years are estimated at 38.3 metric tons of CO₂e (MTCO₂e) per year.

Table 8
Greenhouse Gas Construction Emissions
(Metric Tons per Year)

Source/Phase	CO ₂	CH ₄	N ₂ O	R ¹
2025	986	0.03	0.05	0.33
2026	147	0.01	0.00	0.02
Total (MTCO₂e)	1,148			
Construction Amortized 30 Years	38.3			

The proposed project's GHG emissions were compared to the MDAQMD threshold of 100,000 tons/year and the screening threshold of 3,000 MTCO₂e per year adopted by the County as potentially significant to global warming. The annual operational GHG emissions amount to approximately 483 MTCO₂e per year based on 200 days of operations per year. The Proposed Project's estimated GHGs would not exceed the MDAQMD's or the County's thresholds, as shown in Table 9 below.

In a broader sense, the Proposed Project is providing the more favorable environmental option of transporting heavy construction material by rail instead of long-distance trucking. Local-sourced material in conjunction with the utilization of the rail load-out facility would substantially reduce truck trips, miles driven, fuel consumption, air pollutant and GHG emissions, and degradation of public roads. To the extent that a project reduces vehicle miles driven, GHG emissions, particularly CO₂, may be reduced. GHG impacts for the operation of the proposed rail loadout facility are deemed to cause a less than significant impact on climate change.

Table 9
Lynx Cat Rail Loadout Facility
Greenhouse Gas Emissions
Operational Annual Emissions (MTCO₂e)

Source/Phase	CO ₂	CH ₄
	Proposed	Proposed
Onsite Equipment & Generator	370	0.4
Vendor Trucks & Employees	112	0.1
Total MTCO₂e per Year	482	0.5
Total MTCO₂e	482.5	
MDAQMD Threshold	100,000	
Significant	No	
County's GHG Plan	3,000	
Significant	No	

Therefore, less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

- b) *Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?*

The state and local regulatory programs for GHG emissions and climate change are described above. There are no existing GHG plans, policies, or regulations that have been adopted by California Air Resources Board (CARB) or MDAQMD that would apply to project emissions. If CARB does develop performance standards, these performance standards would be implemented and adhered to, and there would be no conflict with any applicable plan, policy, or regulation. Furthermore, as concluded above, the Proposed Project greenhouse gas emissions would be below MDQAMD thresholds and County's GHG Plan Screening Guidance Standard of 3,000 MTCO₂e. Therefore, impacts would be less than significant, and no mitigation would be required.

Less Than Significant Impact

Therefore, less than significant impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
IX. HAZARDS AND HAZARDOUS MATERIALS – Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☒	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☒	☐
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒
SUBSTANTIATION:				
EnviroStor Database; LCM Development, LLC, Plan of Development – Conditional Use Permit for Rail Loop Aggregate Loading Facility, May 10, 2024; Countywide Policy Plan web maps				

- a,b) *Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?*

Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

The operation and maintenance of the railroad automated switches and the main line section of track currently on BNSF property would continue to be maintained by the BNSF trained crews. The “Y” transition track from the main line across BLM property to the rail loading loop would be jointly maintained by BNSF and LCMD personnel, whereas all track and switch maintenance of the loading loop itself located in Section 13 would be the sole maintenance responsibility of LCMD and would be inspected by BNSF and the LCMD Loop Track Maintenance Team on a monthly and quarterly basis. Any rail track, tie connection points, or switch issues would be immediately identified and repaired any time they are encountered.

BNSF would have the responsibility for the prevention of fire, hazardous material or chemical spills, and for the safe operation of their equipment. However, whenever the rail loop is in operation with cars being loaded and/or unloaded, LCMD would have a water truck and trained fire watch on duty to address and control any unforeseen hazardous conditions or in the unlikely event of a fire. San Bernardino County Fire Department assumes the role for implementing the Certified Unified Program Agency (CUPA) program, with responsibility for enforcing state mandated hazardous materials laws and regulations. Less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

- c) *Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?*

No existing school facilities or proposed school facilities are located within one-quarter mile radius of the Project Site.⁷ Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

No Impact

- d) *Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?*

The Project Site was not found on the list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 by the California Department of Toxic Substances Control’s EnviroStor data management system.⁸ EnviroStor tracks cleanup, permitting, enforcement and investigation efforts at hazardous waste facilities and sites with known or suspected contamination issues. The nearest cleanup site is inactive and located

⁷ San Bernardino County. Policy Plan web maps. HW-1 “Education Facilities.” Accessed November 22, 2024.

⁸ California Department of Toxic Substances Control. EnviroStor. Accessed November 22, 2024.

approximately 1.5 miles northeast of the Project Site. Therefore, no impacts are identified or are anticipated, and no mitigation measures are required.

No Impact

- e) *For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?*

The nearest airport to the Project Site is Barstow-Daggett Airport, located approximately 23 miles southeast. The Project Site is not located within an Airport Runway Protection Zone, Airport Noise Contours or an Airport Safety Review Area. However, the Project Site is located within the low-altitude/high speed military airspace (Airport Safety Review Area 4 [AR4]).⁹ An Aviation Easement would be granted to the appropriate military agency and recorded before the issuance of a building permit for those uses established within an AR4. However, as no building permits would be required for the Proposed Project, no action would be required. Less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

- f) *Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?*

The Project Site is located 1.5 miles north of SR-58, which is an evacuation route.¹⁰ The Proposed Project would allow material from the Lynx Cat Quarry to be delivered to customers via train and reduce the number of truck trips. Therefore, impacts on SR-58 would be reduced. On-site parking spaces would be available for employees. No project vehicles would park off-site. Therefore, the Proposed Project would not interfere with the use of evacuation routes. No impacts are identified or anticipated, and no mitigation measures are required.

No Impact

- g) *Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?*

The Project Site is not located within a High or Very High Fire Hazard Severity Zone.¹¹ Therefore, the Proposed Project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires. No impacts are identified or anticipated, and no mitigation measures are required.

No Impact

Therefore, less than significant adverse impacts are identified or anticipated, and no mitigation measures are required.

⁹ San Bernardino County Policy Plan web maps. HZ-9 "Airport Safety & Planning Areas." Accessed November 22, 24.

¹⁰ San Bernardino County Policy Plan web maps. PP-2 "Evacuation Routes." Accessed November 22, 2024.

¹¹ San Bernardino County. Policy Plan web maps. HZ-5 "Fire Hazard Severity Zones." Accessed September 23, 24.

<i>Issues</i>		<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
X. HYDROLOGY AND WATER QUALITY - Would the project:					
a)	Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☒	☐
b)	Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐
c)	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:				
	i. result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
	ii. substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or offsite;	☐	☐	☒	☐
	iii. create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of runoff; or	☐	☐	☒	☐
	iv. impede or redirect flood flows?	☐	☐	☒	☐
d)	In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☒	☐
e)	Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☒	☐

SUBSTANTIATION:

Countywide Policy Plan; Merrell-Johnson Companies, Hydrology Study, December 16, 2024

- a) *Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?*
- e) *Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?*

The Proposed Project is the construction and operation of an aggregate loading facility and a rail loop to connect to the existing BNSF main line. Best management practices (BMPs) would be implemented during construction to control erosion and runoff. A Hydrology Study, dated December 16, 2024, was prepared for the Proposed Project by Merrell-Johnson Companies (see Appendix E). Under proposed conditions, the existing drainage flows would be captured as they enter the Project Site along the southern and southwestern project boundaries. Storm runoff crossing the southern project boundary would be directed towards a proposed drainage culvert beneath the loop railbed. This flow would be retained within the rail loop and infiltrated into the ground. The runoff would infiltrate within the area of the crushed ballast and would not flow across the loading areas or equipment storage areas. The drainages which flow beneath the BNSF railroad improvements do not enter the Project Site and would not be disturbed by the Proposed Project. The Proposed Project operations would involve discharge of pollutants that would impact water quality. Less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

- b) *Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?*

Water would be provided by a 6,000-gallon water truck and used at the Project Site for dust control on Santa Fe Road, within the loading area, and on the stockpiles. Approximately 2 to 4 water truck trips per day are anticipated depending on weather conditions and on-site activities. Water would be supplied by private well on the near-by Lynx Cat Mountain Quarry. Therefore, water supplies needed for the Proposed Project would not be substantial. As stated previously, BMPs would be implemented during construction to control erosion and runoff. As such, the Proposed Project would not degrade water quality and would not disrupt infiltration of runoff, such that groundwater recharge would be impacted. Less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

- c) *Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:*
 - i) *Result in substantial erosion or siltation on- or off-site;*
 - ii) *Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or offsite;*

- iii) *Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of runoff; or*
- iv) *Impede or redirect flood flows?*

The Project Site is located south of Harper Dry Lake. The tributary watershed area south of the Project Site is bounded to the south by the BNSF railroad main line. The raised rail bed serves to divert storm runoff flows to the east and west towards existing drainage culverts beneath the railroad track bed. The Project Site is located north of the railroad and between the two existing drainage culverts. Runoff flows from areas south of the BNSF railroad are diverted by the existing culverts to the east and west of the Project Site. These two flowlines are mapped as blue line streams on the USGS maps and flow around and past the Project Site and are not impacted by the Project Site. 100-year storm runoff flows into the site enter the site along the southern and southwestern boundaries of the Project Site.

Under proposed conditions, the existing drainage flows would be captured as they enter the Project Site along the southern and southwestern project boundaries. Storm runoff crossing the southern project boundary would be directed towards a proposed drainage culvert beneath the loop railbed. This flow would be retained within the rail loop and infiltrated into the ground. The runoff would infiltrate within the area of the crushed ballast and would not flow across the loading areas or equipment storage areas. The blue line streams, which flow beneath the BNSF railroad improvements, do not enter the Project Site and would not be disturbed by the Proposed Project. Therefore, the Proposed Project would not substantially alter the existing drainage pattern of the site or area. Less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

- d) *In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?*

Due to the inland distance from the Pacific Ocean and any other significant body of water, tsunamis and seiches are not potential hazards in the vicinity of the Project Site. Additionally, the site is not within a 100-Year Federal Emergency Management Agency (FEMA) flood zone nor a 500-year FEMA flood zone.¹² Therefore, less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

Therefore, less than significant adverse impacts are anticipated with implementation of mitigation measures.

¹² San Bernardino County. Policy Plan web maps. HZ-4 "Flood Hazards" web map. Accessed December 6, 2024.

<i>Issues</i>		<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
XI. LAND USE AND PLANNING - Would the project:					

- | | | | | | |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) | Physically divide an established community? | ☐ | ☐ | ☐ | ☒ |
| b) | Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect? | ☐ | ☐ | ☐ | ☒ |

SUBSTANTIATION:

Countywide Policy Plan; LCM Development, LLC, Plan of Development – Conditional Use Permit for Rail Loop Aggregate Loading Facility, May 10, 2024

- a) *Physically divide an established community?*

The physical division of an established community is typically associated with construction of a linear feature, such as a major highway or railroad tracks, or removal of a means of access, such as a local road or bridge, which would impair mobility in an existing community or between a community and an outlying area. The Proposed Project would construct a rail loop that would connect to the existing BNSF railroad tracks. In addition, Santa Fe Road would be relocated 300 feet to the north to a vacant portion of the parcel owned by the Applicant. The site is vacant, and surrounded by vacant, open desert lands. Therefore, the Proposed Project would not physically divide an established community. No impacts are identified or anticipated, and no mitigation measures are required.

No Impact

Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

- b)

The property is currently zoned Rural Living – 40 acre minimum (RL-40) within the land use category of Rural Living. The Applicant proposes a transportation facility, which is an allowable use within the RL zone. The Proposed Project would comply with the development and operational standards set forth for the RL zoning district. The Project Site is not located within or near an environmental justice area.¹³ The Project Site is surrounded by vacant land and the nearest residence is approximately 1.3 miles southeasterly of the site. The Proposed Project would not cause a significant environmental impact due to conflict with any land use plans or policies. No impacts are identified or anticipated, and no mitigation measures are required.

No Impact

Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

¹³ San Bernardino County. Policy Plan web maps. HZ-10 “Environmental Justice & Legacy Communities” web map. Accessed September 24, 2024.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
XII. MINERAL RESOURCES - Would the project:				

- | | | | | | |
|----|--|--------------------------|--------------------------|-------------------------------------|--------------------------|
| a) | Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state? | ☐ | ☐ | ☒ | ☐ |
| b) | Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | ☐ | ☐ | ☒ | ☐ |

SUBSTANTIATION: (Check ☒ if project is located within the Mineral Resource Zone Overlay):

LCM Development, LLC, Plan of Development – Conditional Use Permit for Rail Loop Aggregate Loading Facility, May 10, 2024; Countywide Policy Plan web maps

- | | |
|----|--|
| a) | Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state? |
| b) | Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? |

The Project Site is located in a Mineral Resource zone for aggregate materials.¹⁴ The proposed rail loop and loading facility would remove the area from possible short-term aggregate mining but would not cause permanent loss of aggregate resources in the area. The increased efficiency of the rail traffic in the movement and transportation of mineral resources, in this case – aggregate resources mined from Lynx Cat Quarry, would be a benefit to the mineral resource industry. Therefore, the Proposed Project would not result in lack of availability of a mineral resource, but rather, assist in the expanded use of it. Less than significant impacts are identified or are anticipated, and no mitigation measures are required.

Less Than Significant Impact

Therefore, less than significant impacts are identified or anticipated, and no mitigation measures are required.

¹⁴ San Bernardino County. Policy Plan web maps. NR-4 "Mineral Resource zones" web map. Accessed November 22, 2022.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
XIII. NOISE - Would the project result in:				

- | | | | | | |
|----|--|--------------------------|--------------------------|-------------------------------------|--------------------------|
| a) | Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | ☐ | ☐ | ☒ | ☐ |
| b) | Generation of excessive ground borne vibration or groundborne noise levels? | ☐ | ☐ | ☒ | ☐ |
| c) | For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project expose people residing or working in the project area to excessive noise levels? | ☐ | ☐ | ☒ | ☐ |

SUBSTANTIATION: (Check if the project is located in the Noise Hazard Overlay District ☐ or is subject to severe noise levels according to the Countywide Policy Plan Noise Element ☐):

LCM Development, LLC, Plan of Development – Conditional Use Permit for Rail Loop Aggregate Loading Facility, May 10, 2024

- a) *Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?*

Construction of the Proposed Project would create short-term construction noise impacts as a result of equipment required for earthwork and construction. The Proposed Project would be adjacent to the existing BNSF main line, which is a major source of intermittent noise in the area. With implementation of the Proposed Project, the periodic increase in noise levels would last longer with the loading and unloading of aggregates. There would also be an increase in traffic as haul trucks would be coming to and from the Lynx Cat Quarry for delivery of aggregates. However, the Project Site is surrounded by vacant land. There are no sensitive receptors in the immediate vicinity that would be impacted by the increase in noise levels. Therefore, less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

b) *Generation of excessive groundborne vibration or groundborne noise levels?*

The major source of vibration in the area is the BNSF trains passing through. With implementation of the Proposed Project, scheduled trains would stop at the proposed loading facility as aggregates are loaded into the gondola cars. Therefore, the periodic increase in vibration levels would last longer. However, the Project Site is surrounded by miles of vacant land. There are no sensitive receptors in the immediate vicinity that would be impacted by the increase in vibration duration. Therefore, less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

c) *For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project expose people residing or working in the project area to excessive noise levels?*

The nearest airport to the Project Site is Barstow-Daggett Airport, located approximately 23 miles southeast. The Project Site is not located within an Airport Runway Protection Zone, Airport Noise Contours or an Airport Safety Review Area. However, the Project Site is located within the low-altitude/high speed military airspace (Airport Safety Review Area 4 [AR4]).¹⁵ An Avigation Easement would be granted to the appropriate military agency and recorded before the issuance of a building permit for those uses established within an AR4. However, as no building permits would be required for the Proposed Project, no action would be required. Less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

Therefore, less than significant adverse impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
XIV. POPULATION AND HOUSING - Would the project:				

- | | | | | | |
|----|--|--------------------------|--------------------------|-------------------------------------|--------------------------|
| a) | Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | ☐ | ☐ | ☒ | ☐ |
|----|--|--------------------------|--------------------------|-------------------------------------|--------------------------|

¹⁵ San Bernardino County Policy Plan web maps. HZ-9 "Airport Safety & Planning Areas." Accessed November 22, 2024.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

SUBSTANTIATION:

LCM Development, LLC, Plan of Development – Conditional Use Permit for Rail Loop Aggregate Loading Facility, May 10, 2024

- a) *Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?*

The proposed facility would employ up to 6 employees and expand, if needed. Because of the low employment demand, the Proposed Project would not induce substantial unplanned population growth. Less than significant adverse impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

- b) *Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?*

The proposed uses would not displace any housing units, or require the construction of replacement housing, as no housing units are proposed to be demolished. Therefore, no impacts are identified or are anticipated, and no mitigation measures are required.

No Impact

Therefore, less than significant adverse impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
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XV. PUBLIC SERVICES

- a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire Protection?	☐	☐	☒	☐
Police Protection?	☐	☐	☒	☐

Schools?	☐	☐	☐	☒
Parks?	☐	☐	☐	☒
Other Public Facilities?	☐	☐	☐	☒

SUBSTANTIATION:

LCM Development, LLC, Plan of Development – Conditional Use Permit for Rail Loop Aggregate Loading Facility, May 10, 2024

- a) *Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:*

Fire Protection?

The Project Site is located within the service area of the San Bernardino County Fire Protection District. The Project Site is not located within a High or Very High Fire Hazard Severity Zone.¹⁶ The Proposed Project does not involve operations that would induce or exacerbate fires. Fire prevention would be a shared responsibility between BNSF and LCMD for the rail traffic on the transition track. BNSF would have the responsibility for the prevention of fire, hazardous material or chemical spills, and for the safe operation of their equipment. However, whenever the rail loop is in operation with cars being loaded and/or unloaded, Applicant would have a water truck and trained fire watch on duty to address and control any unforeseen hazardous conditions or in the unlikely event of a fire. Therefore, the Proposed Project is not anticipated to result in the need for new or physically altered fire protection facilities. Less than significant adverse impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

Police Protection?

The Project Site is located within the High Desert region of the County. It is within the jurisdiction of the Barstow Sheriff Service Agency. Given the rural nature of the Project Site and that the operations that would occur on-site are not crime-inducing, the Proposed Project is not anticipated to require police protection. Therefore, less than significant adverse impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

¹⁶ San Bernardino County. Policy Plan web maps. HZ-5 "Fire Hazard Severity Zones." Accessed September 23, 2024.

Schools?

The Proposed Project would not create a direct demand for public school services as it does not include any type of residential use or other land use that may induce substantial population growth. As such, the Proposed Project would not generate any new school-aged children and increase the demand for school facilities. Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

No Impact

Parks?

Operation of the Proposed Project would place no demands on parks because it would not involve the construction of housing. Furthermore, there are no parks in the vicinity of the Proposed Project that would be visited by project employees.¹⁷ The reclamation activities would not involve the introduction of a new permanent human population into the area. Therefore, the Proposed Project would not induce residential development nor significantly increase the use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of any facilities would result. No impacts are identified or anticipated, and no mitigation measures are required.

No Impact

Other Public Facilities?

The Proposed Project would not result in a substantial increase in residential population. Implementation of the Proposed Project would not adversely affect other public facilities or require the construction of new or modified facilities. Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

No Impact

Therefore, less than significant adverse impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>		<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
XVI. RECREATION					
a)	Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	☐	☐	☐	☒

¹⁷ San Bernardino County. Policy Plan web maps. NR-2 "Parks and Open Space Resources." Accessed September 5, 2024.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
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- | | | | | | |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) | Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? | ☐ | ☐ | ☐ | ☒ |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

SUBSTANTIATION:

LCM Development, LLC, Plan of Development – Conditional Use Permit for Rail Loop Aggregate Loading Facility, May 10, 2024

- a) *Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?*

The proposed facility would employ up to 6 employees and expand, if needed. The Proposed Project does not include development of residential housing or other uses that would lead to substantial population growth. Moreover, there are no neighborhood or regional parks near the Project Site.¹⁸ Therefore, the Proposed Project would not result in an increase in the use of existing neighborhood or regional parks, or other recreational facilities such that substantial physical deterioration of the facilities would occur or be accelerated. No impacts are identified or anticipated, and no mitigation measures are required.

No Impact

- b) *Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?*

The Proposed Project does not include the construction or expansion of recreational facilities. No recreational facilities would be removed, and the number of employees required would not create the need for additional facilities. Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

No Impact

Therefore, no adverse impacts are identified or anticipated, and no mitigation measures are required.

¹⁸ San Bernardino County. Policy Plan web maps. NR-2 "Parks and Open Space Resources." Accessed September 25, 2024.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
XVII. TRANSPORTATION – Would the project:				
a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	☐	☐	☒	☐
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3 subdivision (b)?	☐	☐	☒	☐
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☒	☐

SUBSTANTIATION:

Countywide Policy Plan; LCM Development, LLC, Plan of Development – Conditional Use Permit for Rail Loop Aggregate Loading Facility, May 10, 2024

- a) *Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?*

There are no existing or planned transit, bicycle, and pedestrian facilities in the vicinity of the Project Site.^{19,20,21} The nearest facility is Bus Route 28 in Hinkley, located approximately 3.5 miles east of the Project Site.²²

The following details how the Proposed Project would be consistent with the applicable Countywide Policy Plan Transportation and Mobility Element goals and policies:

Goal TM-2: Roads designed and built to standards in the unincorporated areas that reflect the rural, suburban, and urban context as well as the regional (valley, mountain, and desert) context.

¹⁹ San Bernardino County. Policy Plan web maps. TM-4 “Bicycle and Pedestrian Planning.” Accessed September 25, 2024.

²⁰ San Bernardino County. Policy Plan web maps. TM-3 “Focus Areas.” Accessed September 25, 2024.

²¹ San Bernardino County. Policy Plan web maps. TM-2 “Transit Network.” Accessed September 25, 2024.

²² San Bernardino County. Policy Plan web maps. TM-2 “Transit Network.” Accessed September 25, 2024.

Policy TM-2.2: We promote new development that will reduce household and employment Vehicle Miles Travelled (VMT) relative to existing conditions.

Consistent: Any increase in VMT from employee trips would be insignificant given the low employment demand. Furthermore, the Proposed Project would reduce the number of haul trucks on the road by diverting delivery trips that would otherwise be on the road to the rail loop.

Goal TM-4: On- and off-street improvements that provide functional alternatives to private car usage and promote active transportation in mobility focus areas

Policy TM-5.5: We support and work with local transit agencies to generate public transportation systems that provide access to job centers and reduce congestion in tourist destinations in unincorporated areas.

Consistent: Many projects are seeking a local rail loading facility to deliver the required rock and construction aggregates to their projects to reduce truck traffic and allow them to utilize their specialized ballast placement and track laying equipment and to greatly reduce the use of trucks and traffic congestion in the general area. The rail loop and aggregate loading facility will facilitate the delivery of aggregates

Goal TM-5: A road, rail, and air transportation system that supports the logistics industry and minimizes congestion in unincorporated areas.

Policy TM-5.1: We advocate for the maintenance of a goods movement system in southern California that is efficient and sustainable and that prioritizes public health through the use of zero-emission equipment and infrastructure.

Consistent: The proposed aggregate loading facility would transport rock and construction aggregates to various public projects in the high desert and across the southwest region. The Proposed Project would reduce traffic, congestion, and emission impacts on the I-15, SR-58, and in the High Desert region in general by keeping haul trucks off the road. Moreover, as the Proposed Project would support planned transportation projects, it would have indirectly facilitated sustainability and efficiency.

Policy TM-5.3: We support the development of the High Desert Corridor to improve the regional goods movement network and foster economic development in the North Desert region.

Consistent: The Proposed Project would reduce the trips by haul trucks coming from Lynx Cat Mountain Quarry. Furthermore, the transport of aggregates via rail would allow for safer loading and shipment of large volumes of rock products needed for planned and scheduled railroad maintenance projects.

Therefore, less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

- b) *Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3 subdivision (b)?*

Senate Bill 743 (SB 743), approved in 2013, endeavors to change the way transportation impacts will be determined according to the CEQA. In December 2018, the Natural Resources Agency finalized updates to CEQA Guidelines to incorporate SB 743 (i.e., Vehicle Miles Traveled [VMT]).

Approximately 103 round trips per day of heavy haul trucks would transport materials from Lynx Cat Mountain Quarry to the loading facility, using 65-ton rock quarry trucks or off-road haul trucks. The Proposed Project would reduce VMT by reducing the number of trips by haul trucks coming from the Lynx Cat Mountain Quarry. Furthermore, construction of the proposed loading facility would support the transport of rock and construction aggregates to various public transportation projects in the high desert and across the southwest region. These projects would facilitate the reduction of regional VMT. Therefore, less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

- c) *Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?*

The proposed loading facility includes a rail loop to accommodate and allow 100-120 car unit trains to enter the loop from two directions from the BNSF main rail line. The expected train travel volume that would utilize this planned “Y” track access and rail loop facility track would consist of approximately four-to-five-unit trains per month. Operating speed on the “Y” track entering and leaving the aggregate loading facility loop track would range from 3 to 5 mph. Facility operations are subject to Railway Safety requirements, California Occupational Safety & Health Administration (CALOSHA), and San Bernardino County permit compliance standards. In addition, as the Project Site is surrounded by vacant land, nearby development could be negatively impacted by the Proposed Project. The existing Santa Fe Road on Section 13 would be slightly relocated approximately 300 feet to the north and around the outside of the rail loop facility. Various warning and flashing stop signs would be placed along the relocated road to alert the minimal public traffic traveling on Santa Fe Road. Therefore, less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

- d) *Result in inadequate emergency access?*

The nearest publicly dedicated road is Santa Fe Road, transecting the Project Site. Santa Fe Road is a dirt road that is lightly traveled. The existing Santa Fe Road on Section 13 would be slightly relocated 300 feet north and would still be publicly accessible. Aggregate would be delivered to the loop loading facility via an existing haul road that would intersect with and cross the relocated Santa Fe Road. None of these

roads are evacuation routes.²³ During construction, the contractor would be required to maintain adequate emergency access for emergency vehicles. Road closures during construction would be short-term and temporary. Parcels surrounding the Project Site are vacant, desert land. All vehicles and stationary equipment would be staged off public roads and would not block emergency access routes. Therefore, facility operations would not result in inadequate emergency access. Less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

Therefore, less than significant adverse impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
XVIII. TRIBAL CULTURAL RESOURCES				
a) Would the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	☐	☒	☐	☐
ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?	☐	☒	☐	☐
SUBSTANTIATION:				
AB52 Consultation; BCR Consulting LLC, Cultural Resources Inventory - Lynx Cat Mountain Quarry Expansion Rail Loop Project, October 23, 2024				

²³ San Bernardino Countywide Plan, PP-2 Evacuation Routes. Accessed September 26, 2024.

- a) *Would the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:*
- i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or;*

BCR Consulting's survey resulted in the recordation of five cultural properties within the Project Site. None of the resources are recommended eligible for California Register listing eligibility due to failure to meet any eligibility criteria. Therefore, they are not recommended historical resources under CEQA. Based on these results, the five cultural properties identified during the cultural study do not merit further consideration. As such, the Proposed Project would not result in a significant adverse effect to a historical resource under CEQA. Mitigation Measures CUL-1 and CUL-2, as identified above, would address potential impacts to buried prehistoric and historic resources. No additional mitigation measures are required.

Less than Significant with Mitigation

ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?

California Assembly Bill 52 (AB52) was approved by Governor Brown on September 25, 2014. AB52 specifies that CEQA projects with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource may have a significant effect on the environment. As such, the bill requires lead agency consultation with California Native American tribes traditionally and culturally affiliated with the geographic area of a proposed project, if the tribe requested to the lead agency, in writing, to be informed of proposed projects in that geographic area. The legislation further requires that the tribe-requested consultation be completed prior to determining whether a negative declaration, mitigated negative declaration, or environmental impact report is required for a project.

The County, serving as the Lead Agency, is responsible for conducting government-to-government consultation with local tribes as requested per AB52. On September 27, 2024, the San Bernardino County mailed notification pursuant to AB52 to the following tribes:

- Twenty-Nine Palms Band of Mission Indians
- Chemehuevi Indian Tribe
- Colorado River Indian Tribes
- Fort Mojave Indian Tribe
- Fort Yuma Quechan Tribe

- Kern Valley Indian Community
- Morongo Band of Mission Indians
- Serrano Nation of Mission Indians
- Yuhaaviatam of the San Manuel Nation

Requests for consultations were due to the County by October 27, 2024. In an email dated February 11, 2025, YSMN requested that Mitigation Measures TCR-1 and TCR-2 below, and CUL-1 to CUL-3 identified previously, be implemented.

Mitigation Measure TCR-1

The Yuhaaviatam of San Manuel Nation Cultural Resources Management Department (YSMN) shall be contacted, as detailed in CUL-1, of any pre-contact cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a Cultural Resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with YSMN, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents YSMN for the remainder of the project, should YSMN elect to place a monitor on-site.

Mitigation Measure TCR-2

Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to YSMN. The Lead Agency and/or applicant shall, in good faith, consult with YSMN throughout the life of the project.

Less than Significant with Mitigation

Less than significant impacts are anticipated with implementation of the applicable Mitigation Measure.

<i>Issues</i>		<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
XIX. UTILITIES AND SERVICE SYSTEMS - Would the project:					

- | | | | | | |
|----|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| a) | Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects? | ☐ | ☐ | ☒ | ☐ |
|----|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

<i>Issues</i>		<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
b)	Have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
c)	Result in a determination by the wastewater treatment provider which serves or may serve the Project that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒
d)	Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐
e)	Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

SUBSTANTIATION:

Countywide Policy Plan; LCM Development, LLC, Plan of Development – Conditional Use Permit for Rail Loop Aggregate Loading Facility, May 10, 2024

- a) *Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?*

Water shall be provided for project operations by a water truck. Bottled water is delivered to the site for drinking water. A 6,000-gallon water truck would be used at the Project Site for dust control on the roads, within the loading area, and on the stockpiles. The Proposed Project would not require the relocation or construction of new or expanded water utilities as water will be provided by private well at the Lynx Cat Mountain Quarry nearby.

Only portable toilet facilities with handwashes would be used for the workers. No septic systems are, or would be, installed on-site. The Proposed Project would not require sewer collection or treatment services and therefore no off-site discharge of treated wastewater would occur.

Under proposed conditions, the existing drainage flows would be captured as they enter the Project Site along the southern and southwestern project boundaries. Storm runoff

crossing the southern project boundary would be directed towards a proposed drainage culvert beneath the loop railbed. This flow would be retained within the rail loop and infiltrated into the ground. The runoff would infiltrate within the area of the crushed ballast and would not flow across the loading areas or equipment storage areas. The blue line streams which flow beneath the BNSF railroad improvements do not enter the Project Site and would not be disturbed by the Proposed Project. Therefore, the Proposed Project would not require the relocation or construction of new storm water drainage facilities.

Power for the Proposed Project would be supplied by a generator. The Proposed Project would not require natural gas. New cellular service would not be necessary. Therefore, the Proposed Project would not require the relocation or construction of electric power, natural gas, or telecommunications facilities.

Therefore, less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

- b) *Have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry and multiple dry years?*

Water would be provided by a 6,000-gallon water truck and used at the Project Site for dust control on Santa Fe Road, the loading area, and on the stockpiles. Approximately 2 to 4 water truck trips would provide water from a private well at the nearby mine site. Without the proposed rail loop and loading facility, material mined from the Lynx Cat Mountain Quarry would be delivered via on-road haul trucks to customers. Under this scenario, water for dust suppression would still occur at the Lynx Cat Quarry. Therefore, water supplies needed for the Proposed Project would be less than significant. No mitigation measures are required.

Less Than Significant Impact

- c) *Result in a determination by the wastewater treatment provider which serves or may serve the Project that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?*

There is no sewer service at the Project Site and the Proposed Project would not require sewer collection or treatment services. Therefore, no off-site discharge of treated wastewater would occur. No impacts are identified or are anticipated, and no mitigation measures are required.

No Impact

- d) *Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?*
- e) *Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?*

The Proposed Project is a rail loop and aggregates loading facility that would require up to six employees. Minimal solid waste would be generated with implementation of the Proposed Project. Waste collection and disposal would be performed by the LCMD crews in accordance with both County and BNSF requirements. No trash, debris, or illegal dumping would be permitted to accumulate on or near the right-of-way and, if found, it would be collected and removed whenever noticed or encountered. Solid waste would be collected in waste bins and disposed of at the Barstow landfill. As such, less than significant impacts are identified or are anticipated, and no mitigation measures are required.

Less Than Significant Impact

Therefore, less than significant adverse impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>		<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
XX.	WILDFIRE: If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a)	Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐
b)	Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from wildfire or the uncontrolled spread of a wildfire?	☐	☐	☒	☐
c)	Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water resources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☒	☐
d)	Expose people or structures to significant risks, including downslope or downstream flooding or	☐	☐	☒	☐

landslides, as a result of runoff, post-fire slope instability, or drainage changes?

SUBSTANTIATION:

Countywide Policy Plan; LCM Development, LLC, Plan of Development – Conditional Use Permit for Rail Loop Aggregate Loading Facility, May 10, 2024

- a) *Substantially impair an adopted emergency response plan or emergency evacuation plan?*

The nearest publicly dedicated road is Santa Fe Road, transecting the Project Site. Santa Fe Road is a dirt road that is lightly traveled. The existing Santa Fe Road on Section 13 would be slightly relocated 300 feet north and would still be publicly accessible. Aggregate would be delivered to the loop loading facility via an existing haul road that would intersect with and cross the relocated Santa Fe Road. None of these roads are evacuation routes.²⁴ During construction, the contractor would be required to maintain adequate emergency access for emergency vehicles. Road closures during construction would be short-term and temporary. Parcels surrounding the Project Site are vacant, desert land. All vehicles and stationary equipment would be staged off public roads and would not block emergency access routes. Therefore, facility operations would not result in inadequate emergency access. Less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

- b) *Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from wildfire or the uncontrolled spread of a wildfire?*

The Project Site is not located within a High or Very High Fire Hazard Severity Zone.²⁵ Therefore, risks associated with exposing project employees to pollutant concentrations from wildfire or the uncontrolled spread of a wildfire due to slope, prevailing winds, and other factors, exacerbate wildfire risks is unlikely. Furthermore, the Proposed Project does not include construction of permanent, habitable structures nor are there any such existing structures. Therefore, less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

²⁴ San Bernardino Countywide Plan, PP-2 Evacuation Routes. Accessed September 26, 2024.

²⁵ San Bernardino County. Policy Plan web maps. HZ-5 "Fire Hazard Severity Zones." Accessed September 23, 2024.

- c) *Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water resources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?*

The Proposed Project would not require the construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities. Under the Proposed Project, the existing Santa Fe Road would be relocated north 300 feet to curve around the proposed rail loop. Construction of the rail loop and relocation of the Santa Fe Road would be done in accordance with fire safety regulations. Whenever the rail loop is in operation with cars being loaded and/or unloaded, LCMD would have a water truck and trained fire watch on duty to address and control any unforeseen hazardous conditions or in the unlikely event of a fire. Therefore, the Proposed Project is not anticipated to require the installation or maintenance of associated infrastructure that may exacerbate fire risk or that may result in temporary ongoing impacts to the environment. Less than significant impacts are identified or are anticipated, and no mitigation measures are required.

Less Than Significant Impact

- d) *Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?*

The Project Site is not within a 100-Year Federal Emergency Management Agency (FEMA) flood zone nor a 500-year FEMA flood zone.²⁶ As no major grading and paving are proposed, the existing drainage pattern would be maintained. The Project Site is not located within a High or Very High Fire Hazard Severity Zone.²⁷ The Project Site is located in a relatively flat desert area not susceptible to landslides. Therefore, less than significant impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

²⁶ San Bernardino County. Policy Plan web maps. HZ-4 "Flood Hazards" web map. Accessed September 27, 2024.

²⁷ San Bernardino County. Policy Plan web maps. HZ-5 "Fire Hazard Severity Zones." Accessed September 23, 2024.

Issues	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
XXI. MANDATORY FINDINGS OF SIGNIFICANCE:				
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐
c) Does the project have environmental effects, which would cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐
a) <i>Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?</i>				

The proposed development activities are expected to have minimal impact on any State or Federal listed or State special status plant or animal species. Desert tortoise were not observed on the project site. The one-mile haul road and its zone of influence does support desert tortoises, but with implementation of Mitigation Measures BIO-1 and BIO-4 to BIO-20, the impact can be reduced to less than significant. In addition, burrowing owls do not inhabit the site and are not expected to be impacted given the lack of suitable burrows and the lack of sign (whitewash, castings, etc.). Mitigation Measure BIO-2 will be implemented to reduce any impact to burrowing owl to less than significant. The Project Site does not contain western Joshua trees nor Mojave ground squirrel and Proposed Project would not require an ITP for these species.

BCR Consulting's survey resulted in the recordation of five cultural properties within the Project Site. None of the resources are recommended eligible for the California Register of Historical Resources due to failure to meet any eligibility criteria. Therefore, they are not recommended historical resources under CEQA. Based on these results, the five cultural properties identified during the cultural study do not merit further consideration. As such, the Proposed Project would not result in a significant adverse effect to a historical resource under CEQA. Mitigation Measures CUL-1 to CUL-3, TCR-1, and TCR-2 shall be implemented to ensure no adverse impacts to cultural resources occur.

Less than Significant with Mitigation

- b) *Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?*

Cumulative impacts are defined as two or more individual effects that, when considered together, are considerable or that compound or increase other environmental impacts. The cumulative impact from several projects is the change in the environment that results from the incremental impact of the development when added to the impacts of other closely related past, present, and reasonably foreseeable or probable future developments. Cumulative impacts can result from individually minor, but collectively significant, developments taking place over a period. The CEQA Guidelines, Section 15130 (a) and (b), states:

- (a) Cumulative impacts shall be discussed when the project's incremental effect is cumulatively considerable.
- (b) The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided of the effects attributable to the project. The discussion should be guided by the standards of practicality and reasonableness.

Greenhouse emissions resulting from the Proposed Project would not exceed County and MDAQMD thresholds. Therefore, impacts are not cumulatively considerable. Development of the Proposed Project would be conditioned to comply with current MDAQMD rules and regulations to minimize impacts to air quality.

The cumulative impacts to the general biological resources (plants and animals) in the surrounding area are expected to be negligible. This assumption is based on the presence of ample suitable habitat in the surrounding areas.

Cumulative impacts identified in this Initial Study are anticipated to be less than significant. Therefore, less than significant adverse impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

- c) *Does the project have environmental effects, which would cause substantial adverse effects on human beings, either directly or indirectly?*

As discussed, the Proposed Project would not expose persons to adverse impacts either directly or indirectly related to Air Quality, Geology and Soils, Greenhouse Gas Emissions, Hydrology and Water Quality, Hazards and Hazardous Materials, Noise, or Transportation/Traffic hazards. These impacts were identified to have no impact, a less than significant impact, or a less than significant impact with mitigation incorporated.

The implementation of the existing rules and regulations, conditions from permit approvals and the mitigation measures identified in this Initial Study Checklist would result in a less than significant impact.

Therefore, less than significant adverse impacts are identified or anticipated, and no mitigation measures are required.

Less Than Significant Impact

Therefore, less than significant adverse impacts are identified or anticipated with incorporation of mitigation measures.

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EXHIBIT B

Mitigation Monitoring and Reporting Program (MMRP)

**Mitigation Monitoring and Reporting Program
Initial Study/Mitigated Negative Declaration
LCM RAILROAD**

Prepared by:



County of San Bernardino, Land Use Services Department

385 N. Arrowhead Avenue, 1st Floor
San Bernardino, California 92415-0182
Contact: Steven Valdez, Planner

NOVEMBER 2025

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1 Introduction

The California Environmental Quality Act (CEQA) requires that a public agency adopting a Mitigated Negative Declaration (MND) take affirmative steps to determine that approved mitigation measures are implemented after project approval. The lead or responsible agency must adopt a reporting and monitoring program for the mitigation measures incorporated into a project or included as conditions of approval. The program must be designed to ensure compliance with the MND during project implementation (California Public Resources Code, Section 21081.6(a)(1)).

This Mitigation Monitoring and Reporting Program (MMRP) will be used by the County of San Bernardino (County) to ensure compliance with adopted mitigation measures identified in the MND for LCM RAILROAD (PROJ-2024-00080). The County, as the lead agency, will be responsible for ensuring that all mitigation measures are carried out. Implementation of the mitigation measures would reduce impacts to below a level of significance for: Air Quality, Biological Resources, Cultural Resources, Geology & Soils, and Tribal Cultural Resources.

The remainder of this MMRP consists of a table that identifies the mitigation measures by resource for each project component. Table 1 identifies the mitigation monitoring and reporting requirements, list of mitigation measures, party responsible for implementing mitigation measures, timing for implementation of mitigation measures, agency responsible for monitoring of implementation, and date of completion. With the MND and related documents, this MMRP will be kept on file at the following location:

County of San Bernardino
385 N. Arrowhead Avenue, First Floor
San Bernardino, California 92415

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2 Mitigation Monitoring and Reporting Program Table

Table 1
Mitigation Monitoring and Reporting Program

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
Biological Resources				
BIO-1. (Desert Tortoise) A pre-construction clearance survey be conducted thirty (30) days prior to ground disturbing activities in undeveloped areas to confirm the absence of desert tortoise within the boundaries of the survey area. Survey transects shall be spaced at 5-meter (16-foot) intervals throughout the undeveloped portions of the project area to provide 100 percent visual coverage and increase the likelihood of locating desert tortoise and/or sign. All burrows, if present, will be thoroughly inspected for the presence of desert tortoise or evidence of recent use using non-intrusive methods (i.e., mirror, digital camera) If desert tortoise are found on-site during the pre-construction clearance survey, coordination will be required with the USFWS and CDFW to determine if avoidance and minimization measures can be implemented to avoid any direct or indirect impacts to desert tortoise, or if an ITP will need to be prepared, and approved by the USFWS and CDFW. • A Workers' Education and Awareness Program for desert tortoise protection shall be completed by all workers/drivers/employees prior to working on-site and reviewed annually; • Disturbance shall be confined to the smallest practical areas within the planned disturbance areas; • Vehicle speeds shall not exceed 25 miles per hour on-site and on the access road;	During ground disturbing activities	Project Applicant and operator	San Bernardino County, USFWS CDFW	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
- Vehicles must remain on established roads at all times outside the project site and cross-country travel with motorized vehicles outside of the Project Site by project personnel is prohibited; - Vehicles and equipment parked shall be inspected immediately prior to being moved; - To the extent possible, new disturbances on undisturbed areas shall be scheduled when tortoises are inactive (November 1 – February 28); - All trash and food items shall be promptly contained within closed, common raven proofed containers; and - Firearms, dogs, or other pets shall be prohibited at the work site.		Project Applicant and operator	San Bernardino County	
BIO-2. (Burrowing owl) A pre-construction survey is required to be conducted per CDFW protocol prior to ground disturbance to determine if any burrowing owls have moved on to the site since the May 2024 survey. As per CDFW Staff Report (2012) on Burrowing Owl Mitigation protocol, the most effective method of completing a pre-construction survey (take avoidance survey) should be performed no less than 14 days prior to ground disturbance, followed by a final preconstruction survey within 24 hours of breaking ground. If borrowing owl are observed, consultation with CDFW is required to determine if avoidance and minimization measures can be implemented to avoid any direct or indirect impacts to burrowing owl, or if an ITP will need to be prepared and approved by the CDFW.	During ground disturbing activities	Project Applicant and Operator	San Bernardino County, CDFW	
BIO-3. (Nesting Birds) A pre-construction clearance survey for nesting birds shall be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction. The qualified biologist conducting the clearance survey should document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur. If an active avian nest is discovered	During ground disturbing activities	Project Applicant and operator, authorized biologist	San Bernardino County	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
during the pre-construction clearance survey, construction activities shall stay outside of a no-disturbance buffer. The size of the no-disturbance buffer will be determined by the qualified biologist based on on-site conditions and the species nesting (a minimum 250-foot buffer shall be marked around songbird nests). Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed on the sensitivity of nest areas. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur.				
BIO-4 (Temporary Fencing) Temporary exclusion fencing will be installed around the rail loop disturbance area and a pre-construction clearance survey will be conducted that is supervised by an authorized biologist - any desert tortoises found in this fenced area shall be translocated a short distance, not more than 300 meters, outside of the fenced area to a site with cover (i.e., at the mouth of a burrow or under a shrub). Fence installation must be overseen by an authorized biologist or desert tortoise monitor. This provision may be modified based on the Translocation Plan which shall be developed as part of the CDFW Incidental Take Permit (ITP) process.	During ground disturbing activities	Project Applicant and Operator	San Bernardino County overseen by an authorized biologist CDFW	
BIO-5. (Exclusion Fencing). Permanent exclusion fencing with appropriately spaced shade structures shall be installed along both sides of the haul road followed by a pre-construction clearance survey within the haul road area by an authorized biologist. Fence installation must be overseen by an authorized biologist or desert tortoise monitor. Any tortoises found during the pre-construction clearance survey shall be translocated a short distance (i.e., not more than 300 meters) to either side of the fenced area to a site with cover (i.e., at the mouth of a burrow or under a shrub) or consistent with the Translocation Plan.	During ground disturbing activities	Project Applicant and Operator	San Bernardino County, BLM	
BIO-6 (Clearance Survey). The project shall submit the names and statements of qualifications of all proposed authorized biologists to the BLM for review and approval by USFWS at least	During ground disturbing activities	Project Applicant and Operator	BLM and USFWS	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
30 calendar days prior to initiation of any ground-disturbing activities and pre-activity surveys. An authorized biologist will be present on site and directly oversee clearance surveys, and the capture and handling of desert tortoises for short-distance translocation. .				
BIO-7 (Culvert Installation). The Applicant shall install at least two culverts in the 'straight section' of the rail extension that runs from the main BNSF rail line to the rail loop. Culverts shall be at least 36 inches diameter (per the Desert Renewable Energy Conservation Plan).	During ground disturbing activities	Project Applicant and Operator	San Bernardino County, BLM	
BIO-8 (Tortoise Escape channels) T The Applicant shall include two tortoise escape channels on the rail lines allowing escape to the west side of the project. The placement and design of these escape channels must be approved by BLM. USFWS can provide schematics.	During ground disturbing activities	Project Applicant and Operator	BLM and USFWS	
BIO-9 (Road kill) The Applicant shall promptly remove and dispose of any roadkill found along the haul route or rail loop during operation to minimize subsidies for desert tortoise predators (i.e., common raven, coyotes, etc.).	Throughout Rail operations	Project Applicant and Operator	Operator BLM	
BIO-10 (Environmental Awareness). All personnel working at the project will attend a Worker Environmental Awareness Program conducted by an authorized biologist (or desert tortoise monitor with approval by an authorized biologist) prior to the commencement of construction activities and each calendar year until the end of construction. This program will include at a minimum information on desert tortoise biology and identification and the protective measures required by the BLM of any personnel working at the project.	During ground disturbing activities	Project Applicant and Operator	Operator and BLM	
BIO-11. (Desert Tortoise Injuries) In the event a desert tortoise is found injured at the project, the project is responsible for notifying BLM and the USFWS immediately so that they can determine if further action is required and provide guidance on veterinary care. Written follow-up notification and a brief report will be submitted via email to the BLM within two calendar days of the incident. All veterinary care costs shall be the responsibility of the Applicant.	Throughout Rail operations	Operator and BLM	BLM and USFWS	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
BIO-12 (Tortoise Carcass). In the event a desert tortoise is found dead at the project, the project is responsible for securing the carcass (i.e., putting a tarp over it) and notifying BLM and the USFWS within 24 hours so that they can determine if further action is required. Written follow-up notification and a brief report will be submitted via email to the BLM within two calendar days of the incident.	During ground disturbing activities and Throughout Rail operations	Operator and BLM USFWS	BLM and USFWS	
BIO-13 (Ballast Size) Ballast size for the base of rail lines shall be sized large enough to deter passage of desert tortoises. Size of this ballast will be discussed with the Applicant, BLM and USFWS.	Prior to ground disturbing activities Throughout Rail operations	Operator and BLM USFWS	Operator and BLM USFWS	
BIO-14 (Exclusion Fencing) Prior to the installation of desert tortoise exclusion fencing and whenever a vehicle or construction equipment is parked outside of the desert tortoise exclusion fence at the project, personnel will inspect underneath any parked vehicle and equipment before moving them to check for desert tortoise.	Prior to ground disturbing activities and throughout rail operations	Applicant and Operator	Operator and BLM USFWS	
BIO-15 (Construction) Any construction pipe, culvert, or similar structure outside of the desert tortoise exclusion fencing with a diameter greater than 3 inches and stored less than 8 inches aboveground for one or more days will be inspected for desert tortoise before the material is moved, buried, or capped. As an alternative, all such structures may be capped or placed on pipe racks to prevent animal entry.	Prior to ground disturbing activities and During construction ground disturbing activities	Applicant and Operator	San Bernardino County and BLM	
BIO-16 (Desert Tortoise Contact) If a desert tortoise is found under vehicle, equipment, or within construction materials, an authorized biologist will be contacted to capture and translocate the animal a short distance (not more than 300 meters) to a site with cover (i.e., at the mouth of a burrow or under a shrub).	Prior to ground disturbing activities Throughout Rail operations	Project Applicant and operator –conducted by a Qualified Biologist	San Bernardino County BLM	
BIO-17 (Pets) - Personnel are prohibited from bringing pets to the project during construction, operation, and decommissioning. The Applicant shall implement predator abatement measures to reduce the attraction of the project to common ravens, coyotes and roaming dogs. Specifically, the Applicant will reduce attraction and	Throughout Rail operations	Project Applicant and Operator	San Bernardino County, BLM and Operator	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
implement appropriate measures including timely removal of trash, limiting available food and water subsidies and inadvertently creating habitat (e.g., creation of perch/roost sites and nesting or denning sites) within the project area. All trash items and food waste shall be kept in closed containers.				
BIO-18 (Trash Debris) The Applicant shall implement predator abatement measures to reduce the attraction of the project to common ravens, coyotes and roaming dogs. Specifically, the Applicant will reduce attraction and implement appropriate measures including timely removal of trash, limiting available food and water subsidies and inadvertently creating habitat (e.g., creation of perch/roost sites and nesting or denning sites) within the project area. All trash items and food waste shall be kept in closed containers.	Throughout Rail operations	Project Applicant and operator	San Bernardino County BLM and Operator	
BIO-19 (Raven) The Applicant shall be responsible for contributing to the Raven Management Fee as prescribed in the DRECP. This shall be accomplished by applying the current fee per acre (\$105/acre) of permanent disturbances on BLM-managed lands (the fee does not apply to the private lands associated with this project). This shall be done prior to initiation of construction activities.	Prio to construction activities	Project Applicant and operator	San Bernardino County BLM and Operator	
BIO-20 Compensation for impacts to the Fremont-Cramer ACEC and tortoise habitat shall be accomplished through the implementation of the BLM approved Habitat Restoration Plan.	Throughout Rail operations	Project Applicant and operator	San Bernardino County BLM and Operator	
BIO-21 (Pre-Construction American Badger and Desert Kit Fox Surveys) No more than 30 days prior to the beginning of ground disturbance and/or Project activities, a qualified biologist shall conduct a survey to determine if potential desert kit fox or American badger burrows are present in the Project site. If potential burrows are located, they shall be monitored by the qualified biologist. If the burrow is determined to be active, the qualified biologist shall verify there are suitable burrows outside of the Project site prior to undertaking passive relocation actions. If no suitable burrows are located, artificial burrows shall be created at least fourteen days prior to passive relocation. The qualified biologist shall block the entrance of the active burrow with soil, sticks, and debris for 3-5	Prior to initiation of Project Activities	Project Proponent and Qualified Biologist	San Bernardino County and CDFW	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
days to discourage the use of the burrow prior to Project activities. The entrance shall be blocked to an incrementally greater degree over the 3-5-day period. After the qualified biologist has determined there are no active burrows, the burrows shall be hand excavated to prevent re-use. No disturbance of active dens shall take place when juvenile desert kit fox and juvenile American badgers may be present and dependent on parental care. The qualified biologist shall determine appropriate buffers and maintain connectivity to adjacent habitat should natal burrows be present.				
Cultural Resources				
CUL-1 (Cultural Finds) In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 100-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed within TCR-1, regarding any pre-contact finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.	During initial ground disturbing activities	Project Applicant and Tribal Monitor in coordination with a Qualified Archaeologist	San Bernardino County, BLM and San Manuel Nation Cultural Resources Department (YSMN)	
CUL-2 (Monitoring and Treatment Plan) If significant pre-contact cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to YSMN for review and comment, as detailed within TCR-1. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.	Upon Completion of Monitoring and Treatment Plan	Project Applicant and Tribal Monitor in coordination with a Qualified Archaeologist	San Bernardino County, BLM and San Manuel Nation Cultural Resources Department (YSMN)	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
CUL-3 (Human Remains) If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.	During initial ground disturbing activities	Project Applicant/Qualified Archaeologist and Tribal Monitor and coordination with County Coroner (if prompted)	San Bernardino County San Bernardino County, BLM and San Manuel Nation Cultural Resources Department (YSMN)	
<i>Tribal Cultural Resources</i>				
TCR-1 <u>Monitoring and Treatment Plan.</u> The Yuhaaviatam of San Manuel Nation Cultural Resources Management Department (YSMN) shall be contacted, as detailed in CUL-1, of any pre-contact cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a Cultural Resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with YSMN, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents YSMN for the remainder of the project, should YSMN elect to place a monitor on-site.	Upon Completion of Monitoring and Treatment Plan	Project Applicant/Qualified Archaeologist and Tribal Monitor	San Bernardino County San Bernardino County, BLM and San Manuel Nation Cultural Resources Department (YSMN)	
TCR-2 (Archaeological/cultural documents). Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to YSMN. The Lead Agency and/or applicant shall, in good faith, consult with YSMN throughout the life of the project.	During ground disturbing activities Upon discovery of pre-contact cultural resource	Project Applicant/Qualified Archaeologist and Tribal Monitor and coordination with County Coroner (if prompted)	San Bernardino County San Bernardino County, BLM and San Manuel Nation Cultural Resources Department (YSMN)	
TCR-3 <u>Inadvertent Discoveries of Human Remains (similar to CR-2)</u> If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate	Upon discovery of human remains	Project Applicant and Mining operator in coordination with County Coroner (if prompted)	San Bernardino County	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.				

EXHIBIT C

Findings

FINDINGS: CONDITIONAL USE PERMIT. A Conditional Use Permit (PROJ-2024-00080) to construct and operate a transportation facility consisting of a Burlington Northern and Santa Fe (BNSF) approved rail loop and aggregate loading on 131 acres of a 640 acres parcel.

The findings, in accordance with Section 85.06.040 of the Development Code, for the projects Conditional Use Permit are as follows:

1. **The site for the proposed use is adequate in terms of shape and size to accommodate the proposed use and all landscaping, open spaces, parking areas, setbacks, walls and fences, yards, and other required features pertaining to the application.**

The project is located on 131 acres of a 640-acre parcel and thus the site is adequate in terms of shape and size to accommodate the proposed transportation facility. All applicable development standards, including, but not limited to, setbacks, lot coverage, and height limits are met as shown by the supporting documents.

2. **The site for the proposed use has adequate access, which means that the site design incorporates appropriate street and highway characteristics to serve the proposed use.**

Access to the project site will be provided from unpaved Santa Fe Avenue which is being relocated as a result of the project, with the access point being at an intersection with a planned unpaved private haul road contained entirely on the applicant's owned property.

3. **The proposed use will not have a substantial adverse effect on abutting property or the allowed use of the abutting property, which means that the use will not generate excessive noise, traffic, vibration, or other disturbance. In addition, the use will not substantially interfere with the present or future ability to use solar energy systems.**

The conditions of approval and the mitigation monitoring reporting program for the project will ensure that the use will not become a nuisance or have a substantial adverse effect on abutting properties. The project is conditioned to comply with applicable County performance standards for heat, noise, vibration, etc.

4. **The proposed use and manner of development are consistent with the goals, maps, policies, and standards of the General Plan and any applicable community or specific plan.**

The proposed use is consistent with Rural Living 40-acre minimum (RL-40) zoning district as a transportation facility consisting of a rail loop and aggregate loading is allowed with an approved Conditional Use Permit.

The proposed uses are consistent with the following Countywide Plan policies:

- **Policy LU-1.1 Growth**

We support growth and development that is fiscally sustainable for the County. We accommodate growth in the unincorporated county when it benefits existing communities, provides a regional housing option for rural lifestyles, or supports the regional economy.

The proposed project supports fiscally sustainable growth and development growth by providing economically and efficiently transported aggregate products for the expansion of rail facilities, future commuter rail and other projects. The utilization of the transportation facility would replace truck usage that would otherwise contribute to congestion and road damage on publicly maintained roads.

- **Policy LU-2.1 Compatibility with existing uses**

We require that new development is located, scaled, buffered, and designed to minimize negative impacts on existing conforming uses and adjacent neighborhoods. We also require that new residential developments are located, scaled, buffered, and designed so as to not hinder the viability and continuity of existing conforming nonresidential development.

The proposed project is a transportation facility which is allowed within the current RL-40 zoning district with an approved Conditional Use Permit. The project is surrounded by other RL zoning districts as well as the Resource Conservation (RC) zoning district which also allows for transportation facilities with an approved Conditional Use Permit. In addition, the surrounding lands are majority vacant desert land.

- **Policy LU-2.4 Land Use Map consistency**

We consider proposed development that is consistent with the Land Use Map (i.e., it does not require a change in Land Use Category), to be generally compatible and consistent with surrounding land uses and a community's identity. Additional site, building, and landscape design treatment, per other policies in the Policy Plan and development standards in the Development Code, may be required to maximize compatibility with surrounding land uses and community identity.

The proposed project is a transportation facility which is allowed within the current RL-40 zoning district as well as the surrounding RL and RC zoning districts with an approved Conditional Use Permit.

5. **There is supporting infrastructure, existing or available, consistent with the intensity of the development, to accommodate the proposed development without significantly lowering service levels.**

The project is taking on the cost of moving unpaved Santa Fe Avenue due to the design of the project. Additionally, the project will not require connection of any public services such as water or sewer. Water will come from water wells from the nearby applicant owned quarry as well as future on-site well and sewer will be handled by on-site portable lavatories.

6. The lawful conditions stated in the approval are deemed reasonable and necessary to protect the overall public health, safety and general welfare.

The conditions of approval will ensure that the overall public health, safety and general welfare are not impacted by the development.

7. The design of the site has considered the potential for the use of solar energy systems and passive or natural heating and cooling opportunities.

The project is a transportation facility which consists of a rail loop and aggregate loading and would not be conducive to solar energy systems within the project footprint. However, the project covers 131 acres on a 640-acre parcel and thus contains available space on the property for solar energy systems.

ENVIRONMENTAL FINDINGS:

The environmental findings, in accordance with Section 85.03.040 of the San Bernardino County Development Code, are as follows:

Pursuant to provisions of the California Environmental Quality Act (CEQA) and the San Bernardino County Environmental Review guidelines, the above referenced project has been determined to not have a significant adverse impact on the environment with the implementation of all the required Conditions of Approval and Mitigation Measures. A Mitigated Negative Declaration (MND) is recommended. The MND represents the independent judgment and analysis of the County acting as lead agency for the project.

EXHIBIT D

Conditions of Approval

CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT LCM RAILROAD

GENERAL REQUIREMENTS

Conditions of Operation and Procedures

LAND USE SERVICES – Planning (909) 387-8311

1. Project Description. Conditional Use Permit to construct and operate a transportation facility consisting of a Burlington Northern and Santa Fe (BNSF) approved rail loop and aggregate loading , on 131 acres of a 640-acre parcel.
2. Location. The project is located at 18800 Santa Fe Avenue Hinkley approximately 1.5 miles north of State Route 58.
3. Effective Dates. The project (Account No. PROJ-2024-0080) shall be effective from the time of approval until.
4. Revisions/Amendments. Any substantial deviation or increase in the developed area of the site from that shown on the final approved Plan will require submission of an additional application for review and approval.
5. Written Notification. The Land Use Services Department shall be notified in writing, within 30 days, regarding any:
 - a. Change in operating procedures, or inactive periods of operation for one (1) year or more.
 - b. Changes of Company ownership, address, or telephone number during the life of the Reclamation Plan.
 - c. Changes to provisions in lease agreements or real property having any effect on the approved.
6. The San Bernardino County Land Use Services Department shall be notified in writing, within 30 days, about any:
 - A) Change in operating procedures, or inactive periods of operation for one (1) year or more.
 - B) Changes of Company ownership, address, or telephone during the life of the Conditional Use Permit or Reclamation Plan.
 - C) Any changes to provisions in lease agreements or real property that will affect the approved Mining/Reclamation Plan.
7. Additional Permits/Approvals. The applicant/operator shall ascertain and comply with requirements of all Federal, State, County, and Local agencies as are

applicable to the project areas. They include, but are not limited to: the San Bernardino County Departments of Planning, Environmental Health Services, Transportation/Flood Control, Fire Warden, Building and Safety, Bureau of Land Management, Mojave Desert Air Quality Management District, State Fire Marshall, Lahontan Regional Water Quality Control Board, Caltrans District 8, California Department of Fish and Game, State Mining and Geology Board, U.S. Fish and Wildlife Service, Mine Safety and Health Administration (MSHA), the California Occupational Safety and Health Administration (Cal-OSHA), and California Highway Patrol.

8. Indemnification. In compliance with the SBCC § 81.01.070, the applicant shall agree, to defend, indemnify, and hold harmless the County or its “indemnitees” (herein collectively the County’s elected officials, appointed officials (including Planning Commissioners), Zoning Administrator, agents, officers, employees, volunteers, advisory agencies or committees, appeal boards or legislative body) from any claim, action, or proceeding against the County or its indemnitees to attack, set aside, void, or annul an approval of the County by an indemnitee concerning a map or permit or any other action relating to or arising out of County approval, including the acts, errors or omissions of any person and for any costs or expenses incurred by the indemnitees on account of any claim, except where such indemnification is prohibited by law. In the alternative, the applicant may agree to relinquish such approval.

Any condition of approval imposed in compliance with the County Development Code or County General Plan shall include a requirement that the County acts reasonably to promptly notify the applicant of any claim, action, or proceeding and that the County cooperates fully in the defense. The applicant shall reimburse the County and its indemnitees for all expenses resulting from such actions, including any court costs and attorney fees, which the County or its indemnitees may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of their obligations under this condition to reimburse the County or its indemnitees for all such expenses.

This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The applicant’s indemnification obligation applies to the indemnitees’ “passive” negligence but does not apply to the indemnitees’ “sole” or “active” negligence or “willful misconduct” within the meaning of Civil Code Section 2782.

9. Financial Assurances. The applicant/operator shall maintain an acceptable form of financial assurance for the reclamation plan and conditions of approval. The financial assurance shall identify the County of San Bernardino and the Department of Conservation as the beneficiaries. Any withdrawals made by the

County for reclamation shall be re-deposited by the applicant/operator within 30 days of notification.

The financial assurance shall be calculated based on a cost estimate submitted by the applicant/operator and approved by the County and the Department of Conservation, Office of Mine Reclamation for the approved reclamation procedures. Each year, following the annual mine site inspection, the assurance amount shall be reviewed and, if necessary, adjusted to account for new lands disturbed by surface mining operations, inflation and reclamation of lands accomplished in accordance with the approved Reclamation Plan.

The financial assurance is not established to replace the applicant's/operator's responsibility for reclamation, but to assure adequate funding to complete reclamation per the Reclamation Plan and Conditions of Approval. Should the applicant/operator fail to perform or operate within all of the requirements of the approved Reclamation Plan, the County or Department of Conservation will follow the procedures outlined in Sections 2773.1 and 2774.1 of the Surface Mining/Reclamation Act (SMARA) regarding the encashment of the assurance and applicable administrative penalties, to bring the applicant/operator into compliance. The requirements for the assurance will terminate when reclamation of the site has been completed in compliance with the approved Reclamation Plan and accepted by the County and the Department of Conservation, Office of Mine Reclamation pursuant to California Code of Regulations, Section 3805.5.

10. Funds. As determined necessary on a case by case basis, the applicant shall deposit funds with the County necessary to compensate staff time and expenses for review of compliance monitoring reports and site inspections.
11. Project Account. As determined necessary on a case by case basis, the applicant shall deposit funds with the County necessary to compensate staff time and expenses for review of compliance monitoring reports and site inspections. Project Account Proj-2024-00080
12. Conditions. All project conditions are continuing conditions. Failure of the applicant/operator to comply with any or all of said conditions at any time could result in the revocation of the permit granted to use the property.
13. Clean Water Act. The Army Corp. of Engineers (COE) regulates discharge of dredged fill materials into Waters of the United States pursuant to Section 404 of the Clean Water Act. If the COE agrees that the delineated waters on the site are jurisdictional and the project will result in the discharge of materials into waters of the United States, a 404 permit may be required and will need to be obtained from the Los Angeles COE District Office. A pre-construction notification should be submitted to the COE District office early in the environmental process.

14. Regional Water Quality Control Board (RWQCB). The RWQCB regulates discharge to surface waters under the Clean Water Act (CLA) and the California Porter-Cologne Water Quality Act; therefore, a Section 401 permit may be required in conjunction with the 404 permit, if the COE concurs that the site supports waters of the United States. Effective July 1, 2010, all dischargers are required to obtain coverage under the Construction General Permit Order 2009-0009-DWQ adopted on September 2, 2009. A Section 401 water quality certification may be required as part of the approval by the COE if a 404 permit is deemed necessary by the COE.
15. Project Account. The Job Costing System (JCS) account number is_proj-2024-00080. This is an actual cost project with a deposit account to which hourly charges are assessed by various county agency staff (e.g. Land Use Services, Public Work and County Counsel). Upon notice, the “developer” shall deposit additional funds to maintain or return the account to a positive balance. The “developer” is responsible for all expenses charged to this account. Processing of the project shall cease if it is determined that the account has a negative balance and that an additional deposit has not been made in a timely manner. A minimum balance of \$1,200.00 shall be in the project account at the time of the project approval.
16. Condition Compliance. The applicant/operator shall process a Condition Compliance Review through the County in accordance with the direction stated in the Conditional Approval letter, for verification of conditions for each phase of the project. NOTE: Sufficient funds must remain in the account to cover the charges during the Compliance Review for each phase. A minimum balance of \$1,200.00 must be in the project account at the time the Condition Compliance Review is initiated. NOTE: Sufficient funds must remain in the account to cover the charges during the Compliance Review for each phase.
17. Fees. Prior to issuance of the approved Permits, all fees due under actual cost Job No. PROJ-2024-00080 shall be paid in full.
18. Mitigation. Implementation of the mitigation measures required for this project shall be verified according to the methods identified in the Mitigation Monitoring and Compliance Program (Exhibit B). Planning verification of compliance shall be requested through submittal of a Mitigation Monitoring and Compliance Application along with the required fee deposit. A qualified third party consultant shall do mitigation monitoring compliance verification to be funded by the applicant/operator. Annual reports shall be prepared by the operator that summarizes compliance with regulatory agency monitoring requirements and submitted to Land Use Services by Oct 1st of each year.
19. Operation. The facility will operate on a 24 hour two-shift schedule.

Definitions

20. Mitigation Measures: Mitigation Measures (MMs) are environmental protection measures developed during the CEQA process (in addition to the proposed PDFs) that have been determined necessary to further protect the environment.
21. Operator. The Operator includes the applicant and any person who is engaged in transportation facility operations.
22. Transplanting. Transplanted or propagated plants will be maintained for a minimum of three years, or until a qualified biologist(s) determine that the plants have been successfully established (e.g., plants are vigorous, flower, and produce seed). Successful re-establishment of the plants will be based on the replanted areas achieving density and diversity standards based on control plots.
23. Special-status Plant Protection. Special-status plants (as listed in the SBCC Section 88.01.060 (et al.), Desert Native Plant Protection, and those species identified/listed in Revegetation Plan and growing within the disturbed areas will be salvaged and/or propagules will be relocated to an appropriate location within the mine site that will not be disturbed by future mine activities. Prospective transplanting sites will be inspected and approved by a qualified botanist prior to removal of vegetation for the project. Transplanting efforts will be consistent with the revised Revegetation Plan.
24. Joshua Trees. On September 22, 2020, the California Fish and Game Commission determined that the Western Joshua tree (*Yucca brevifolia*) is a potentially threatened or endangered species and should be protected under the California Endangered Species Act (CESA). This commenced a status review of the species, and the Commission will make a final decision whether or not to require permanent protection status under CESA after the review; therefore, during the status review period, the Western Joshua tree is protected under CESA. The County does not have authority to authorize removal of Western Joshua trees pursuant to Development Code sections 88.01.040 through 88.01.060. Removal shall require authorization from the California Department of Fish and Wildlife.

LAND USE SERVICES – Code Enforcement (909) 387-8311

25. Enforcement. If any County agency is required to enforce compliance with the conditions of approval, the property owner and “developer” shall be charged for such enforcement activities in accordance with the County Code Schedule of Fees. Failure to comply with these conditions of approval or the approved site plan design required for this project approval shall be enforceable against the property owner and “developer” (by both criminal and civil procedures) as provided by the San Bernardino County Code, Title 8 - Development Code; Division 6 - Administration, Chapter 86.09 - Enforcement.

26. Weed Abatement. The developer shall comply with San Bernardino County weed abatement regulations [SBCC§ 23.031-23.043] and periodically clear the site of all non-complying vegetation. This includes removal of all Russian thistle (tumbleweeds).

**PUBLIC HEALTH – Environmental Health Services (Access)
(800) 442-2283**

27. Noise Level. Noise level shall be maintained at or below County Standards, Development Code §83.01.080. For information, contact DEHS at 1-800-442-2283.
28. Refuse Storage/Removal. All refuse generated at the premises shall at all times be stored in approved containers and shall be placed in a manner so that environmental public health nuisances are minimized. All refuse not containing garbage shall be removed from the premises at least **1** time per week, per week or as often as necessary to minimize public health nuisances. Refuse containing garbage shall be removed from the premises at least **2** times per week, or as often as necessary to minimize public health nuisances, by a permitted hauler to an approved solid waste facility in conformance with San Bernardino County Code Chapter 8, Section 33.0830 et. Seq. For information, please call DEHS/LEA at: 1-800-442-2283.
29. OWTS Maintenance. The onsite wastewater treatment system shall be maintained so as not to create a public nuisance and shall be serviced by an EHS permitted pumper.

PUBLIC WORKS – Traffic – 909 387-8186

30. Access. The access point to the facility shall remain unobstructed at all times, except a driveway access gate which may be closed after normal working hours.
31. Back Out Into Public Roadways. Project vehicles shall not back up into the project site nor shall they back out into the public roadway.
32. Road Maintenance This project is responsible for maintenance of the intersection of the realigned Santa Fe Road and the haul route for the life of the project. Maintenance of the intersection is subject to inspections by San Bernardino County Department of Public Works – Permits Division. The project may apply for a one (1) year permit for road maintenance but must enter into a long-term agreement for future road maintenance. Please contact San Bernardino County Department of Public Works – Traffic Division at (909) 387-8186 at least six (6) months prior to the expiration of the road maintenance permit to begin the process of the long-term maintenance agreement.

COUNTY FIRE – Community Safety (909) 386-8400

33. Fire Jurisdiction. The above referenced project is under the jurisdiction of the San Bernardino County Fire Department herein ("Fire Department"). Prior to any construction occurring on any parcel, the developer shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current Uniform Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department.
34. Additional Requirements. In addition to the Fire requirements stated herein, other on-site and off-site improvements may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.

LAND USE SERVICES - Land Development – Drainage (909) 387-8311

35. Tributary Drainage. Adequate provisions should be made to intercept and conduct the tributary off site - on site drainage flows around and through the site in a manner, which will not adversely affect adjacent or downstream properties at the time the site is developed.
36. Natural Drainage. The natural drainage courses traversing the site shall not be occupied or obstructed..
37. FEMA Flood Zone. The project is located within Flood Zone D according to FEMA Panel Number 06071C3875H dated 08/28/2008. Flood hazards are undetermined in this area, but they are still possible. The requirements may change based on the recommendations of a drainage study accepted by the Land Development Division and the most current Flood Map prior to issuance of grading permit.
38. Erosion Control Installation. Erosion control devices must be installed and maintained at all perimeter openings and slopes throughout the construction of the project. No sediment is to leave the job site.

**PRIOR TO ISSUANCE OF GRADING PERMITS OR
ANY LAND DISTURBING ACTIVITY
THE FOLLOWING SHALL BE COMPLETED**

LAND USE SERVICES - Land Development – Drainage (909) 387-8311

39. Drainage Improvements. Adequate drainage improvements should be considered to intercept and conduct the tributary off-site and on-site drainage flows around and through the site in a safe manner that will not adversely affect adjacent or downstream properties.

40. On-site Drainage Easement. On-site flows shall be directed within a drainage easement.
41. Grading Plans. Grading and erosion control plans shall be prepared in accordance with the County's guidance documents (which can be found here: <https://lus.sbcounty.gov/land-development-home/grading-and-erosion-control/>) and submitted for review with approval obtained prior to construction. Fees for grading plans will be collected upon submittal to the Land Development Division and are determined based on the amounts of cubic yards of cut and fill. Fee amounts are subject to change in accordance with the latest approved fee schedule.
42. Streambed Alteration Agreement. California Department of Fish and Wildlife (CDFW) must be notified per Fish and Game Code (FGC) §1602. A streambed alteration agreement shall be provided prior to Grading permit issuance. Link to CDFW website at: <https://www.wildlife.ca.gov/Conservation/LSA>.
43. State Construction Stormwater General Permit. Notice of Intent (NOI) and WDID # are required on all land disturbance of one (1) acre or more prior to issuance of a grading/construction permit. For questions regarding the State Construction Stormwater General Permit, please contact: https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html.

PUBLIC WORKS – Traffic – 909 387-8186

44. Road maintenance Permit. A permit will be required from San Bernardino County Department of Public Works – Permits Division (909) 387-1863 for maintenance of the proposed intersection of Santa Fe Avenue and the haul route. The permit will be valid for one (1) year. A long-term maintenance agreement will be required to be executed prior to the expiration of the road maintenance permit.

LAND USE SERVICES – Building and Safety (909) 387-8311

45. Geotechnical Soil Report A geotechnical (soil) report shall be submitted to the Building and Safety Division for review and approval prior to issuance of grading permits or land disturbance.

PUBLIC HEALTH – Environmental Health Services (DEHS) (800) 442-2283

46. Vector Control Requirement. the project area has a high probability of containing vectors. A vector survey shall be conducted to determine the need for any required control programs. A vector clearance application shall be submitted to the appropriate Mosquito & Vector Control Program. For information, contact

EHS Mosquito & Vector Control Program at (800) 442-2283 or West Valley Mosquito & Vector at (909) 635-0307

PUBLIC WORKS – Surveyor – 909 387-8186

47. Corner Records. Pursuant to Sections 8762(b) and/or 8773 of the Business and Professions Code, a Record of Survey or Corner Record shall be filed under any of the following circumstances: a. Monuments set to mark property lines or corners; b. Performance of a field survey to establish property boundary lines for the purposes of construction staking, establishing setback lines, writing legal descriptions, or for boundary establishment/mapping of the subject parcel; c. Any other applicable circumstances pursuant to the Business and Professions Code that would necessitate filing of a Record of Survey.
48. Monument Disturbed by Grading. If any activity on this project will disturb ANY land survey monumentation, including but not limited to vertical control points (benchmarks), said monumentation shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer authorized to practice land surveying PRIOR to commencement of any activity with the potential to disturb said monumentation, and a corner record or record of survey of the references shall be filed with the County Surveyor pursuant to Section 8771(b) Business and Professions Code.

**PRIOR TO ISSUANCE OF BUILDING PERMIT
THE FOLLOWING SHALL BE COMPLETED**

LAND USE SERVICES - Land Development – Road Section (909) 387-8311

49. Road Dedication/Improvements. The developer shall submit for review and obtain approval from the Land Use Services Department the following dedications and plans for the listed required improvements, designed by a Registered Civil Engineer (RCE) licensed in the State of California:
Santa Fe Avenue (Secondary Highway – 88 feet)

Existing Portion of Santa Fe Avenue

- Vacate. Reroute of Santa Fe Avenue to receive recommendation for approval of vacation from the Highway Planning Technical Committee (HPTC), County Department of Public Works. A processing fee shall be required prior to the vacation and the vacation shall be finalized prior to certificate of occupancy. Contact Transportation Right-of-Way at (909) 387-8279 to obtain additional information.

Newly created portion of Santa Fe Avenue

- Road Dedication. A 88-foot grant of easement is required to provide a full-width right-of-way of 88 feet.
 - Street Improvements Design graded road 64 feet full width per modified County Standard 114 (no curb/gutter and sidewalk required).
50. Road Standards and Design. All required street improvements shall comply with latest San Bernardino County Road Planning and Design Standards and the San Bernardino County Standard Plans. Road sections shall be designed to Desert Road Standards of San Bernardino County and to the policies and requirements of the County Department of Public Works and in accordance with the General Plan, Circulation Element.
51. Construction Permits. Prior to installation of road and drainage improvements, a construction permit is required from the County Department of Public Works, Permits/Operations Support Division, Transportation Permits Section (909) 387-1863 as well as other agencies prior to work within their jurisdiction. Submittal shall include a materials report and pavement section design in support of the section shown on the plans. Applicant shall conduct classification counts and compute a Traffic Index (TI) Value in support of the pavement section design.
52. Soils Testing. Any grading within the road right-of-way prior to the signing of the improvement plans shall be accomplished under the direction of a soils testing engineer. Compaction tests of embankment construction, trench back fill, and all sub-grades shall be performed at no cost to the County and a written report shall be submitted to the Permits/Operations Support Division, Transportation Permits Section of the County Department of Public Works prior to any placement of base materials and/or paving.
53. Transitional Improvements Right-of-way and improvements (including off-site) to transition traffic and drainage flows from proposed to existing sections shall be required as necessary.
54. Street Gradients. Road profile grades shall not be less than 0.5% unless the engineer at the time of submittal of the improvement plans provides justification to the satisfaction of the County Department of Public Works confirming the adequacy of the grade.
55. Utilities Final plans and profiles shall indicate the location of any existing utility facility or utility pole which would affect construction, and any such utility shall be relocated as necessary without cost to the County.

COUNTY FIRE – Community Safety (909) 386-8400

56. Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities. Road surface shall meet the approval of the Fire Chief prior to installation. All roads shall be designed to 85% compaction and/or paving and hold the weight of Fire Apparatus at a minimum of 80K pounds.
57. Primary Access Paved. Prior to building permits being issued to any new structure, the primary access road shall be paved or an all-weather surface and shall be installed as specified in the General Requirement conditions including width, vertical clearance and turnouts.
58. Secondary Access Paved. Prior to building permits being issued to any new structure, the secondary access road shall be paved or an all-weather surface and shall be installed as specified in the General Requirement conditions including width, vertical clearance and turnouts.

LAND USE SERVICES – Building and Safety (909) 387-8311

59. Construction Plans. Any building, sign, or structure to be added to, altered (including change of occupancy/use), constructed, or located on site, will require professionally prepared plans based on the most current adopted County and California Building Codes, submitted for review and approval by the Building and Safety Division.

PUBLIC HEALTH – Environmental Health Services (DEHS) (800) 442-2283

60. Existing OWTS. Existing onsite wastewater treatment system can be used if applicant provides an EHS approved certification that indicates the system functions properly, meets code, has the capacity required for the proposed project, and meets LAMP.
61. New OWTS. If sewer connection and/or service are unavailable, onsite wastewater treatment system(s) may then be allowed under the following conditions:
- a. A soil percolation report shall be submitted to EHS for review and approval.
For information, please contact the Wastewater Section at (800) 442-2283.
 - b. An Alternative Treatment System, if applicable, shall be required.
62. Preliminary Acoustical Information. Submit preliminary acoustical information demonstrating that the proposed project maintains noise levels at or below San Bernardino County Noise Standard(s), San Bernardino Development Code Section 83.01.080. The purpose is to evaluate potential future on-site and/or adjacent off-site noise sources. If the preliminary information cannot demonstrate compliance to noise standards, a project specific acoustical analysis shall be

required. Submit information/analysis to the EHS for review and approval. For information and acoustical checklist, contact EHS at (800) 442-2283.

63. Water Purveyor. Water purveyor shall be EHS approved.

**PRIOR TO OCCUPANCY
ANY LAND DISTURBING ACTIVITY
THE FOLLOWING SHALL BE COMPLETED**

COUNTY FIRE – Community Safety (909) 386-8400

64. Access. The development shall have a minimum of two (2) points of vehicular access. These are for fire/emergency equipment access and for evacuation routes. a. Single Story Road Access Width. All buildings shall have access provided by approved roads, alleys and private drives with a minimum twenty-six (26) foot unobstructed width and vertically to fourteen (14) feet six (6) inches in height. b. Multi-Story Road Access Width. Fire apparatus access roadways serving buildings that are three (3) or more stories or thirty (30) feet or more in height shall be a minimum of thirty (30) feet in unobstructed width and vertically to fourteen (14) feet six (6) inches in height.

COUNTY FIRE – Haz Mat (909) 386-8401

65. Permit Required. Prior to occupancy, a business or facility that handles hazardous materials in quantities at or exceeding 55 gallons, 500 pounds, or 200 cubic feet (compressed gas) at any one time or generates any amount of hazardous waste shall obtain hazardous material permits from this department.

The business operator shall apply for permits (Hazardous Material Handler Permit, Hazardous Waste Generator Permit, Aboveground Petroleum Storage Tank Permit, Underground Storage Tank Permit, or other applicable permits) by submitting a complete hazardous materials business plan using the California Environmental Reporting System (CERS) at <http://cers.calepa.ca.gov/> or apply for exemption from permitting requirements.

Contact the Office of the Fire Marshal, Hazardous Materials Section at (909) 386-8401 or visit <https://sbcfire.org/hazmatcupa/> for more information.

PUBLIC HEALTH – Environmental Health Services (DEHS) (800) 442-2283

66. Individual Wells. If an approved water company cannot serve the project, individual wells are authorized for each daughter parcel providing that County Development Code infrastructure requirements can be met. Conceptual plans, showing that wells and septic system locations meet setback requirements, may be required (§ 83.09.060). If wells are approved, the following notes shall be placed on the Composite Development Plan (CDP), "An individual well shall be

utilized as the domestic water source for each lot. The well shall be installed and approved by EHS prior to the issuance of building permits for each lot.

LAND USE SERVICES – Building and Safety (909) 387-8311

67. Condition Compliance Release Form Sign-offs. Prior to occupancy all Department/Division requirements and sign-offs shall be completed.

LAND USE SERVICES - Land Development – Road Section (909) 387-8311

68. Land Development Division Requirements. All LDD requirements shall be completed by the applicant prior to occupancy.
69. Road Improvements. All required on-site and off-site improvements shall be completed by the applicant and inspected/approved by the County Department of Public Works.
70. Structural Section Testing. A thorough evaluation of the structural road section, to also include parkway improvements, from a qualified materials engineer shall be submitted to the County Department of Public Works.
71. Vacation. Vacation process shall be completed by recordation of a Tract Map / Parcel Map / Board Resolution or other instrument as accepted by the Land Development Division. Proof of recordation and completion of the vacation process shall be provided to the Land Development Division prior to occupancy.

California Department of Fish and Wildlife

72. American badger and desert kit fox. No more than 30 days prior to the beginning of ground disturbance and/or Project activities, a qualified biologist shall conduct a survey to determine if potential desert kit fox or American badger burrows are present in the Project site. If potential burrows are located, they shall be monitored by the qualified biologist. If the burrow is determined to be active, the qualified biologist shall verify there are suitable burrows outside of the Project site prior to undertaking passive relocation actions. If no suitable burrows are located, artificial burrows shall be created at least fourteen days prior to passive relocation. The qualified biologist shall block the entrance of the active burrow with soil, sticks, and debris for 3-5 days to discourage the use of the burrow prior to Project activities. The entrance shall be blocked to an incrementally greater degree over the 3-5-day period. After the qualified biologist has determined there are no active burrows, the burrows shall be hand excavated to prevent re-use. No disturbance of active dens shall take place when juvenile desert kit fox and juvenile American badgers may be present and dependent on parental care. The qualified biologist shall determine appropriate buffers and maintain connectivity to adjacent habitat should natal burrows be present.

CONCLUSION OF CONDITIONS

EXHIBIT E

Plan of Operations



Plan of Development

Conditional Use Permit

for a

Rail Loop Aggregate Loading Facility Hinkley, CA

May 10, 2024

Prepared For:

Planning Department
County of San Bernardino
385 N Arrowhead Ave 1st Floor
San Bernardino, CA 92415

Prepared By:

LCM Development LLC
841 E. Washington Ave., Suite B
Santa Ana, CA 92701
(714) 430-4507
joem@lcmquarry.com

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Attachments

Attachment A – Letter of Intent & Land Use Application Questionnaire
Attachment B – Property Owner’s Certifications
Attachment C – BLM Application
Attachment D – Location Maps
Attachment E – Property Survey Maps
Attachment F – Section 13 Map & Aerial View
Attachment G – Proposed Loop & Aggregate Loading Facility Design
Attachment H – BNSF Railway Guidelines for Industry Track Projects

1 Chapter 1 – Introduction

1.1 Identifying Information

1.1.1 Title & Type of Project

Title: Application for a Conditional Use Permit (CUP) to Construct a Rail Loop and Aggregate Loading Facility at Hinkley, CA

Project Number: (TBD)

Type of Project: Construction of a railway track loop and aggregate loading facility

1.1.2 Location of Proposed Action

The proposed BNSF-approved rail loop and aggregate loading facility to be is located in the southwest ¼ of Section 13, Township 10 North, Range 4 West SBB&M, APN #0496-011-07-000, with a 1,500' x 100' wide “Y” transition track connecting the BNSF main line track crossing the north half of section 24, Township 10 North, Range 4 West SBB&M, APN #0496-14-101-0000. The entire facility and rail loop will be constructed on the privately owned Section 13 property located approximately three miles west of the town of Hinkley, CA. (See **Attachment D – Location Maps** and **Attachment E – Property Survey Maps**).

APN # **0496-11-07-0000**

Street address of project: **1880 Santa Fe Road, Hinkley, CA 92347**

1.1.3 Applicant Name

LCM Development LLC (LCMD)

Mailing Address:

841 East Washington Avenue

Santa Ana, CA 92701

(714) 430-4507

Project Manager: Joe Mathewson

President: Bryan Zatica

1.2 Background

Lynx Cat Mountain Quarry (LCMQ) is a fully SMARA permitted, operating granite rock quarry that is located five miles northwest of Hinkley, California and three miles north of the BNSF main line east/west railroad track.

This operation is a woman-owned, minority-owned, small business quarry which produces a variety of granite rock, construction aggregate, paving stone, and railroad ballast rock products.

The quarry has commitments to provide large volumes of ballast rock, subballast, and construction aggregates to the BNSF “BIG” Intermodal Facility to be constructed at Lenwood, CA and the Brightline “Desert Express” Los Angeles to Las Vegas High Speed Rail projects over the next five years.

Both of these projects are seeking a local rail loading facility to deliver the required ballast rock and construction aggregates to their projects to reduce truck traffic and allow them to utilize their specialized ballast placement and track laying equipment and to greatly reduce the use of trucks and traffic congestion.



Lynx Cat Mountain Quarry Crushing Operation

In order to expand and fully develop the quarry to serve the needs of the market for these and other upcoming projects, additional rail served aggregate loading and transportation capabilities are required. It is for this reason that this application for a **CUP** to permit the construction of this much needed rail loop and aggregate loading facility at Hinkley, CA.

1.2.1 Purpose of the Project

The purpose of this CUP application is to obtain the permits and approvals needed to construct this new BNSF-approved rail loop and aggregate loading facility to allow for the safe and economical rail transportation of the much needed ballast and construction aggregates needed for the BNSF and Brightline rail projects and others in the high desert being planned.



The rail loop is being designed to accommodate and allow 100-120 car unit trains to enter the loop from two directions from the BNSF main rail line in order to access the planned aggregate loading facility to be located on the 131-acre portion of Section 13. (See **Attachment F – Section 13 Map & Aerial View**).

1.2.2 Expected Usage

The main line BNSF track currently crosses the north part of Section 24 which is BLM managed property and this track serves as the main east-west corridor between the BNSF rail yard and intermodal facilities located in Barstow and on to the west through Mojave, CA to their operations in the Central Valley of California. Within the project limits, the BNSF railroad route consists of one mainline east-west track and the current typical rail traffic consists of both BNSF bulk and container freight service on this heavily traveled section of rail line.

The expected train travel volume that will utilize this planned “Y” track access and rail loop facility track would consist of approximately four to five unit trains per month. Operating speed on the “Y” track entering and leaving the aggregate loading facility loop track would range from 3 to 5 MPH. BNSF

operates both the eastbound and westbound traffic on this main line and connection to the “Y” track access to the rail loop will be controlled by BNSF installed switches that will be operated and controlled as part of the BNSF national centralized command center in Fort Worth, Texas.

Construction of the aggregate loading facility rail loop will allow for more efficient and safer loading and shipment of the large volume of mainline railroad ballast rock needed by BNSF and UPRR for their planned and scheduled maintenance projects and for the upgrade of their track systems and facility maintenance projects in the Southwest region of operations. Further, it will substantially reduce the truck traffic on the public roads related to these and other projects as well as reduce diesel emissions and improve air quality of the general Barstow area.



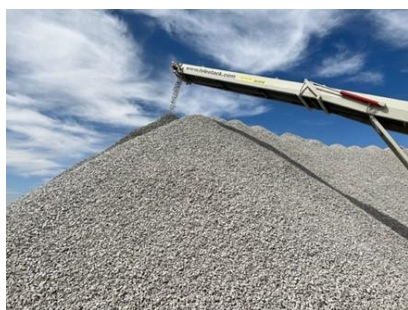
The BNSF-approved design includes the Right of Way (ROW) alignment and connection of the “Y” track north from their main east-west rail line approximately 1,500 ft. long and 100 ft. in width as illustrated in **Attachment G – Rail Loop & Aggregate Loading Facility Design** and **Attachment F – Section 13 Map & Aerial View Properties**. Chapter 7 of this Plan of Development includes descriptions and BNSF guidelines for the design, construction, and operation of the Rail Loop Project.



1.2.4 Purpose & Need for Action

The purpose of this application is to apply for, request, and obtain a CUP and Permit to Construct this planned rail loop and aggregate loading facility at Hinkley, CA needed to support the large projects scheduled for construction over the next five years and on-going projects in the high desert.

The most immediate need for this CUP is to enable the construction and operation of this rail loop and loading facility as soon as possible and in time to support the two major railway projects scheduled for construction over the next 3 years in the high desert and to provide long term quality rail ballast support for ongoing and future BNSF and UPRR rail maintenance requirements.



1.2.5 CUP Application

This CUP application has been prepared in accordance with and Permit approval process established by the requirements of San Bernardino County Planning Department and to meet the requirements of the other stakeholder Departments and concerned Agencies with jurisdiction in the San Bernardino County system.

1.2.6 Benefits of Project

The proposed rail loop facility at Hinkley will greatly expand the efficient use of railway transportation for the movement of ballast rock and construction aggregates to various public projects in the high desert and across the southwest region. It will greatly reduce local Barstow and Lenwood highway truck traffic, reduce overall air emissions and climate change concerns as well as be an asset to the local community of Hinkley.



2 Chapter 2 – Proposed Projection Description

2.1 Proposed Facility Description

The proposed “Y” track and rail loop alignment and construction of the 115-acre aggregate loading facility encompasses both private and public lands. The track alignment would consist of two separate single standard rail tracks converging as a “Y” into a single track across BLM Section 24 property running approximately 1,500 linear feet north into Section 13 and connecting with the 8,660 linear foot rail loop constructed on the adjacent private property in Section 13. (See **Attachment D – Location Maps**, **Attachment E – Property Survey Maps**, and **Attachment F – Section 13 Map & Aerial View**).

Below: Typical gondola rail car



2.2 Use of the Facility

The rail spur transition “Y” track ROW across BLM property is to be used solely to facilitate the ingress and egress of various BNSF and UPRR rail cars and unit trains (120 cars) to the centralized rail line loop constructed on the adjacent LCMD privately owned property in Section 13. This aggregate loading loop will facilitate the efficient loading and shipment of the Lynx Cat Mountain granite construction aggregate, ballast rock, and rip rap products to the various markets and projects in the high desert and in the Los Angeles basin and to support BNSF rail maintenance needs across the Southwest.

2.3 Why Public Land is Needed

This use of BLM/ public land and location is critical to this project in that it lies directly between the current, active, and operating BNSF east/ west main rail line between Barstow and Mojave, CA and the LCMD owned private property.

This parcel is uniquely located along a straightaway section of the rail line in the north portion of this BLM property in Section 24 which abuts and lies directly adjacent to both the main BNSF operated rail line and the Section 13 property owned by Lynx Cat Mountain Development Inc. This particular parcel of BLM/ public land is the only property that has the location, size, and terrain that can support a transition “Y” spur track connecting the two properties. There are no other suitable private properties available in the immediate Hinkley area that can access a rail line straightaway and the Section 13 property while also supporting a “Y” rail transition track connection such as this one being designed and be in close proximity to the Lynx Cat Mountain Quarry.

2.4 When Construction Would Occur

The BNSF final design approval and the BLM and San Bernardino County permitting process are the three drivers of the timing to construct this project. The track design is currently going through three levels of approval with BNSF. Final design is now complete and being reviewed by BNSF. The ROW Application has been submitted to BLM and they have agreed to accept the permitting process of San Bernardino County as their standard for approval of this project. We estimate that the combined BNSF, BLM, and County CUP permit approval process is estimated to take eight to 12 months. While our goal is to construct this spur track across BLM land and complete the aggregate loading loop as soon as possible, it appears that construction could not realistically occur until the BNSF design is approved, the Permit to Construct is approved by San Bernardino County, and the materials, rail, ties, and switches can be delivered. Therefore, we expect the earliest we could begin construction would be 1st quarter of 2025. Expected construction duration of the transition track and rail loop would be estimated at 6 to 8 months after all approvals are received and materials procured and onsite.

2.5 Design Standards

BNSF requires a very strict adherence to their standards of design for the construction of any rail track that connects with their active lines. All of these standards are outlined in the attached document (**Attachment H – BNSF Railway Guidelines for Industry Track Projects**) for review by County. This document demonstrates the engineering, quality control, and construction standards that this planned transition rail spur track will need to meet in order for the largest BNSF Unit Train of 120 cars to safely utilize it. These design and ROW standards should be familiar to San Bernardino County Planning as many miles of BNSF/UPRR main line and spur track currently cross and utilize both BLM managed public lands and private lands overseen by the County.

2.6 Length of CUP Requested

The expected length this CUP needed would essentially be for the full operational life of the Lynx Cat Mountain Quarry permit, which is 30-50 years. However, once constructed, BNSF may likely wish to continue to utilize the rail loop loading / unloading facility for its unit trains for many years into the future to help minimize supply chain and transportation bottlenecks.



2.7 Disturbance Area

The actual area of disturbance will be minimal and limited to a 100' wide strip of land along the entire length of the planned rail track bed. The proposed rail “Y” transition and rail loop track bed will begin at the two automated switch locations on the current BNSF main line railroad property. The planned “Y” transition track will cross BLM property and terminate at the new rail loop line located on our Section 13 privately owned property. The rail loop will consist

of an 8,660' single track with turnout switches. There will also be a 10' wide inspection road along the length of the entire track bed for inspection, service and maintenance of the rail loop track. No additional outside disturbance would likely occur or be needed.

3 Chapter 3 – Design Criteria

The Rail Loop Site Plan and Track design concept drawing is included in this submittal as **Attachment G** and the full design will be submitted to County Planning as soon as the 95% design drawings have been approved by BNSF.

Essentially, what is specifically being requested is the approval of a CUP and Permit to Construct the proposed Rail Loop and Aggregate Loading Facility on our privately owned Section 13 property and utilize this facility to load and rail ship the badly needed ballast rock to the various projects in the high desert as well as the Southwest U.S.

3.1 Design Concept

The ROW “Y” track and rail loop track design will be a standard BNSF railroad design consisting of a 22’ wide, earthen graded and compacted roadbed, 6” of 1-1/2” minus sub-ballast rock, 6” of main line ballast rock, the installation of the rail ties and rails followed by the placement of an additional 6” of main line ballast rock to complete the track system. There will also be a 10’ wide inspection / service road located along one side of the rail track bed. See **Attachment G – Proposed Rail Loop & Aggregate Loading Facility Design.**

All fill dirt needed for construction will be taken from within the rail loop and the adjacent privately owned 640-acre Section 13 property. All sub-ballast and main line ballast rock will be produced and delivered from Lynx Cat Mountain Quarry on a dirt haul road across the private property and, deposited on the rail loop track bed during construction as described above.



Attached as **Attachment H** is the standard BNSF design standards manual for their typical rail spurs and sidings. This track design, when finalized and approved by BNSF, will incorporate the full and complete description of the various features including:

- a) Length/width and layout of the proposed track bed
- b) Centerline survey plat and profiles
- c) Cut/fill and rail bed design
- d) Surface drainage and any drainage structures required
- e) BNSF construction specifications

4 Chapter 4 – Construction Activities

The primary activities involved with the construction of this planned rail loop and aggregate loading facility will occur on the LCMD Section 13 private lands. The construction activities performed on the BLM portion will consist of two 100' wide by 1,500' long rail road bed segments that converge into a "Y" that will extend from the BNSF main line track and cross BLM property north to the private LCMD Section 13 property. Construction of the "Y" transition track across BLM property will connect the existing BNSF main line ROW property with the rail loading loop line located to the north on the privately owned Section 13 property. The construction activities for the rail loop will consist of the following:

- a) Clearing and grubbing the sparse vegetation from the two 1,500' x 100' wide ROW strips across BLM property that converge into a single track and onward along the 9,000' of the rail loop that will contain the new railroad track bed.
- b) The import of any required fill from the private land into the BLM land ROW as needed to construct the track bed.
- c) Excavation and installation of any drainage structures or stormwater retention basins within the 115-acre Aggregate Loading Facility.
- d) Construction and finish grading of the prepared railroad embankment, track bed and crossings and place any fill and compaction to 100%.
- e) Installation of 6" of 1-1/2" minus sub-ballast rock on the entire new track bed and compaction to 100%.
- f) Installation and placement of the base 6" of main line ballast rock.
- g) Laying and placement of the wood railroad ties and connection hardware.
- h) Laying and placement of the steel rail and tie-in connectors, and installation of the manual switches.
- i) Installation and placement of the final 6 in. of main line ballast rock to lock-in the track system.
- j) Finish grading of slopes and service road.
- k) ROW clean-up and re-seeding where required.
- l) Installation of any required fencing or signs along the ROW.

NOTE:

- All borrow material needed to construct this transition section of track will be obtained from the privately owned Section 13 property.
- Disposal of all grubbed vegetation and unsuitable soils will be removed and placed on the privately owned Section 13 property as part of the reclamation seed beds and soil islands constructed.
- Re-seeding of exposed slopes and open areas affected will be performed where needed on any area impacted or disturbed outside the ROW by the construction activities.



5 Chapter 5 – Operation & Maintenance

The operation and use of this rail loop and aggregate loading facility will be dependent upon the volumes of construction aggregates and railroad ballast needed by BNSF and UPRR. It is expected that this rail loop facility will see weekly- to intermittent-usage that will be market driven and BNSF directed. It will also be seasonal and dependent upon the needs for high quality railroad ballast across the BNSF operating lines in California, the Southwest region, and beyond.

The operation and maintenance of the railroad automated switches and the main line section of track currently on BNSF property will continue to be maintained by the BNSF trained crews. The “Y” transition track from the main line across BLM property to the rail loading loop will be jointly maintained by BNSF and LCMD personnel, whereas all track and switch maintenance of the loading loop itself located in Section 13 will be the sole maintenance responsibility of LCMD and will be inspected by the BNSF.

The loop track and switches will be jointly inspected by the BNSF Track Inspection Team and the LCMD Loop Track Maintenance Team on a monthly and quarterly basis. Any rail track, tie connection points, or switch issues will be immediately identified and repaired any time they are encountered.



6 Chapter 6 – Termination & Rehabilitation

Upon termination of quarry activities, it is expected that this rail loading loop may be taken over and continue to be utilized by BNSF far into the future for the loading and unloading of rock and mineral products by BNSF and for the temporary bypass of unit trains and the storage of rail cars awaiting transshipment to other locations by truck or rail. However, as is typical of rail lines being closed or taken out of service, BNSF will remove the rail and ties from the BLM / LCMD easement and recover the main line ballast rock as is practical.

The entire rail loop ROW and aggregate loading facility will be the responsibility of LCMD as part of closure, reclamation, and site restoration. While this may occur many years in the future, the typical activity is the re-grading of the track bed back to existing elevations and to facilitate natural drainage patterns. A BLM/SB County approved High Desert seed mix will be spread to encourage natural revegetation within the 100 ft. wide ROW and any other disturbed area affected by the operation and closer of this rail loop facility.

7 Chapter 7 – Miscellaneous Information

BNSF has stringent rules and requirements for the maintenance and upkeep of their rail lines and for the loading/unloading of their rail cars on spur tracks. Additionally, LCMD and its operations are subject to Railway Safety requirements as well as California Occupational Safety & Health Administration (CALOSHA), and San Bernardino County permit compliance standards. These include the following requirements:

- a) Waste collection and disposal will be performed by the LCMD crews in accordance with both County and BNSF requirements. No trash, debris, or illegal dumping will be permitted to accumulate on or near the ROW and, if found, it will be collected and removed whenever noticed or encountered.
- b) Rail Traffic Control will be handled by both BNSF and LCMD. Any rail traffic exiting the main line and entering the transition spur on and into the rail loop will be the responsibility and control of BNSF. Any truck traffic on the inspection/ service road and on the private Section 13 property will be controlled and be the responsibility of LCMD and its staff.
- c) Safety will be the responsibility of BNSF when entering and leaving the transition track and accessing the main BNSF rail line. Additionally, LCMD will have overall safety responsibility for operation of the rail loop loading facility. Safety of the rail cars, locomotives, and support vehicles will remain the responsibility of the BNSF.
- d) Fire prevention will also be a shared responsibility between BNSF and LCMD for the rail traffic on the transition track. BNSF will have the responsibility for the prevention of fire, hazardous material or chemical spills, and for the safe operation of their equipment. However, whenever the rail loop is in operation with cars being loaded and/or unloaded, LCMD will have a water truck and trained firewatch on duty to address and control any unforeseen hazardous conditions or in the unlikely event of a fire.
- e) Weed abatement and control along the transition track will be the responsibility of BNSF and their normal maintenance teams. Weed

control within the rail loop will be the responsibility of LCMD or its dedicated subcontractor. A BLM/County approved herbicide / pesticide will be utilized once per year or as needed to control noxious and non-native weeds along the 1,500' transition track and around the rail loop as needed.



8 Chapter 8 – Requested Decision to be Made

The San Bernardino County Planning Department as the authority to decide whether to grant and authorize the Permit to Construct for this rail loop and Aggregate Loading Facility as described in the this Application. LCMD will submit the required plans and studies and ensure that all Conditional Use Permit requirements are met and complied with to include the following surveys and studies were conducted and made a part of the Application.

- a) Archeological and Cultural Resources
- b) Vegetation Resources (Native and Invasive)
- c) Environmental Assessment and Focused Desert Tortoise Surveys
- d) Wildlife Studies (including Migratory Birds)
- e) Air Quality and Emissions Study
- f) Stormwater Management, Drainage and SWPPP
- g) Traffic Study

9 Chapter 9 – Summary

This Plan of Development addresses all of the San Bernardino County requirements for a favorable determination and approval of this application.

Approval of this proposed Rail Loop to be constructed on the privately owned Section 13 property is critical to the successful location and operation of a much needed aggregate loading loop track that can be accessed by both BNSF and UPRR for the loading of ballast rock and construction aggregates for their projects in Southern California. Further, it is a facility that is critical to the construction of two major projects in the high desert, namely, the BNSF World Port “BIG” Intermodal Facility and the Brightline “Desert Express” LA to Las Vegas High Speed Rail Project, both of which will have a significant impact to the general Barstow /Lenwood/ Hinkley area. The use of this new rail loop and loading facility will promote the use of rail to transport vital construction aggregates and rail ballast rock to not only these vital projects but also for the long-term delivery of aggregate materials into the Los Angeles basin markets. Further, it will greatly reduce the carbon emissions, decrease highway and interstate traffic congestion, and help to provide thousands of jobs in the general Barstow, Hinkley, and Lenwood area.

We trust this Application and Plan of Development will meet the requirements of San Bernardino County Planning Department and the associated concerned Departments and Agencies and allow this CUP application to move forward for approval in an expeditious manner.

LCM Development LLC therefore respectfully requests an approval of this request and the issuance of a Conditional Use Permit and Permit to Construct this facility as described in this Application.





Attachment A

Letter of Intent & Land Use Application Questionnaire



Letter of Intent

Applicant: LCM DEVELOPMENT LLC
Mailing Address: 841 East Washington Avenue
Santa Ana, CA 92701
Phone Number: (714) 564-1130
Business Name: LCM DEVELOPMENT LLC
841 East Washington Avenue, Santa Ana, CA 92701

Date: MAY 15, 2024
Primary Contact: JOE MATHEWSON
(714) 430-4507
APN(s): 0496-011-07-0000
0496-14-101-0000

If needed, you may attach additional documents to provide more detailed information.

Brief description of proposed use:

This is a Application for a Conditional Use Permit and Permit to Construct a BNSF approved Rail Loop and Aggregate Loading Facility on a 131 acre privately owned parcel of land located approximately 3 miles west of Hinkley, CA with a street address of 1880 Santa Fe Road, Hinkley, CA 92347. This will be a BNSF approved circular railroad track that will connect with the main east-west BNSF rail line between Barstow and Mojave, CA. It will be a rail loop facility that is capable of accommodating unit trains (100-120 gondola rail cars) for the purpose of loading them with railroad ballast rock and construction aggregates for shipment to their various projects across the Southwest and to support the BNSF "BIG" World Port Intermodal Facility project and the Brightline "Desert Express" LA to Las Vegas High Speed Rail project both scheduled for construction in 2025-2028.

Brief Description of proposed location and surrounding properties as they currently exist:

This proposed facility is to be constructed on a 140 acre portion of a 640 acre property owned by LCM Development LLC that is located on the southwest ¼ of Section 13, Township 10 North, Range 4 West SBB&M, APN #0496-011-07-0000, with a 1500 foot x 100 foot wide "Y" transition track easement across BLM managed land connecting the BNSF main line track with the rail loop after crossing the north half of Section 24, Township 10 North, Range 4 West SBB&M, APN # 0496-14-101-0000. The entire facility and rail loop will be constructed on the privately owned Section 13 property. The 640 acre development property is flat desert unimproved land with BLM Managed land on three sides of the project and no structures, neighbors, or development of any kind in the vicinity.

Logistics (Truck trips, hours of business, parking, number of employees, etc.):

This facility will receive and stockpile ballast rock and construction aggregate products from the associated Lyn Cat Mountain Quarry and load these materials with Cat 992 size front loaders into staged BNSF gondola style rail cars for shipment to projects and customers. This facility will actually reduce highway truck traffic and emissions from trucks that would normally be supporting the major projects by 500 - 750 truck loads per day. Loading hours at the Rail Loop / Aggregate Loading Facility would operate on the BNSF schedule of unit trains (100-120) cars to be loaded within 24 hrs. to avoid delay charges. It is estimated that the BNSF schedule would be 3-5 unit trains per month and the facility would operate on a 24 hr. two-shift schedule at those times. The new facility would employ 4 to 6 employees and expand as needed There is ample parking planned and available on the remaining 500 acres.

Goals and Objectives:

The entire purpose of the rail loop is to eliminate truck trips for the delivery of ballast rock and construction aggregates to BNSF and UPRR customers, projects and emergency / maintenance repair sites along their lines in the high desert and across the southwest U.S. BNSF badly needs this facility to take advantage of the high quality granite rock products from Lynx Cat Mountain quarry that currently no other quarry in Southern California can produce. BNSF is the primary driver of this project and our goal is to provide an efficient and economical rail car loading service to meet their ballast and construction aggregate needs. The other goal is to provide an off-mainline location to temporarily stage BNSF and UPRR cars and to allow for the safe bypass of trains from the main line as needed. This rail loop and Loading Facility can also be used to load, off load, or transload other bulk materials for BNSF customers.

LAND USE APPLICATION QUESTIONNAIRE

Complete all sections of this application. Please refer to the checklist contained in the information packet for complete information on submittal requirements. The information furnished in this application will be used in evaluating your project pursuant to the California Environmental Quality Act (CEQA). If you believe an item does not apply to your project, mark it "N/A". Do not leave any blank spaces. If you have any questions about items requested on this form, please call the Customer Service Unit at (909) 387-8311. **Please use no more than four lines to answer any question. If more space is needed, use Attachment A on page 5 of this application questionnaire.**

APPLICATION TYPE: CONDITIONAL USE PERMIT

T.T.P.M.#: _____

[Take "type" from the top of the cover sheet, i.e. "Conditional Use Permit," "Tentative Tract," etc. (if a tentative map is involved include the map number)]

All Assessor's Parcel Numbers (APNs): APN #0496-011-07-0000 APN #0496-14-101-0000

Section 1 - Applicant Data

Applicant Name: BRYAN ZATICA, PRESIDENT, LCM DEVELOPMENT LLC

Firm Name: LCM DEVELOPMENT LLC

Address: 841 EAST WASHINGTON AVENUE

City: SANTA ANA, CALIFORNIA

Zip: 92701

Phone: 714-564-1130

FAX No.: 714-564-1144

E-Mail: Bzatica@mztco.com.com

Section 2 - Property Owner Data (If same as above check ☐)

Property owner(s) of record: LCM DEVELOPMENT LLC

Firm Name: LCM DEVELOPMENT LLC

Address: 841 EAST WASHINGTON AVENUE

City: SANTA ANA, CALIFORNIA

Zip: 92701

Phone: 714-564-1130

FAX No.: 714-564-1144

E-Mail: bzatica@mztco.com

Section 3 - Representative Data (If same as above check ☐)

Representative's Name: JOE MATHEWSON

Firm Name: LCM DEVELOPMENT LLC

Address: 841 EAST WASHINGTON AVENUE,

92701

City: SANTA ANA, CALIFORNIA

Zip: _____

Phone: 714-430-4507

FAX No.: 714-564-1144

E-Mail: Joem@lcmquarry.com

Section 4 - Architecture/Engineering Representative Data (If same as above check ☐)

Representative's Name: CRAIG L. JOHNSON

Firm Name: MERRELL-JOHNSON ENGINEERING

Address: 22221 CA-18 Highway

City: Apple Valley, California

Zip: 92307

Phone: 760-240-8000

FAX No.: 760-240-1400

E-Mail: craig.johnson@merrelljohnson.com

To be completed by County Staff: Filing Date: _____ Project No.: _____ JCS Project No.: _____

Section 5 – Project Description and Location/Legal Data

Briefly describe the project and use:

Construction of a BNSF approved rail loop and aggregate loading facility

Land Use District: **HINKLEY**

Overlay Districts: _____

Legal Description: Township: **10 NORTH** Range: **4 WEST** Section: **13**

USGS Quad Name: **SBB&M HINKLEY**

Location: Community: **HINKLEY** Nearest cross street: **LYNX CAT ROAD**

Street name: **Santa Fe Avenue** Side of street: **Both Sides of Santa Fe Avenue**

Site Size (Gross acres or square footage): **131 Acres** Number of lots: **1**

Site Address: **18800 SANTA FE ROAD, HINKLEY, CA 92347**

Proposed Development Area: **150 acres**

Size of Proposed Buildings: **NO BUILDINGS OR STRUCTURES**

Previously approved land use applications for this site: **RESOURCE CONSERVATION RL-40**

Are you filing other land use applications for this site at this time? Yes ☐ No ☒

If yes, please list other application types **NONE - Just this use**

UTILITIES:

Water: **WILL BE SERVED BY A NEW ONSITE WELL TO BE PERMITTED AND DRILLED**
(Name of Provider)

Is the site presently served? Yes ☐ No ☒

If an extension is necessary, how long will it be? **NO EXTENSION NEEDED**

Are any existing or proposed wells within 200 feet from any existing or proposed liquid waste disposal system?

Yes ☐ No ☒ If yes, attach an explanation

If this is a Tentative Map application, how many service connections have already been made to the existing water system? **NONE**

Sewage Disposal: Septic? Yes ☐ No ☒
Sewer: **PORTABLE SANITARY FACILITIES**
(Name of Provider)

Is the site presently served? Yes ☐ No ☒

If an extension is necessary, how long will it be? **Unnecessary - No service needed**

If septic system/leach lines are proposed or existing, attach information showing proposed or existing location and how the size of the sewage disposal area was determined

Gas: Unnecessary - Not needed or required

(Name of Provider)

Is the site presently served? Yes ☐ No ☒

If an extension is necessary, how long will it be?

NONE NEEDED

Electricity: NO POWER NEEDED AT THIS SITE - ANY NEEDED WILL BE BY PORTABLE GENERATORS

(Name of Provider)

Is the site presently served? Yes ☐ No ☒

If an extension is necessary, how long will it be?

NONE NEEDED

Phone: USE ONLY CELL PHONE SERVICE

(Name of Provider)

Is the site presently served? Yes ☐ No ☒

If an extension is necessary, how long will it be?

NONE NEEDED

Cable TV: NONE NEEDED

(Name of Provider)

Is the site presently served? Yes ☐ No ☒

If an extension is necessary, how long will it be?

NONE NEEDED

Section 6 - Environmental Setting

Be sure to answer all of the questions. This information is necessary to evaluate the project under the California Environmental Quality Act (CEQA). You must provide additional information for any answers marked "yes" or "uncertain" in a letter of explanation attached to this application.

1. When do you anticipate starting construction? JANUARY 2025
2. Will grading be required? Yes ☒ No ☐
If so, how many cubic yards will be cut? 58,082 CY How many cubic yards will be filled? 45,176 CY
3. Is the project phased? Yes ☐ No ☒
If yes, describe the phasing: _____
4. If residential, indicate the number of units or lots. Not residential
5. If commercial, attach information describing the type of commercial activity proposed, along with square footage of sales area, loading facilities and hours of operation.
6. If industrial, attach information indicating type of industrial activity proposed, square footage of building, estimated employment per shift, loading facilities and hours of operation. **Industrial Use but NO structures or Buildings, strictly railroad track and loading facility**
7. If institutional, attach information indicating major function, estimated employment per shift estimated occupancy, loading facilities and hours of operation.

8. Will the use require truck activity? Yes ☐ No ☒

If yes, give truck type(s) and number of axles : NO TRUCKS NEEDED OR EXPECTED

What is the gross weight of each vehicle: N/A

Number of truck trips per day N/A

- | | <u>YES</u> | <u>NO</u> | <u>UNCERTAIN</u> |
|--|-------------------------------------|-------------------------------------|--------------------------|
| 9. Will the project change scenic views or vistas from existing residential areas, public lands or roads? | ☐ | ☒ | ☐ |
| 10. Will there be a change in dust, ash, smoke, fumes or odors in the vicinity of the project? | ☐ | ☒ | ☐ |
| 11. Has the site been surveyed for historical, paleontological or archaeological resources? | ☒ | ☐ | ☐ |
| 12. Is the site on filled land or on slope of 10 percent or more? | ☐ | ☒ | ☐ |
| 13. Will there be the use or disposal of potentially hazardous materials, such as toxic substances, flammables, or explosives? | ☐ | ☒ | ☐ |
| 14. Will there be a change in lake, stream, or ground water quality or quantity, or alteration of existing drainage patterns? | ☐ | ☒ | ☐ |
| 15. Will there be any substantial change in existing noise or vibration levels in the vicinity? | ☐ | ☒ | ☐ |
| 16. Will there be a substantial change in demand for public services (police, fire, water, sewage, etc.)? | ☐ | ☒ | ☐ |
| 17. Has a traffic study been prepared for this site or has the site been included in another traffic study? | ☒ | ☐ | ☐ |
| 18. Will the project generate significant amounts of solid waste or litter? | ☐ | ☒ | ☐ |
| 19. Will the project change any existing features of hills or make substantial alteration of ground contours? | ☐ | ☒ | ☐ |
| 20. Will there be a substantially increase in fossil fuel consumption (electricity, oil, natural gas, etc.)? | ☐ | ☒ | ☐ |
| 21. Is there a relationship to a larger project or series of projects? | ☒ | ☐ | ☐ |

22. List any previous environmental documents or technical studies prepared for this site:

23. Describe the project site, as it exists before project implementation, including information on topography, soil stability, plants and animals, and any cultural, historical, or scenic aspects. On an attachment describe any existing structures on the site, and the use of the structures.

The property is currently vacant, undeveloped desert land with no residences or neighbors within 3 miles in any direction from the site. The topography is primarily flat, sandy, undisturbed, former grazing land. The soil is the typical sandy silt and gravel typical of the high desert property in the western Hinkley area. The only activity is a dirt County Road that crosses the property and the BNSF Railroad main line track that parallels the property on BLM land. There are no structures or improvements on the property except for a single old existing RV/RTV dirt road that crosses the property and an old abandoned cattle fence along the northern boundary. Attached are photos of the site on which the proposed development will be conducted.

24. On an attachment, describe the surrounding properties, including information on plants and animals and any cultural, historical, or scenic aspects. Indicate the type of land use (residential, commercials, etc.), intensity of land use (single family dwelling(s), apartment houses, shops, department stores, etc.), and scale of development (height, frontage, set-back, rear yard, etc.). Attach photographs of the vicinity.

SEE ATTACHED INFORMATION AND PHOTOGRAPHS



Attachment B

Property Owner's Certifications





BA20240564325



STATE OF CALIFORNIA
Office of the Secretary of State
STATEMENT OF INFORMATION
LIMITED LIABILITY COMPANY

California Secretary of State
1500 11th Street
Sacramento, California 95814
(916) 657-5448

For Office Use Only

-FILED-

File No.: BA20240564325

Date Filed: 3/26/2024

B2614-3851 03/26/2024 3:12 PM Received by California Secretary of State

Entity Details	
Limited Liability Company Name	LCM Development, LLC
Entity No.	202360211584
Formed In	CALIFORNIA
Street Address of Principal Office of LLC	
Principal Address	841 E. WASHINGTON AVE SANTA ANA, CA 92701
Mailing Address of LLC	
Mailing Address	841 E. WASHINGTON AVE SANTA ANA, CA 92701
Attention	Bryan Zatica
Street Address of California Office of LLC	
Street Address of California Office	841 E. WASHINGTON AVE SANTA ANA, CA 92701
Manager(s) or Member(s)	
Manager or Member Name	Manager or Member Address
☒ Bryan Zatica	841 E. WASHINGTON AVE SANTA ANA, CA 92701
Agent for Service of Process	
California Registered Corporate Agent (1505)	GKL CORPORATE/SEARCH, INC. Registered Corporate 1505 Agent
Type of Business	
Type of Business	Construction
Email Notifications	
Opt-in Email Notifications	No, I do NOT want to receive entity notifications via email. I prefer notifications by USPS mail.
Chief Executive Officer (CEO)	
CEO Name	CEO Address
None Entered	
Labor Judgment	
No Manager or Member, as further defined by California Corporations Code section 17702.09(a)(8), has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal is pending, for the violation of any wage order or provision of the Labor Code.	

Electronic Signature

☒ By signing, I affirm under penalty of perjury that the information herein is true and correct and that I am authorized by California law to sign.

Haley Tobias

Signature

03/26/2024

Date

Property Owner Certification

Instructions

1. **ALL** owners of record must sign this certificate and upload it to the application.
2. If the property is owned by a corporation, partnership, or other group, the signee must indicate corporate position/title **AND** submit substantiating documentation.
3. Any person signing with Power of Attorney for others must print the names of those individuals in the signature block **AND** attach a notarized copy of the Power of Attorney.

CERTIFICATION

List all of the Assessor's Parcel Numbers (APNs) of the project property:

APN # 0496-011-07-0000 - LCM DEVELOPMENT LLC

List Assessor's Parcel Number(s) (APNS) of all property contiguous to the project property, which is owned or beneficially controlled by the individual(s) signing this certificate. If there are no contiguous properties under the same ownership, state "NONE" – **do not leave blank.**

APN # 0496-011-07-0000 - LCM DEVELOPMENT LLC

The undersigned owner(s) or officer(s) in the organization owning the lands for which this application is made, states that he/she or the organization is aware that the application is being filed with the San Bernardino County Planning Division, and certifies under penalty of perjury that the County applications forms have not been altered and that the information contained in this application is true and correct. I (We) acknowledge that additional materials may be necessary to provide to the Planning Division once the preliminary review of the specifics of the project has been initiated.

I (We) further agree that if any information contained in this application proves to be false or incorrect, the County of San Bernardino and any special purpose or taxing district affected thereby are and shall be released from any liability incurred if a certificate of compliance is or has been issued on basis of this application. I (We) understand that under such circumstances any such certificate shall be null and void and shall be returned to the County for cancellation.

If this is an actual cost application, the applicant agrees to pay all accumulated charges for this project. For any type of application, the applicant also agrees to defend, indemnify, and hold harmless the county, its agents, officers, and employees from any claim, action, or proceeding attacking or seeking to set aside, void, or annul the approval of all or part of the matters applied for, or any other claim, action, or proceeding relating to or arising out of such approval. This requirement includes the obligation to reimburse the County, its agents, officers, and employees for any court costs or attorney fees which the County, its agents, officers, or employees are required by court to pay as a result of such claim, action, or proceeding. The County agrees to notify the applicant of any such claim, action, or proceeding promptly after the County becomes aware of it. The County agrees to cooperate in the defense provided by the applicant. The County may, at its own expense, participate in the defense of the claim, action, or proceeding, but such participation will not relieve the applicant of applicant's defense and indemnification obligations.

(PRINT) Applicant or Legal Agent

Signature

Date

Registration No (If R.C.E. or Licensed Land Surveyor)

LCM DEVELOPMENT LLC

(PRINT) Owner(s) of Record

Signature

Date

MAY 07 2024

(PRINT) Owner(s) of Record

Signature

Date

(PRINT) Owner(s) of Record

Signature

Date

Recording Requested By:
California Best Title



Electronically
Recorded in Official Records
San Bernardino County

Assessor-Recorder-County Clerk

DOC# 2023-0287274

**When Recorded Mail to
And Mail Tax Statements To**
Bryan Zatica
PO BOX 11029
SANTA ANA 92711

11/20/2023
03:40 PM
SAN
T1585

Titles: 1	Pages: 4
Fees	\$23.00
Taxes	\$885.50
CA SB2 Fee	\$0.00
Total	\$908.50

Escrow Number: 150-30047-CS

Title Number: CBT-21007268

APN: 0496-011-07-0000

SPACE ABOVE IS RESERVED FOR RECORDER'S USE

Property: 18800 Santa Fe Avenue (APN#0496-011-07-0000), Hinkley, CA 92347

GRANT DEED

The undersigned Grantor(s) Declare(s):

Documentary Transfer Tax \$ 885.50

☒ Computed on the full value of the interest or property conveyed;

☐ Computed on the full value less value of liens or encumbrances remaining at time of sale

☒ Unincorporated Area, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Shepherd Hinkley, LLC, a California Limited Liability Company

hereby **GRANT(S)** to

Bryan Zatica, a single man

the following described real property in the County of San Bernardino, State of California:

Section 13, Township 10 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, according to the Official Plat thereof.

Excepting therefrom, and regardless of the depth below the surface of which any such substance may be found, all right, title and interest in and to all hydrocarbons, minerals, geothermal resources, and mineral ores of every kind and character, metallic or otherwise, solid, liquid or gas, and whether or not presently known to science or industry, now known to exist or hereafter discovered upon, within or underlying the surface of said land, and rights to the wind and water for wind power and hydroelectric power generation as reserved in the deed from SF Pacific Properties Inc., a Delaware Corporation, recorded June 21, 1990 as Instrument No. 90-243076 of Official Records.

DATED: October 5, 2023

Shepherd Hinkley, LLC,
a California Limited Liability Company

By: Ted Yeh
Ted Yeh, Manager

MAIL TAX STATEMENTS AS DIRECTED ABOVE

Recording Requested By:
California Best Title

**When Recorded Mail to
And Mail Tax Statements To**
Bryan Zatica

PO BOX 11029
SANTA ANA 92711

Escrow Number: 150-30047-CS
Title Number: CBT-21007268

APN: 0496-011-07-0000

SPACE ABOVE IS RESERVED FOR RECORDER'S USE

Property: 18800 Santa Fe Avenue (APN#0496-011-07-0000), Hinkley, CA 92347

GRANT DEED

The undersigned Grantor(s) Declare(s):

Documentary Transfer Tax \$ 885.50

☒ Computed on the full value of the interest or property conveyed;

☐ Computed on the full value less value of liens or encumbrances remaining at time of sale

☒ Unincorporated Area, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Shepherd Hinkley, LLC, a California Limited Liability Company

hereby **GRANT(S)** to

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DATED: October 5, 2023

Shepherd Hinkley, LLC,
a California Limited Liability Company

By: 
Ted Yeh, Manager

MAIL TAX STATEMENTS AS DIRECTED ABOVE

Grant Deed

GOVERNMENT CODE 27361.7

I certify under penalty of perjury that the Notary Seal on the document to which this Statement is attached reads as follows:

NAME OF THE
NOTARY: _____
DATE COMMISSION
EXPIRES: _____
COUNTY WHERE BOND IS
FILED: _____
COMMISSION
NUMBER: _____ VENDOR#: _____

I certify under penalty of perjury and the laws of the State of California that the illegible portion of this document to which this statement is attached reads as follows:

See attached clarity copy of 1st page
of Grant Deed

PLACE OF
EXECUTION: _____ Glendale, CA _____ DATE: 11/20/2023


Signature
Anthony Gonzalez

Recording Requested By:
California Best Title

**When Recorded Mail to
And Mail Tax Statements To**
Bryan Zatica
PO Box 11029
Santa Ana, CA 92711

Escrow Number: 150-30047-CS
Title Number: CBT-21007268

APN: 0496-011-07-0000

SPACE ABOVE IS RESERVED FOR RECORDER'S USE

Property: 18800 Santa Fe Avenue (APN#0496-011-07-0000), Hinkley, CA 92347

GRANT DEED

The undersigned Grantor(s) Declare(s):

Documentary Transfer Tax \$

 x Computed on the full value of the interest or property conveyed;

 Computed on the full value less value of liens or encumbrances remaining at time of sale

 x Unincorporated Area, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Shepherd Hinkley, LLC, a California Limited Liability Company

hereby **GRANT(S)** to

Bryan Zatica, a single man

the following described real property in the County of San Bernardino, State of California:

Section 13, Township 10 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, according to the Official Plat thereof.

Excepting therefrom, and regardless of the depth below the surface of which any such substance may be found, all right, title and interest in and to all hydrocarbons, minerals, geothermal resources, and mineral ores of every kind and character, metallic or otherwise, solid, liquid or gas, and whether or not presently known to science or industry, now known to exist or hereafter discovered upon, within or underlying the surface of said land, and rights to the wind and water for wind power and hydroelectric power generation as reserved in the deed from SF Pacific Properties Inc., a Delaware Corporation, recorded June 21, 1990 as Instrument No. 90-243076 of Official Records.

DATED: October 5, 2023

Shepherd Hinkley, LLC,
a California Limited Liability Company

By: _____
Ted Yeh, Manager

MAIL TAX STATEMENTS AS DIRECTED ABOVE

Grant Deed

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

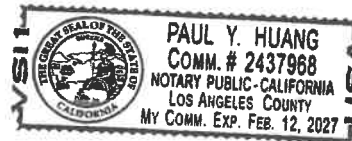
On OCT. 10, 2023 before me, PAUL Y. HUANG, NOTARY PUBLIC A Notary Public personally appeared Ted Yeh who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of CALIFORNIA that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Paul Y. Huang (seal)



EF-502-A-R17-0522-36000434-1
30E-502-A (P1) REV. 17 (05-22)

PRELIMINARY CHANGE OF OWNERSHIP REPORT

To be completed by the transferee (buyer) prior to a transfer of subject property, in accordance with section 480.3 of the Revenue and Taxation Code. A *Preliminary Change of Ownership Report* must be filed with each conveyance in the County Recorder's office for the county where the property is located.

NAME AND MAILING ADDRESS OF BUYER/TRANSFEEE
(Make necessary corrections to the printed name and mailing address)

Bryan Zatica

**Chris Wilhite****Assessor-Recorder-County Clerk**

San Bernardino County
Assessor's Office
222 W. Hospitality Lane, 4th Floor
San Bernardino, CA 92415-0311
arc.sbcounty.gov
Phone: (909) 387-8307
Toll Free: (877) 885-7654

ASSESSOR'S PARCEL NUMBER

0496-011-07-0000

SELLER/TRANSFEROR

Shepherd Hinkley, LLC

BUYER'S DAYTIME TELEPHONE NUMBER

BUYER'S EMAIL ADDRESS

STREET ADDRESS OR PHYSICAL LOCATION OF REAL PROPERTY

18800 Santa Fe Avenue (APN#0496-011-07-0000), Hinkley, CA 92347

☐ YES ☐ NO This property is intended as my principal residence. If YES, please indicate the date of occupancy or intended occupancy.

MO DAY YEAR

☐ YES ☐ NO Are you a disabled veteran, or the unmarried surviving spouse of a disabled veteran, who, due to a service connected injury or disease, was either rated 100% disabled or compensated at 100% due to unemployability by the Department of Veterans Affairs?

MAIL PROPERTY TAX INFORMATION TO (NAME)

Bryan Zatica

MAIL PROPERTY TAX INFORMATION TO (ADDRESS)

PO box 11029

CITY

Santa Ana

STATE ZIP CODE

92711

PART 1. TRANSFER INFORMATION

Please complete all statements.

This section contains possible exclusions from reassessment for certain types of transfers.

YES NO

- ☐ ☒ A. This transfer is solely between spouses (addition or removal of a spouse, death of a spouse, divorce settlement, etc.).
- ☐ ☒ B. This transfer is solely between domestic partners currently registered with the California Secretary of State (addition or removal of a partner, death of a partner, termination settlement, etc.).
- ☐ ☒ *C. This is a transfer: ☐ between parent(s) and child(ren) ☐ between grandparent(s) and grandchild(ren).
Was this the transferor/grantor's principal residence? ☐ YES ☐ NO
- ☐ ☒ *D. This transfer is the result of a cotenant's death. Date of death _____
- ☐ ☒ *E. This transaction is to replace a principal residence owned by a person 55 years of age or older.
Within the same county? ☐ YES ☐ NO
- ☐ ☒ *F. This transaction is to replace a principal residence by a person who is severely disabled.
Within the same county? ☐ YES ☐ NO
- ☐ ☒ *G. This transaction is to replace a principal residence substantially damaged or destroyed by a wildfire or natural disaster for which the Governor proclaimed a state of emergency. Within the same county? ☐ YES ☐ NO
- ☐ ☒ H. This transaction is only a correction of the name(s) of the person(s) holding title to the property (e.g., a name change upon marriage).
If YES, please explain: _____
- ☐ ☒ I. The recorded document creates, terminates, or reconveys a lender's interest in the property.
- ☐ ☒ J. This transaction is recorded only as a requirement for financing purposes or to create, terminate, or reconvey a security interest (e.g., cosigner). If YES, please explain: _____
- ☐ ☒ K. The recorded document substitutes a trustee of a trust, mortgage, or other similar document.
- L. This is a transfer of property:
- ☐ ☒ 1. to/from a revocable trust that may be revoked by the transferor and is for the benefit of
☐ the transferor, and/or ☐ the transferor's spouse ☐ registered domestic partner.
- ☐ ☒ 2. to/from an irrevocable trust for the benefit of the
☐ creator/grantor/trustor and/or ☐ grantor's/trustor's spouse ☐ grantor's/trustor's registered domestic partner.
- ☐ ☒ M. This property is subject to a lease with a remaining lease term of 35 years or more including written options.
- ☐ ☒ N. This is a transfer between parties in which proportional interests of the transferor(s) and transferee(s) in each and every parcel being transferred remain exactly the same after the transfer.
- ☐ ☒ O. This is a transfer subject to subsidized low-income housing requirements with governmentally imposed restrictions, or restrictions imposed by specified nonprofit corporations.
- ☐ ☒ *P. This transfer is to the first purchaser of a new building containing a ☐ leased ☐ owned active solar energy system.
- ☐ ☒ Q. Other. This transfer is to _____

* Please refer to the instructions for Part 1. Please provide any other information that will help the Assessor understand the nature of the transfer.

THIS DOCUMENT IS NOT SUBJECT TO PUBLIC INSPECTION

PART 2. OTHER TRANSFER INFORMATION*Check and complete as applicable.*

A. Date of transfer, if other than recording date: _____

B. Type of transfer:

- ☒ Purchase ☐ Foreclosure ☐ Gift ☐ Trade or exchange ☐ Merger, stock, or partnership acquisition (Form BOE-100-B)
- ☐ Contract of sale. Date of contract: _____ ☐ Inheritance. Date of death: _____
- ☐ Sale/leaseback ☐ Creation of a lease ☐ Assignment of a lease ☐ Termination of a lease. Date lease began: _____
- Original term in years (including written options): _____ Remaining term in years (including written options): _____
- ☐ Other. Please explain: _____

C. Only a partial interest in the property was transferred. ☐ YES ☒ NO If YES, indicate the percentage transferred: _____ %**PART 3. PURCHASE PRICE AND TERMS OF SALE***Check and complete as applicable.*

A. Total purchase price

\$ 805,000.00

B. Cash down payment or value of trade or exchange excluding closing costs

Amount \$ 805,000.00

C. First deed of trust @ _____ % interest for _____ years. Monthly payment \$ _____

Amount \$ 0.00

- ☐ FHA (____ Discount Points) ☐ Cal-Vet ☐ VA (____ Discount Points) ☐ Fixed rate ☐ Variable rate
- ☐ Bank/Savings & Loan/Credit Union ☐ Loan carried by seller
- ☐ Balloon payment \$ _____ Due date: _____

D. Second deed of trust @ _____ % interest for _____ years. Monthly payment \$ _____

Amount \$ _____

- ☐ Fixed rate ☐ Variable rate ☐ Bank/Savings & Loan/Credit Union ☐ Loan carried by seller
- ☐ Balloon payment \$ _____ Due date: _____

E. Was an Improvement Bond or other public financing assumed by the buyer? ☐ YES ☐ NO Outstanding balance \$ _____

F. Amount, if any, of real estate commission fees paid by the buyer which are not included in the purchase price \$ _____

G. The property was purchased: ☐ Through real estate broker. Broker name: _____ Phone number: (____) _____☐ Direct from seller ☐ From a family member-Relationship _____☐ Other. Please explain: _____

H. Please explain any special terms, seller concessions, broker/agent fees waived, financing, and any other information (e.g., buyer assumed the existing loan balance) that would assist the Assessor in the valuation of your property.

PART 4. PROPERTY INFORMATION*Check and complete as applicable.*

A. Type of property transferred

- ☐ Single-family residence ☐ Co-op/Own-your-own ☐ Manufactured home
- ☐ Multiple-family residence. Number of units: _____ ☐ Condominium ☐ Unimproved lot
- ☐ Other. Description: (i.e., timber, mineral, water rights, etc.) ☐ Timeshare ☐ Commercial/Industrial

B. ☐ YES ☐ NO Personal/business property, or incentives, provided by seller to buyer are included in the purchase price. Examples of personal property are furniture, farm equipment, machinery, etc. Examples of incentives are club memberships, etc. Attach list if available.

If YES, enter the value of the personal/business property: \$ _____ Incentives \$ _____

C. ☐ YES ☐ NO A manufactured home is included in the purchase price.

If YES, enter the value attributed to the manufactured home: \$ _____

☐ YES ☐ NO The manufactured home is subject to local property tax. If NO, enter decal number: _____D. ☐ YES ☐ NO The property produces rental or other income.If YES, the income is from: ☐ Lease/rent ☐ Contract ☐ Mineral rights ☐ Other: _____E. The condition of the property at the time of sale was: ☐ Good ☐ Average ☐ Fair ☐ Poor

Please describe: _____

CERTIFICATION*I certify (or declare) that the foregoing and all information hereon, including any accompanying statements or documents, is true and correct to the best of my knowledge and belief.*

SIGNATURE OF BUYER/TRANSFEREE OR CORPORATE OFFICER

DATE 11/18/2023

TELEPHONE

NAME OF BUYER/TRANSFEREE/PERSONAL REPRESENTATIVE/CORPORATE OFFICER (PLEASE PRINT)

TITLE

EMAIL ADDRESS

The Assessor's office may contact you for additional information regarding this transaction.



FINANCIALLY RESPONSIBLE PARTY INFORMATION (Part I) AND AGREEMENT (Part II)

The Financially Responsible Party (FRP) is the business entity or individual that: is responsible for all fees and costs associated with the application(s); is responsible for paying for both County of San Bernardino (herein referred to as "County") staff and consultant fees and costs necessary to complete the processing of the application(s) with a trust account; is deemed the owner of funds held in the trust account; and, will receive accounting documents (invoices/ receipts) during the processing of the application.

The following information sheet (Part I) and Agreement (Part II) establishes the business entity or individual to be named as the FRP and states that the business entity or individual agrees to indemnify the County against various claims, actions, lawsuits, etc., including, but not limited to, legal challenges to application approval with a trust account. For business entities, liability of the owner, partners, etc. shall be determined in accordance with the laws of the State of California.

FINANCIALLY RESPONSIBLE PARTY INFORMATION PART I

Select the department in which you request to establish a Trust Account:

Land Use Services Department ☐ Department of Public Works ☐

The FRP is a (choose one and complete below): Business Entity ☒ Individual ☐

Business Entity

Business Entity Name: LCM Development, LLC

Type, i.e. Corporation, LLC, LP, GP, LLP or Sole Proprietorship: LLC

State Entity Registered In: CA Entity Number: 202360211584

Business Entity Representative Name: Bryan Zatica

If the FRP is a business entity, except for sole proprietorships, the representative must supply adequate proof that he/she may financially encumber that legal entity.

Individual

FRP Name: _____

Mailing Address: 841 East Washington Avenue
Santa Ana CA 92701
City State Zip

Phone: (714) 863-4184 Email: bzatica@mztco.com

Does this FRP have an existing trust account(s) with the County? ____ If yes, please check department below:

Land Use Services Department ☐ Department of Public Works ☐

If yes, provide FRP name used on existing Trust Account(s): _____

..... **For Office Use Only**

Permit Number: _____ Type of Application: _____

Received By: _____ Date: _____

Entered By: _____ Date: _____

Wincams Work Order Number: _____

FINANCIALLY RESPONSIBLE PARTY AGREEMENT PART II

This agreement ("Agreement") is entered into by the County of San Bernardino (herein referred to as "County") and LCM Development LLC ("Financially Responsible Party"; herein referred to as "FRP"). [If the FRP is a business entity, except for sole proprietorship, the representative must supply adequate proof that he/she may financially encumber that legal entity.] This Agreement incorporates by reference the Financially Responsible Party Information (Part I) completed by FRP.

Except as provided in Paragraph 8, "Indemnification," below, this Agreement is limited in scope to Land Use Services Department/Department of Public Works fees and costs associated with the following trust account: _____ . A new trust account shall be established for each new application or applicant and will require a separate FRP agreement.

1. **Deposits and Continuation of Work.** The FRP will pay the trust account deposit required at the time of submittal of an application with a trust account in an amount established by the County Code or by applicable department policy; will pay invoices immediately upon receipt of invoice, subject to the department stopping work until payment is received; and agrees to be responsible for payment of all fees and costs associated with the application.
2. **Consultant Fees.** If it is deemed necessary by the applicable department to utilize consultant services, the FRP will pay a deposit to cover consultant fees and costs prior to County's execution of the contract with the consultant, with charges against the consultant's contract to be billed on an hourly basis against the deposit.
3. **Ownership.** The FRP agrees that all funds deposited in the trust account will be held by the County in an account under the name of the FRP, and that the FRP shall be considered the owner of all funds in said account. The FRP will receive accounting documents (invoices/ receipts) during the processing of the application(s).
4. **Clearance or Issuance.** The FRP agrees that the applicable department is not required to issue any clearances or permits without receipt of full payment of fees, unless specifically waived by the County's Board of Supervisors, by Board Action.
5. **Subsequent Trust Accounts and Applications.** The FRP agrees that if there is an outstanding amount on any other Land Use Services Department/Department of Public Works applications with a trust account for which the FRP is the applicant or permittee, subsequent applications with a trust account will not be accepted until such amounts are paid.
6. **Refunds.** The FRP agrees that the County may refund any monies remaining in the trust account at the completion of work to the FRP, regardless of the source of monies deposited into the Trust Account. The County will exercise due diligence to locate the FRP based on the contact information on file. If the County is unable to locate the FRP, the County will follow all applicable provisions of the California Government Code regarding escheatment.
7. **Designation.** The FRP agrees that the person or entity designated as the FRP maintains that designation until the application(s) with a trust account has been approved, disapproved or withdrawn and any and all appeals and/or legal challenges have concluded.
8. **Indemnification.** Pursuant to County Code section 51.0113 and/or Development Code section 81.01.070, the FRP agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its "Indemnitees" (herein collectively the County's elected officials, appointed officials (including Planning Commissioners), officers, and its authorized officers, employees, agents, advisory agencies or committees, appeal boards or legislative body and volunteers) from any and all claims, actions, or proceedings against the County or its Indemnitees to attack, set aside, void, or annul an approval of the County and/or its Indemnitees concerning a map or permit or any other action, losses, damages, and/or liability arising out of this Agreement and the application(s) from any cause whatsoever, including the acts, errors or omissions of any person and

for any costs or expenses incurred by Indemnitees on account of any claim except where such indemnification is prohibited by law.

This indemnification provision shall apply regardless of the existence or degree of fault of Indemnitees. FRP's indemnification obligation applies to Indemnitees' "passive" negligence but does not apply to Indemnitees' "sole" or "active" negligence or "willful misconduct" within the meaning of Civil Code section 2782.

The FRP shall reimburse the County and its Indemnitees for all expenses resulting from such actions, including any court costs and attorney fees, which the County or its Indemnitees may be required by a court to pay as a result of such action.

Although the County may, at its sole discretion, participate at its own expense in the defense of any such action, such participation shall not relieve the FRP of their obligations under this condition to reimburse the County or its Indemnitees for all such expenses. County will act reasonably to promptly notify the FRP of any claim, action, or proceeding and that the County will cooperate fully in the defense.

The FRP agrees that its indemnification obligations under this Agreement remain in effect even though a court may order the County to set aside its approval of the application.

9. Transferability. This Agreement is non-transferable. In the event of a transfer of applicant or property, the FRP shall notify the County within ten (10) working days, in writing. In such event, a new Financially Responsible Party Information (Part I) and Agreement ("FRP Forms") will be required of the new applicant or property owner. Applicant shall be responsible for all costs and expenses incurred by the County through the date County receives the written notice of the transfer from Applicant pursuant to this Agreement. County shall not be responsible for any unnecessary costs or expenses incurred by Applicant due to Applicant's failure to comply with the terms of this Agreement, including the provision of written notice to the County of a transfer.
10. Termination. This Agreement shall terminate upon: a) completion of the underlying County Land Use Services Department/Department of Public Works services or County's receipt of Applicant's notice of a transfer pursuant to Paragraph 9, above; and 2) payment by Applicant of any remaining Land Use Services Department/Department of Public Works fees or refund of any fund balance by the County to Applicant after payment of all Land Use Services Department/Department of Public Works fees. Paragraph 8, "Indemnification," above, shall survive termination of this Agreement.
11. Change of Address. In the event of change of address of the FRP, the County must be notified within ten (10) working days in writing.
12. Notification. Any notification(s) shall be directed to the appropriate department as indicated below:

Land Use Department
Attn: Administration
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415-0187
(909) 387-4000

Department of Public Works
Attn: Administrative Services
825 East Third Street
San Bernardino, CA 92415
(909) 387-7910

13. This Agreement shall be governed by and construed according to the laws of the State of California.

Executed on the 7th day of May, 20 24



Financially Responsible Party (Please print and sign)

LCM Development, LLC
Bryan Zatica

Hazardous Waste Site Certification

This completed certification is required to be submitted with all Development Applications, except for legislative acts such as General Plan Land Use District changes.

Instructions

1. The applicant for this development project shall consult the most current list of identified hazardous waste sites at <http://www.calepa.ca.gov/SiteCleanup/CorteseList/default.htm> to determine whether the project is located on a site included on the list.
2. Upload the completed and signed form to your EZOP application submittal under the Attachment section of the application.

CERTIFICATION

The undersigned owner, applicant, or legal representative of the lands for which this development project application is made, hereby certifies under penalty of perjury, and in accordance with Section 65962.5(e) of the Government Code of the State of California that he (she) has consulted the most current and appropriate list of "CAL/EPA, Facility Inventory database, Hazardous Waste, and Substances Sites List," and further certifies that the site of the proposed development project:

☒ is NOT located on a site which is included on the Cortese list dated: _____

OR

☐ IS located on a site included on the Cortese List dated: _____

List all of the Assessor Parcel Numbers (APNs) of the project property:

APN #0496-011-07-0000 - LCM DEVELOPMENT LLC

APN # 0496-14-101-0000 - U.S. GOVERNMENT (BUREAU OF LAND MANAGEMENT)

SIGNATURE OF PERSON CERTIFYING THIS REVIEW

Date

MAY 07 2024

BRYAN ZATICA

PRINTED NAME OF PERSON CERTIFYING THIS REVIEW



Attachment C

BLM Application





December 23, 2023

TO: Ms. Shelly Lynch
District Manager
BUREAU OF LAND MANAGEMENT
California Desert District Office
1201 Bird Center Dr,
Palm Springs, CA 92262
mlynch@blm.gov

SUBJECT: REQUEST FOR ASSISTANCE

Reference: APPLICATION FOR A RIGHT-OF-WAY EASEMENT FOR RAIL TRACK LOOP

Dear Ms. Lynch:

I understand that you are the District Manager for the BLM covering the high desert region.

We are the Lynx Cat Mountain Development LLC. We are located northwest of Hinkley, CA and our quarry adjoins BLM on three sides of our Section 1 property. We additionally have a right-of-way lease contract with BLM for our access road to the quarry and a pending mineral material purchase contract for the purchase of granite rock from adjoining BLM mine claims we hold. We have permitted and operated the Lynx Cat Mountain Quarry since 2017 and are developing a great granite rock quarry that qualifies with Caltrans for construction aggregates and with the BNSF and UPRR for the production of a high-quality railroad ballast rock for their maintenance projects in the southwest.

Before his promotion, we developed a great 10 year working relationship with Jeff Childers at the Barstow Field Office. He actively helped us with the project I wish to discuss with you.. Due to the magnitude and importance of two pending projects, it appears necessary to contact you directly in the District office to request some help and guidance moving our project forward.

Before Jeff Childers left, we had a meeting with him, the local BLM Real Estate Manager at the time, Steve Valdez (San Bernardino County Planning Director), and Frank Jordan (County Mining Department Manager) to discuss our proposed project to construct a BNSF approved rail loop for the loading of our railroad ballast and subballast rock to support their various infrastructure projects. We met at and walked the site together and discussed the details for permitting this time-sensitive and critical project.

We are currently working with the BNSF to provide our ballast rock and construction aggregate materials for BNSF's upcoming Barstow International Gateway ("BIG") intermodal project that is scheduled for construction from late 2024 thru 2028. Additionally, President Biden just approved the \$3-billion in funding for the LA to Las Vegas "Desert Express" High Speed Rail project that also plans to purchase our high quality ballast rock for that project as well.



760 - 760 - LYNX | www.lynxcatmountainquarry.com

PAGE 1



To support these two critical projects as well as future aggregate shipments to the Los Angeles Basin, BNSF is pushing us to complete the design and to construct a 120-car unit train rail loop track and aggregate loading facility on our property near Hinkley, CA. . We are currently in the 60% design phase with BNSF and are actively working with San Bernardino County Planning on a Conditional Use Permit (CUP) for construction of this facility on our privately owned 640-acre, Section 13 property.

As the attached drawings will show you, we need two 100 ft. wide and 1,550 ft. long “Y”-track easement crossing BLM property to connect the BNSF mainline track to our privately owned Section 13 property. This 100 ft. wide easement is the only impact to BLM property.

The attached maps and 60% BNSF approved drawings will present our proposed design for a Y-rail easement across the BLM property to the BNSF mainline track allowing access from two directions into our Section 13 property. This Y-track access will provide a location where we can load the Lynx Cat Mountain granite products on our own private property with NO impact to BLM managed lands. The loop track is now surveyed, laid out, and staked across BLM property and through the entire rail loop alignment should you wish to see it.

This rail loop is critical to both the BNSF “BIG” project and to the Brightline Desert Express High Speed Rail project. We are under considerable pressure from BNSF to get this facility constructed. This loop is also beneficial to the local San Bernardino economy. It will provide local jobs and will greatly reduce the volume of trucks, traffic impacts, and emissions generated during these two projects.

What we are requesting is the active assistance of your office to help us with this right-of-way lease approval process so this critical rail loop can be constructed.

San Bernardino County is working with us to complete the permitting process on their end. They hope that the BLM will be proactive in approving the right-of-way across their property so that the combined effort can be accomplished as a team and concluded successfully.

Attached is our original SF-99 form, Plan of Development and the updated design drawings for the rail loop design. Hopefully, what we are proposing is both reasonable and achievable with BLM as it does not disturb any large acreage or have any major impact to BLM managed land.

Kindly review the attached information and please give me a call or e-mail as to your assistance and guidance e with this request. I will be happy to meet at your office and discuss this project in greater detail with you and your district office team.

I look forward to speaking with you and will greatly appreciate your active interest in our rail loop project.

Best Regards,

Joseph Mathewson

Joe Mathewson
Project Manager



STANDARD FORM 299
APPLICATION FOR TRANSPORTATION, UTILITY SYSTEMS, TELECOMMUNICATIONS AND FACILITIES
ON FEDERAL LANDS AND PROPERTY

FORM APPROVED
OMB Control Number: 0596-0249
Expiration Date: 02/28/2023

FOR AGENCY USE ONLY

NOTE: Before completing and filing the application for an authorization (easement, right-of-way, lease, license or permit), the applicant should completely review this package, including instructions, and schedule a pre-application meeting with representatives of the agency responsible for processing the application. Each agency may have specific and unique requirements to be met in preparing and processing the application. Many times, with the help of the agency representative, the application can be completed at the pre-application meeting.

Application Number

Date Filed

1. Name and address of applicant

LYNX CAT MOUNTAIN
DEVELOPMENT INC.
841 East Washington Avenue
Santa Ana, CA 92701
(714) 564-1130

2. Name and address of authorized agent if
different from item 1

Joe Mathewson
Lynx Cat Mountain Development Inc
841 East Washington Avenue
Santa Ana, CA 92701
(714) 430-4507

3. Applicant telephone number and
email:

(714) 430-4507
joem@lcmquarry.com

Authorized agent telephone number
and email:

(714) 430-4507
joem@lcmquarry.com

4. As applicant are you? (check one)

- a. ☐ Individual
- b. ☒ Corporation*
- c. ☐ Partnership/Association*
- d. ☐ State Government/State Agency
- e. ☐ Local Government
- f. ☐ Federal Agency

* If checked, complete supplemental page

5. Specify what application is for: (check one)

- a. ☒ New authorization
- b. ☐ Renewing existing authorization number
- c. ☐ Amend existing authorization number
- d. ☐ Assign existing authorization number
- e. ☐ Existing use for which no authorization has been received *
- f. ☐ Other*

* If checked, provide details under item 7

6. If an individual, or partnership, are you a citizen(s) of the United States? ☒ Yes ☐ No

7. Project description (describe in detail): (a) Type of use or occupancy, (e.g., canal, pipeline, road, telecommunications); (b) related structures and facilities; (c) physical specifications (Length, width, grading, etc.); (d) term of days/years needed; (e) time of year of use or operation; (f) Volume or amount of product to be transported; (g) duration and timing of construction; and (h) temporary work areas needed for activity/construction (Attach additional sheets, if additional space is needed.)

This is an application for a 100 foot wide right-of-way easement for construction of a railroad spur Y loop track designed to cross the BLM property, APN #0496141010000, (N1/2, Sect 24, Twp 10N, R4W, SBB&M) and running North approximately 1500 lineal feet from the BNSF Main rail line running east/west through Hinkley, CA and north to the privately owned property located in Section 13 as the attached drawings will show. This rail spur track crossing BLM property will serve as the rail connection access section of a larger rail loop constructed on the privately owned property in Section 13 which is designed to allow for the loading of railroad ballast rock needed by BNSF and construction aggregate needed for various projects in the high desert. This rail loop will facilitate the full development of the Lynx Cat Mountain quarry and the Mineral Material Purchase contract with BLM and sale of this rock resource located on the BLM property adjacent to and east of the quarry. Expected duration would be 30 years and/or during the period the quarry continues in operation. Expected volume would be 100-120 rail cars per month at intermittent intervals as needed by BNSF or other markets needing the Lynx Cat aggregate.

8. Attach a map covering area and show location of project proposal.

9. State or Local government approval: ☐ Attached ☐ Applied for ☒ Not Required

10. Nonrefundable application fee: ☒ Attached ☐ Not required ☐ To be determined by agency

11. Does project cross international boundary or affect international waterways? ☐ Yes ☒ No (if "yes," indicate on map)

12. Give statement of your technical and financial capability to construct, operate, maintain, and terminate system for which authorization is being requested.

Lynx Cat Mountain Development Inc. is the developer and operator of the Lynx Cat Mountain Quarry which is a woman owned, minority mining company that is a subsidiary of CJW Construction. CJW Construction is a licensed, bonded, and experienced General Engineering contractor that has been in operation for over 20 years and has the financial and bonding capacity in excess of \$50 million. It has a long history of constructing millions of dollars in Military construction projects at all of the bases and installations in California and especially those in the high desert. CJW Construction has the experience, personnel, equipment and successful track record of constructing and completing complex civil, building, environmental remediation and design-build projects such as needed for this project.

13a. Describe other alternative locations considered.

Lynx Cat Mountain Development investigated numerous options, locations, adjacent properties, and designs with sufficient area that would make it feasible to construct this proposed rail loop and meet BNSF requirements. This spur track access route across BLM Section 24 property is the only, best and most practical option that would be approved by the BNSF Railroad.

b. Why were these alternatives not selected?

The other private property options did not provide suitable access, space, or feasibility acceptable to the BNSF Engineering Division for the ingress and egress of unit trains (120 rail cars) to enter, be loaded, and exit in both east/west directions.

c. Give explanation as to why it is necessary to use or occupy Federal assets (lands or buildings).

The Government property in Section 24 is the only property along the BNSF main line that offers a straight-away (no curves) where a unit train can easily and safely enter and leave the loading loop located in the privately owned Section 13 property and return to the main rail track. There is no privately owned property with sufficient acreage close to the quarry where this rail loop can be constructed or accessed.

14. List authorizations and pending applications filed for similar projects which may provide information to the authorizing agency. (Specify number, date, code, or name)

Lynx Cat Mountain Quarry (MATCON Corporation) previously applied for and currently holds a right-of-way easement contract # CACA055689 with the Barstow BLM Field Office for rental of Lynx Cat Road that provides access from Santa Fe Road to the Quarry for which we pay the annual rental fee. We have met all BLM requirements for the ROW and are current on all rental payments due.

15. Provide statement of need for project, including the economic feasibility and items such as: (a) cost of proposal (construction, operation, and maintenance); (b) estimated cost of next best alternative; and (c) expected public benefits.

The need for both railroad ballast rock and construction aggregate is increasing exponentially as the other quarries in Southern California are running out of rock, permits are expiring, or are closing down, or their rock cannot qualify or meet the strict BNSF/UPRR Ballast or Corps of Engineers or Caltrans specifications. The Lynx Cat Mountain Quarry granite rock meets and exceeds all of these requirements and its rock is badly needed especially for the new BNSF World Port Project in Barstow and for the Brightline LA to Las Vegas High Speed Rail project.

16. Describe probable effects on the population in the area, including the social and economic aspects, and the rural lifestyles.

Both the location of the Lynx Cat Mountain Quarry and this planned Rail Loop are located in a remote area of Hinkley, CA with no neighbors or residences within 3-4 miles in any direction. This rail loop will have little or no impact on the population in the area and will actually provide job opportunities for local residents and reduce truck traffic and emissions once the loop is constructed and in operation.

17. Describe likely environmental effects that the proposed project will have on: (a) air quality; (b) visual impact; (c) surface and ground water quality and quantity; (d) the control or structural change on any stream or other body of water; (e) existing noise levels; and (f) the surface of the land, including vegetation, permafrost, soil, and soil stability; and, (g) historic or archaeological resources or properties.

This 100 foot wide X 1500 foot long rail line across BLM property will have virtually no impact on the current air quality, visual or noise levels beyond that now existing from rail traffic in the area. There will be minimal surface disturbance outside of the 100 ft. road bed. There are no streams or water bodies in the area. There are no known historic or archaeological resources along or in the proposed ROW and the only disturbed vegetation will be that within the 100 ft. wide track roadbed.

18. Describe the probable effects that the proposed project will have on (a) populations of fish, plant life, wildlife, and marine life, including threatened and endangered species; and (b) marine mammals, including hunting, capturing, collecting, or killing these animals.

There will be minimal to no effects on the wildlife in the area or along the 1500 foot spur track road bed beyond that now affected by the existing BNSF rail line that now crosses the BLM property in Section 24. This 1500 foot spur track is merely an extension of what is now existing and any impacts will only be those of the existing conditions and impacts now being experienced by the existence of the BNSF main line track.

19. State whether any hazardous material, as defined in this paragraph, would be used, produced, transported or stored on or in a federal building or federal lands or would be used in connection with the proposed use or occupancy. "Hazardous material" shall mean (a) any hazardous substance under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601(14); (b) any pollutant or contaminant under section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (c) any petroleum product or its derivative, including fuel oil, and waste oils; and (d) any hazardous substance, extremely hazardous substance, toxic substance, hazardous waste, ignitable, reactive or corrosive materials, pollutant, contaminant, element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment under any applicable environmental laws. The holder shall not store any hazardous materials at the site without prior written approval from the authorized officer. This approval shall not be unreasonably withheld. If the authorized officer provides approval, this permit shall include (or in the case of approval provided after this permit is issued, shall be amended to include) specific terms addressing the storage of hazardous materials, including the specific type of materials to be stored, the volume, the type of storage, and a spill plan. Such terms shall be proposed by the holder and are subject to approval by the authorized officer.

This 1500 foot long spur track across BLM property will only be used for the access and exit of rail cars used and loaded with granite ballast rock and construction aggregate on the adjacent private property. This spur track is simply a point of ingress and egress to the private property where the actual loading activity will be conducted. Once this planned spur track is constructed there will be no hazardous materials of any kind needed, loaded, crossing, or being utilized or handled on or within this BLM right-of-way.

20. Name all the Federal Department(s)/Agency(ies) where this application is being filed.

Bureau of Land Management, Barstow Field Office.

I HEREBY CERTIFY, That I am of legal age and authorized to do business in the State and that I have personally examined the information contained in the application and believe that the information submitted is correct to the best of my knowledge.

Signature of Applicant

Joseph R. Hutchinson

Date

19 APRIL 2023

Title 18, U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

SUPPLEMENTAL

NOTE: The responsible agency(ies) will provide instructions	CHECK APPROPRIATE BLOCK	
I - PRIVATE CORPORATIONS	ATTACHED	FILED*
a. Articles of Incorporation	☒	☐
b. Corporation Bylaws	☒	☐
c. A certification from the State showing the corporation is in good standing and is entitled to operate within the State	☒	☐
d. Copy of resolution authorizing filing	☒	☐
e. The name and address of each shareholder owning 3 percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote and the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.	☒	☐
f. If application is for an oil or gas pipeline, describe any related right-of-way or temporary use permit applications, and identify previous applications.	☐	☐
g. If application is for an oil and gas pipeline, identify all Federal lands by agency impacted by proposal.	☐	☐
II - PUBLIC CORPORATIONS		
a. Copy of law forming corporation	☐	☐
b. Proof of organization	☐	☐
c. Copy of Bylaws	☐	☐
d. Copy of resolution authorizing filing	☐	☐
e. If application is for an oil or gas pipeline, provide information required by item "I - f" and "I - g" above.	☐	☐
III - PARTNERSHIP OR OTHER UNINCORPORATED ENTITY		
a. Articles of association, if any	☐	☐
b. If one partner is authorized to sign, resolution authorizing action is	☐	☐
c. Name and address of each participant, partner, association, or other	☐	☐
d. If application is for an oil or gas pipeline, provide information required by item "I - f" and "I - g" above.	☐	☐

*If the required information is already filed with the agency processing this application and is current, check block entitled "Filed." Provide the file identification information (e.g., number, date, code, name). If not on file or current, attach the requested information.



Attachment D

Location Maps



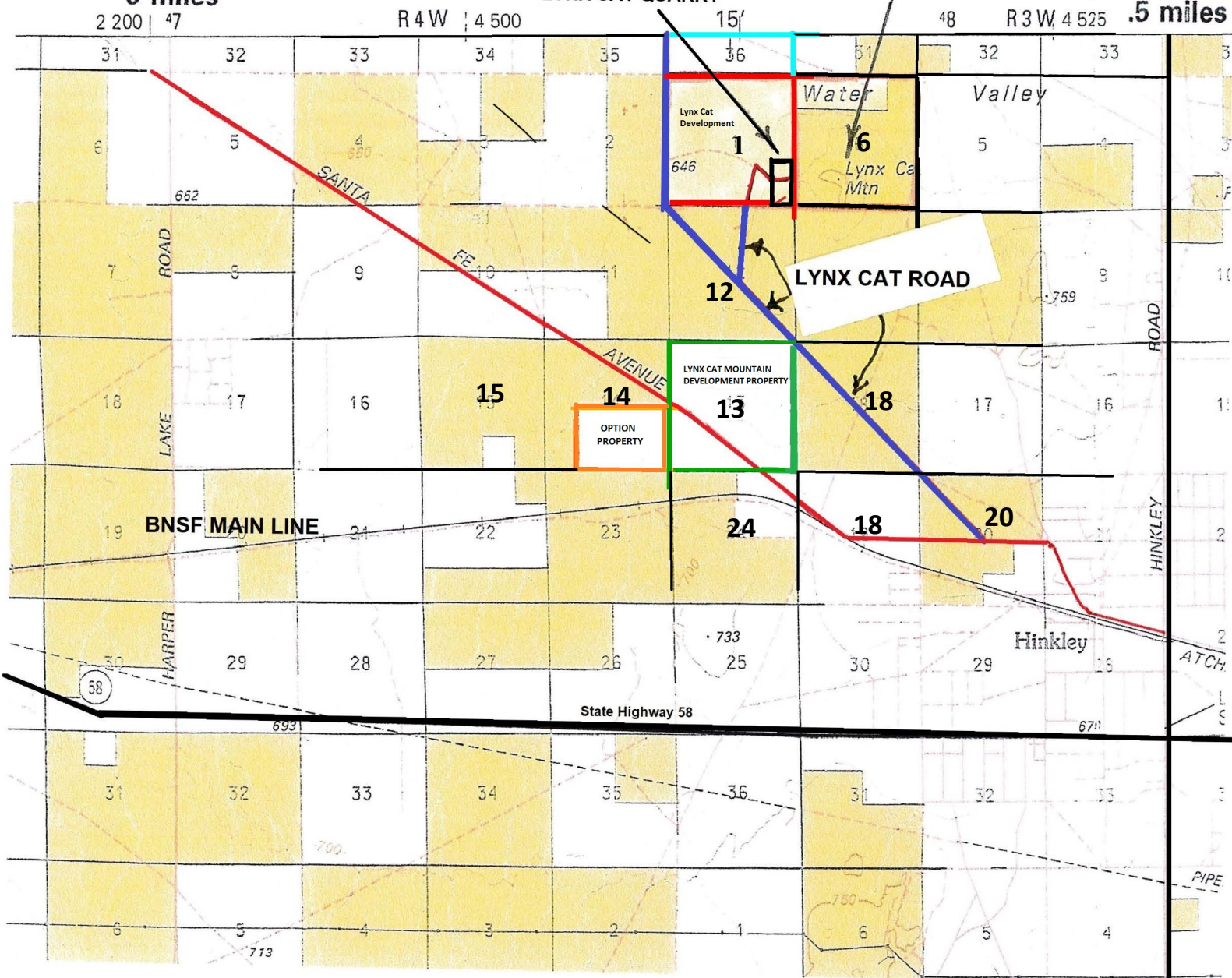


FIGURE 1. General Location Map
LYNX CAT MOUNTAIN PROPERTY

Harper Dry Lake
3 miles

LYNX CAT QUARRY

End Pavem
.5 miles



NOTE: WHITE AREAS ARE
PRIVATELY OWNED PROPERTY

ROADS TO LYNX CAT QUARRY



Attachment E

Property Survey Maps

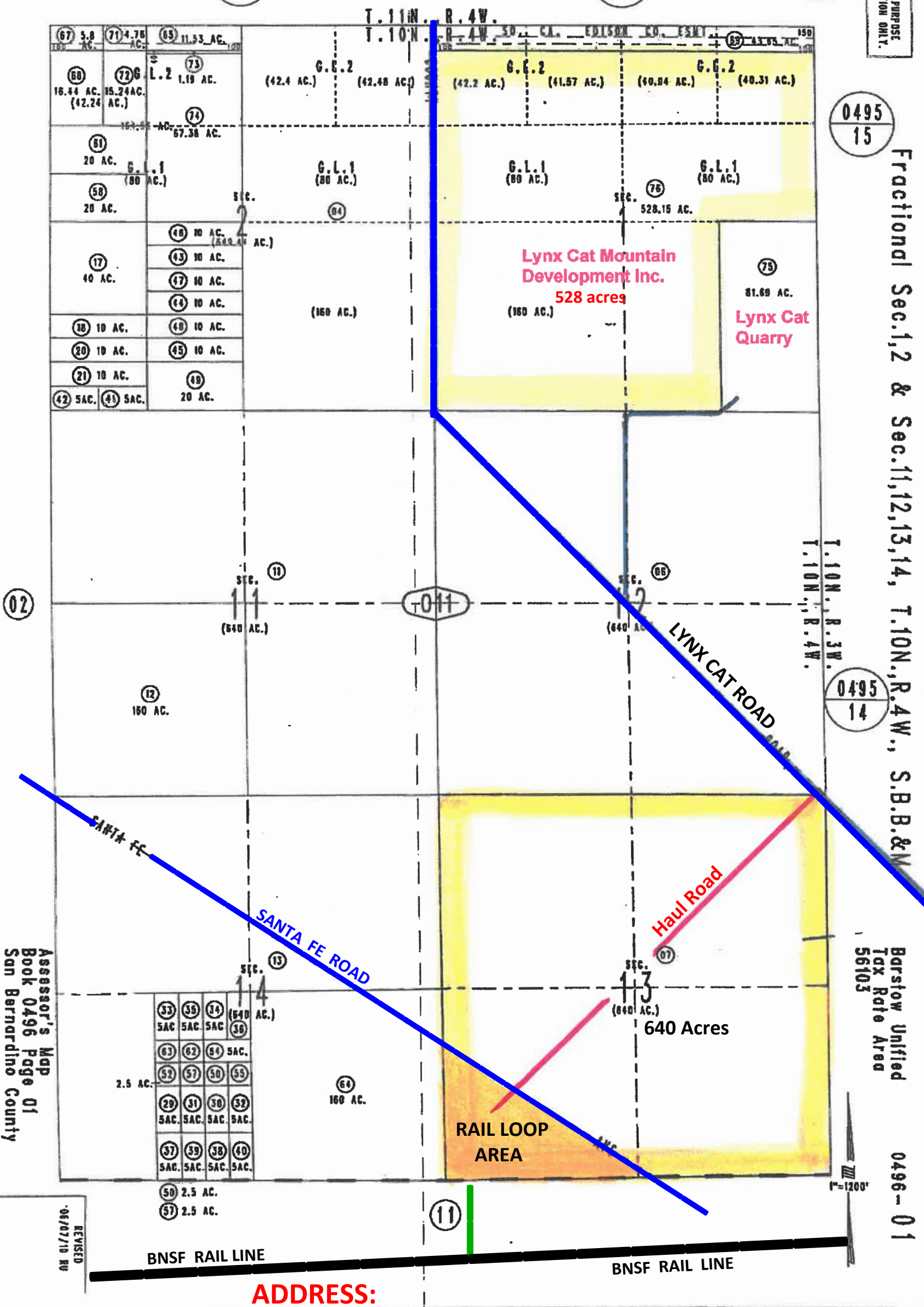


ADDRESS: 19120 LINX CAT ROAD
Hinkley, CA 92347

APN: 0496-011-76-0000

THIS MAP IS FOR THE PURPOSE
OF AD VALOREM TAXATION ONLY.

June 2005



ADDRESS:

18800 Santa Fe Road
Hinkley, CA 92347
APN: 0496-011-07-0000

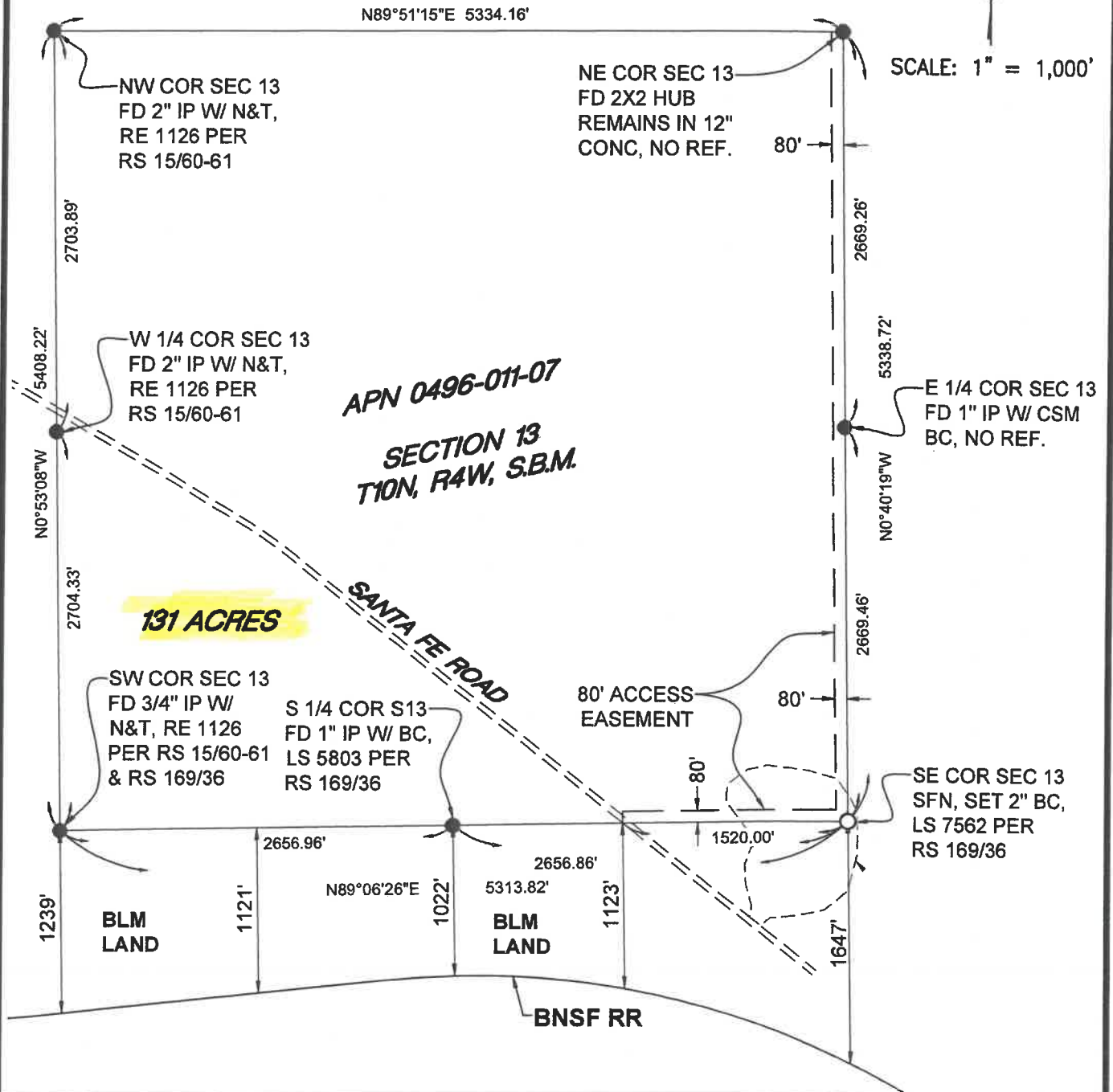
Branch: C4B User: RPAR

Title Officer: 30 Order: CBT-21007268

Assessor's Map
Book 0496 Page 01
San Bernardino County

REVISED
06/07/10 RU

EXHIBIT "B"



MERRELL JOHNSON

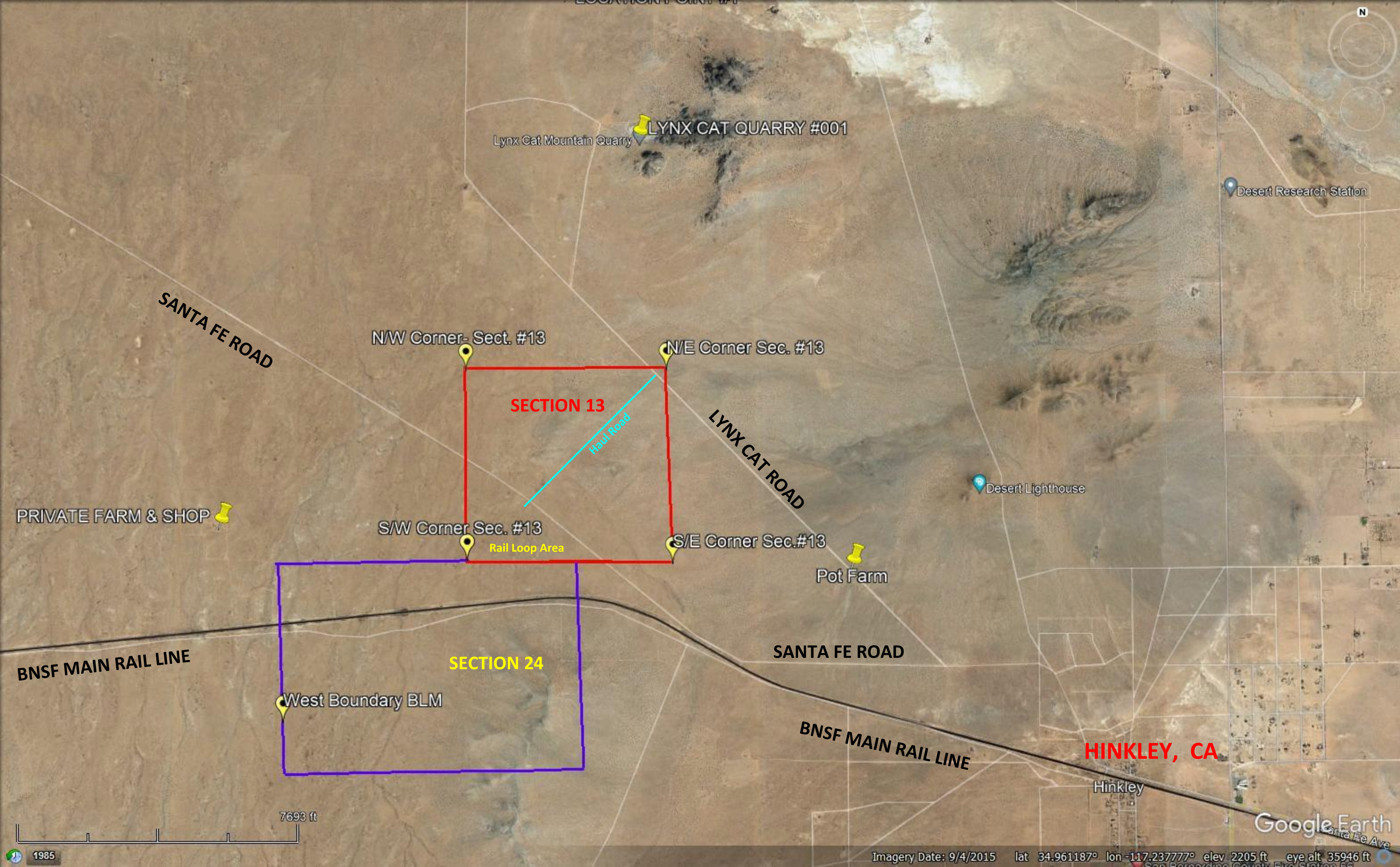
MERRELL JOHNSON ENGINEERING, INC.
22221 U.S. HIGHWAY 18, APPLE VALLEY, CA 92307
760 240 8000 | MERRELLJOHNSON.COM



Attachment F

Section 13 Map & Aerial View





LYNX CAT QUARRY #001

Lynx Cat Mountain Quarry

Desert Research Station

SANTA FE ROAD

NW Corner Sect. #13

N/E Corner Sec. #13

SECTION 13

Haul Road

LYNX CAT ROAD

Desert Lighthouse

PRIVATE FARM & SHOP

S/W Corner Sec. #13

S/E Corner Sec. #13

Rail Loop Area

Pot Farm

SANTA FE ROAD

SECTION 24

West Boundary BLM

BNSF MAIN RAIL LINE

HINKLEY, CA

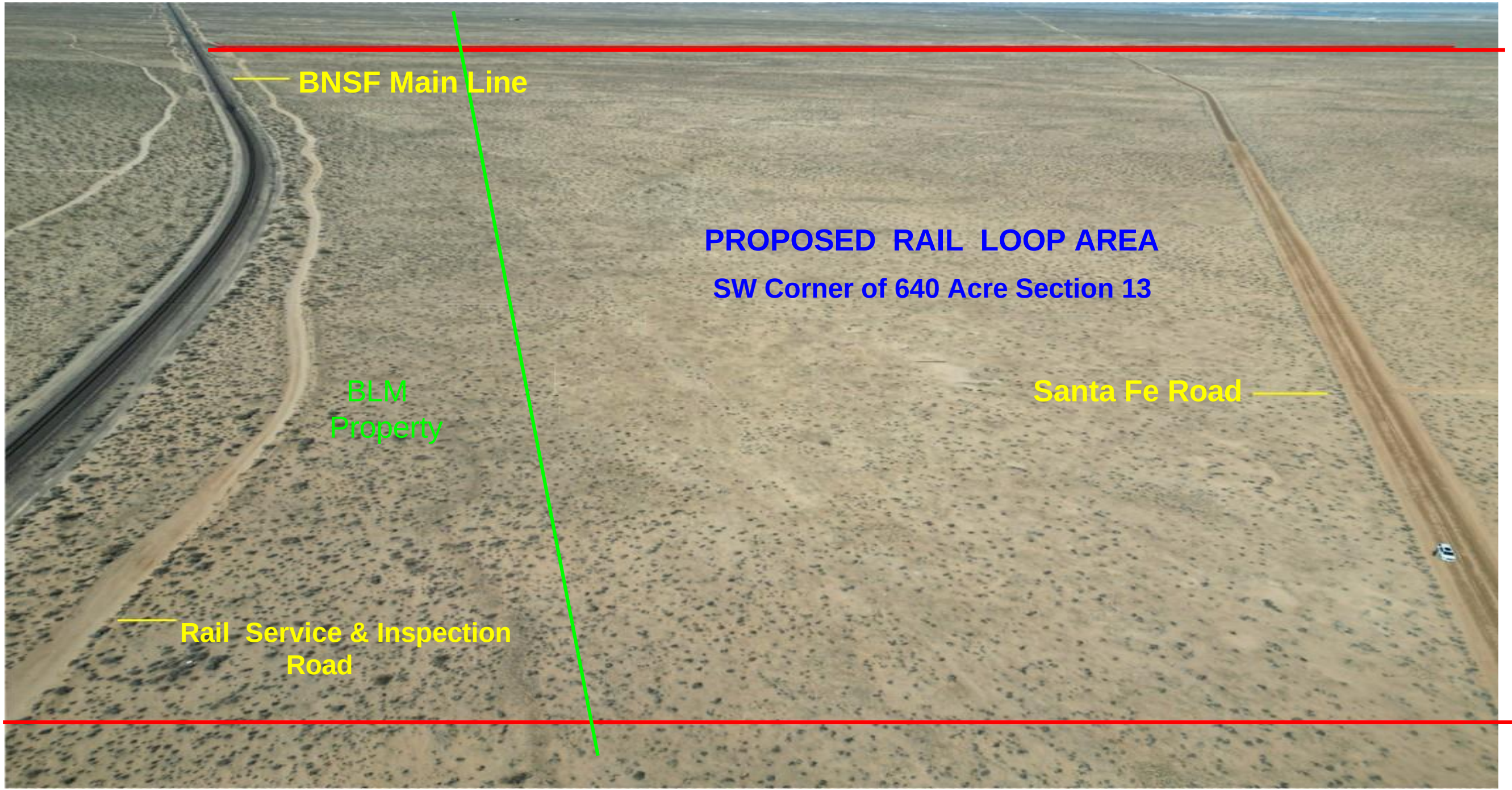
Hinkley

7693 ft

Google Earth

Imagery Date: 9/4/2015 lat 34.961187° lon -117.237777° elev 2205 ft eye alt 35946 ft

1985



— BNSF Main Line

BLM
Property

PROPOSED RAIL LOOP AREA
SW Corner of 640 Acre Section 13

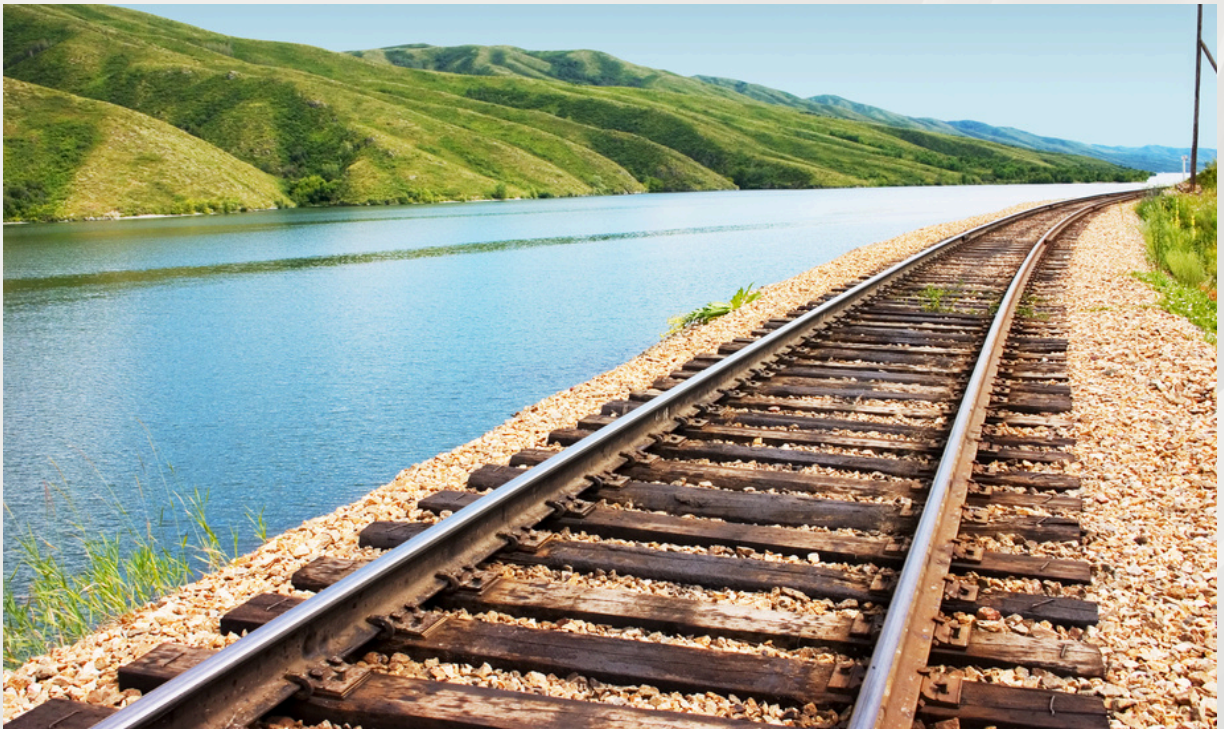
Santa Fe Road —

— Rail Service & Inspection
Road

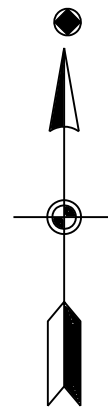


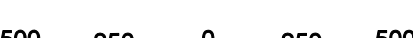
Attachment G

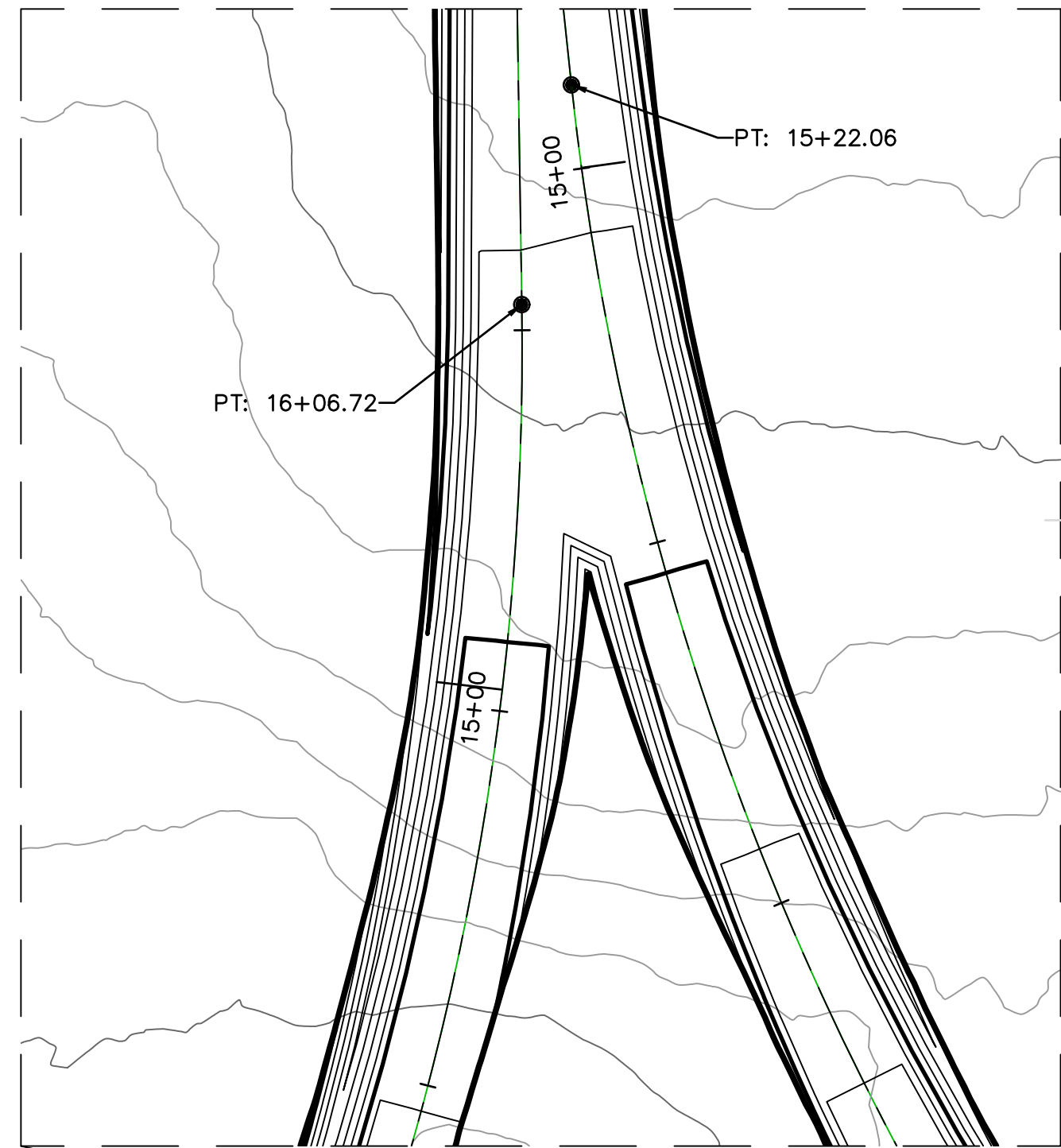
Proposed Loop & Aggregate Loading Facility Design



EAST TO VALLEY JC. CA
HINKLEY NEXT STA.



BNSF WORK		CUSTOMER WORK	LEGEND:		 GRAPHIC SCALE (ft.)		CALIFORNIA DIVISION HINKLEY, CA MOJAVE SUBDIVISION LINE SEGMENT 7200			
EAST LEG "Y" TRACK CONSTRUCT 676 TRACK FT. AND ONE #15 136# RH COMM. STD. POWER TURNOUT ONE LH 136# POWER DERAIL WEST LEG "Y" TRACK CONST. 804 TRACK FT. AND ONE #15 136# LH COMM. STD. POWER TURNOUT ONE RH 136# POWER DERAIL		30% PLAN SEE SHEET 8 OF 9 FOR DETAILS	EXISTING TRACK ——— CONSTRUCT BY BNSF ——— CONSTRUCT BY INDY. ——— REMOVE ——— BNSF ROW - - - - -		30% PLAN		PROPOSED AGG. FACILITY LYNX CAT MTN. QUARRY OPERATIONS M.P. 760.5, HINKLEY, CA		 LYNX CAT MOUNTAIN QUARRY OPERATIONS, LLC HINKLEY, CA	
DRAWN	CHECKED	BNSF RAILWAY COMPANY - ENGINEERING			10/07/23	STATUS: PRELIM.	SHEET 2 OF 9			DATE 10/06/23



BLOW-UP
SCALE: 1"=40'

TOTAL EARTHWORK QUANTITIES:

CUT	58082	C.Y.
FILL	45176	C.Y.
SUBSIDENCE (APPROX .1)	2735	C.Y.
SHRINKAGE (APPROX 15%)	6777	C.Y.

EXPORT 3394 C.Y.

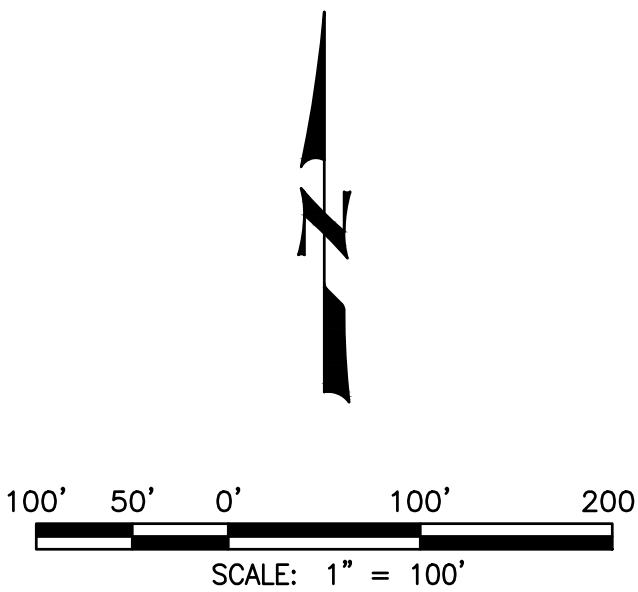
*SUBSIDENCE AND SHRINKAGE VALUE
SUBJECT TO CHANGE PENDING FUTURE
SOILS REPORT.

**BSB= BOTTOM OF SUB-BALLAST @
2.25' BELOW TOP OF RAIL

BNSF MAIN LINE TRACK RIGHT-OF-WAY

Section 13
LCMD Property

Section 24
BLM Property



SECT 13

SECT 24
BLM



Know what's below.
Call before you dig.

SURVEY MONUMENTATION:

ALL SURVEY MONUMENTS AND MARKERS SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO PROTECT IN PLACE UNTIL SURVEYOR HAS TIED OUT LOCATIONS FOR REPLACEMENT PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 8700 TO 8805 (LAND SURVEYOR'S ACT).

UNDERGROUND UTILITIES:

THE LOCATIONS AND EXISTENCE OF UNDERGROUND UTILITIES ARE NOT GUARANTEED. THESE DRAWINGS WERE PREPARED BASED ON SURFACE DATA AND AVAILABLE RECORD INFORMATION AND IT IS POSSIBLE THAT ADDITIONAL UNDERGROUND UTILITIES COULD BE PRESENT THAT ARE NOT SHOWN. THE CONTRACTOR SHALL BE RESPONSIBLE FOR FIELD VERIFICATION OF THE LOCATION AND DEPTH OF EXISTING UNDERGROUND UTILITIES AND SHALL PERFORM POT-HOLING AS NECESSARY AT ALL CROSSINGS PRIOR TO COMMENCING CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR TAKING ALL PRECAUTIONS NECESSARY TO PROTECT ALL EXISTING UTILITIES AND STRUCTURES FROM DAMAGE DURING THE COURSE OF THE WORK, AND SHALL BE RESPONSIBLE FOR REPAIRING OR REPLACING ANY UTILITIES OR STRUCTURES DAMAGED DURING THE COURSE OF THE WORK.

BENCHMARK

DESCRIPTION: XXXXXXXXXXXXXXXX

LOCATION: XXXXXXXXXXXXXXXX

RECORDED: XXXXXXXXXXXXXXXX

ELEVATION: XXX.XX

DATUM: XXXXXXXX

BASIS OF BEARINGS

XXXXXXXXXXXXXXXXXX

DATE	DELTA	REVISION DESCRIPTION	APPROVAL	
			DATE	BY

**MERRELL
JOHNSON**

MERRELL JOHNSON ENGINEERING, INC.
22221 U.S. HIGHWAY 18, APPLE VALLEY, CA 92307
760 240 8000 | MERRELLJOHNSON.COM

**RAIL LOOP PRELIMINARY
GRADING AND CROSS
SECTIONS**

FOR:
MATCON

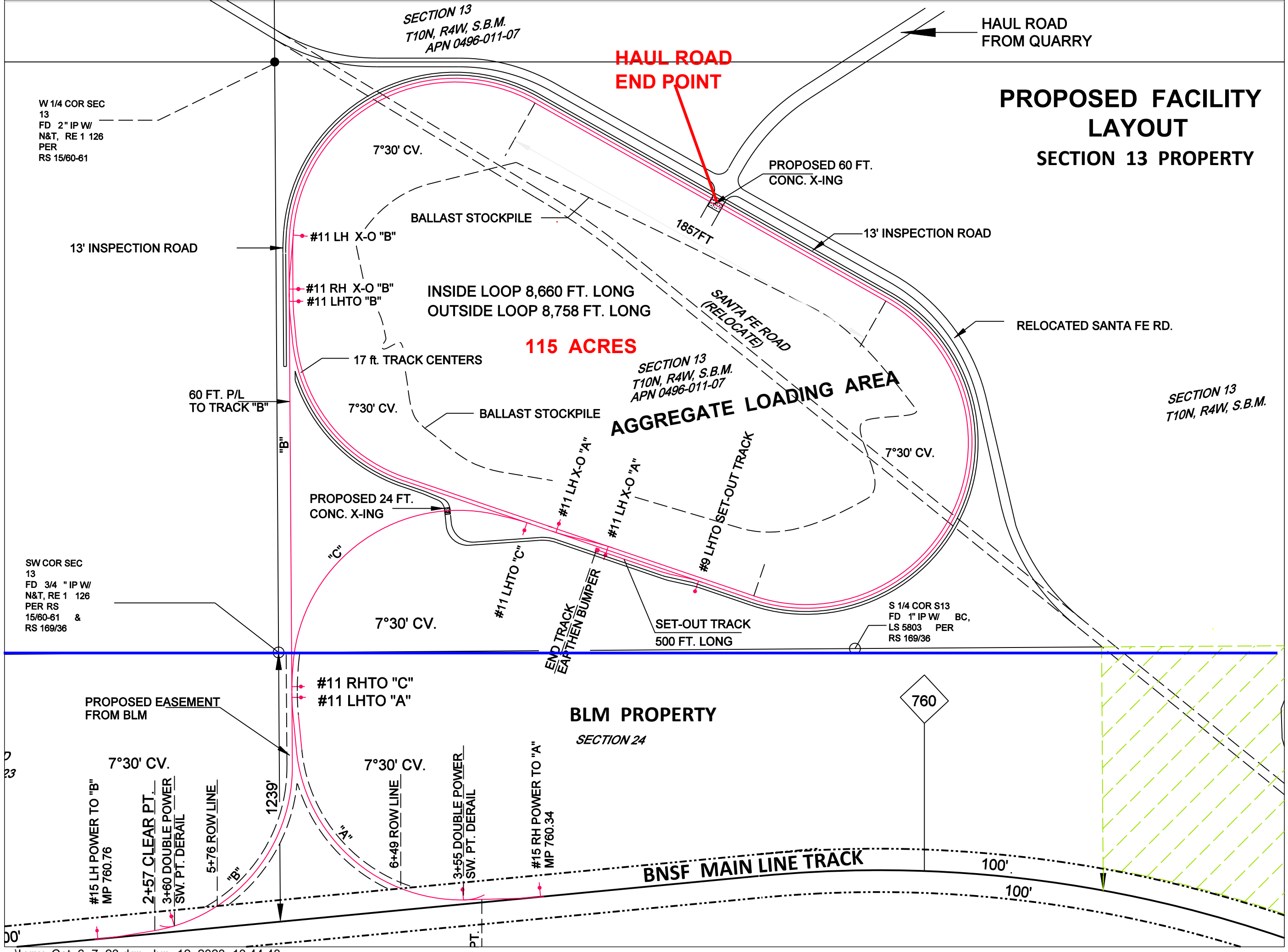
DRAWN BY:
HR
DATE:
-/ - / -

JOB NO.
3104.006

SHEET
2 OF 16

"Y" Track ROW Requested

PROPOSED FACILITY LAYOUT
SECTION 13 PROPERTY



W 1/4 COR SEC
13
FD 2" IP W/
N&T, RE 1 126
PER
RS 15/60-61

SW COR SEC
13
FD 3/4 " IP W/
N&T, RE 1 126
PER RS
15/60-61 &
RS 169/36

PROPOSED EASEMENT
FROM BLM

BLM PROPERTY
SECTION 24

S 1/4 COR S13
FD 1" IP W/ BC,
LS 5803 PER
RS 169/36

**HAUL ROAD
END POINT**

HAUL ROAD
FROM QUARRY

PROPOSED 60 FT.
CONC. X-ING

13' INSPECTION ROAD

RELOCATED SANTA FE RD.

AGGREGATE LOADING AREA

BALLAST STOCKPILE

BALLAST STOCKPILE

INSIDE LOOP 8,660 FT. LONG
OUTSIDE LOOP 8,758 FT. LONG

115 ACRES

7°30' CV.

7°30' CV.

7°30' CV.

7°30' CV.

7°30' CV.

SET-OUT TRACK
500 FT. LONG

PROPOSED 24 FT.
CONC. X-ING

17 ft. TRACK CENTERS

13' INSPECTION ROAD

60 FT. P/L
TO TRACK "B"

END TRACK
EARTHEN BUMPER

BNSF MAIN LINE TRACK

760

#15 LH POWER TO "B"
MP 760.76

2+57 CLEAR PT.
3+60 DOUBLE POWER
SW PT. DERAIL

5+76 ROW LINE

1239'

6+49 ROW LINE

3+55 DOUBLE POWER
SW PT. DERAIL

#15 RH POWER TO "A"
MP 760.34

#11 RHTO "C"
#11 LHTO "A"

#11 LH X-O "B"
#11 RH X-O "B"
#11 LHTO "B"

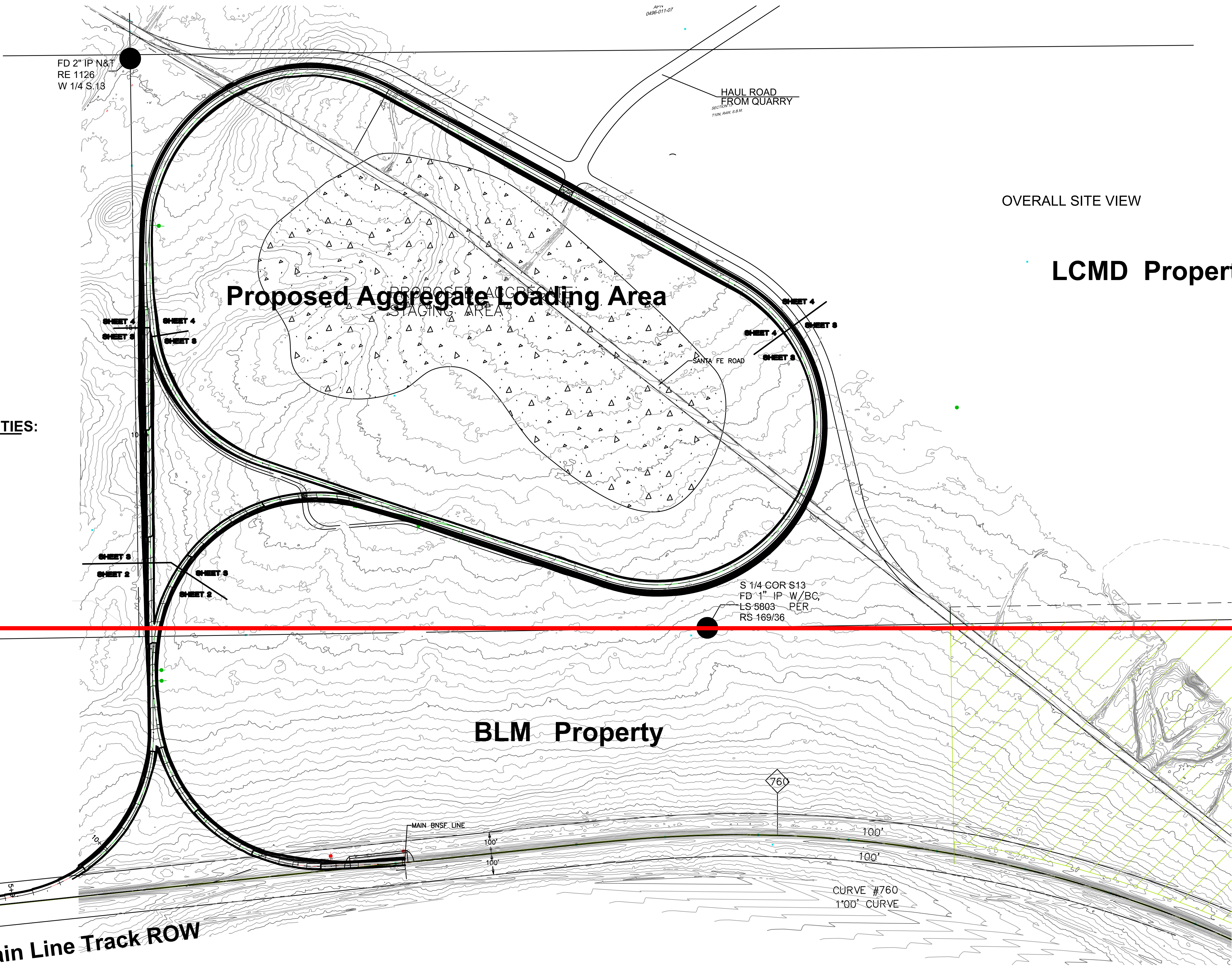
#11 LH X-O "A"

#11 LH X-O "A"

#9 LHTO SET-OUT TRACK

#11 LHTO "C"

#11 LH X-O "A"



OVERALL SITE VIEW

LCMD Property

Proposed Aggregate Loading Area

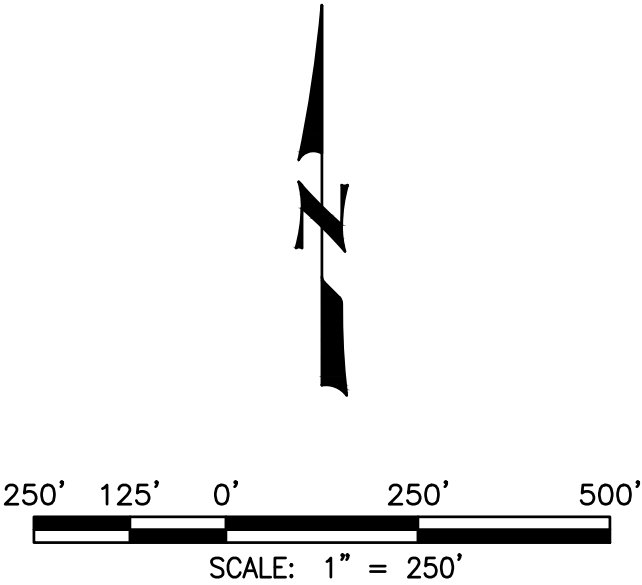
BLM Property

BNSF Main Line Track ROW

TOTAL EARTHWORK QUANTITIES:

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FILL	45176	C.Y.
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*SUBSIDENCE AND SHRINKAGE VALUE
SUBJECT TO CHANGE PENDING FUTURE
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BENCHMARK

DESCRIPTION: XXXXXXXXXXXXXXXX

LOCATION: XXXXXXXXXXXXXXXX

RECORDED: XXXXXXXXXXXXXXXX

ELEVATION: XXX.XX

DATUM: XXXXXXXX

BASIS OF BEARINGS

XXXXXXXXXXXXXXXXXX

DATE	DELTA	REVISION DESCRIPTION	APPROVAL DATE	BY

**MERRELL
JOHNSON**

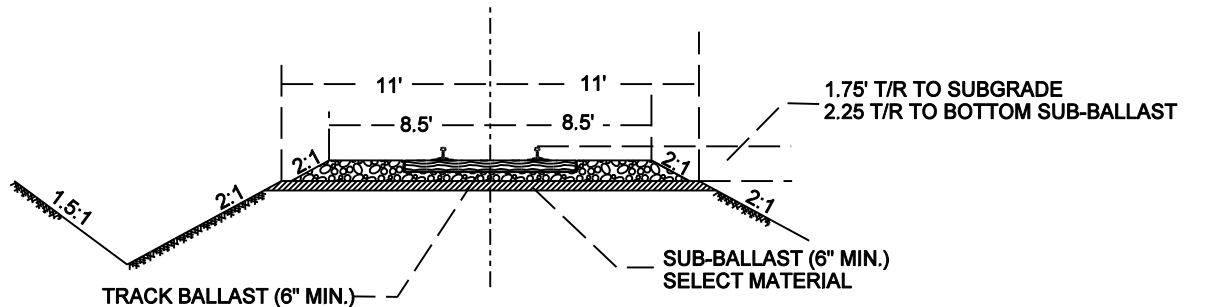
MERRELL JOHNSON ENGINEERING, INC.
22221 U.S. HIGHWAY 18, APPLE VALLEY, CA 92307
760 240 8000 | MERRELLJOHNSON.COM

**RAIL LOOP PRELIMINARY
GRADING AND CROSS
SECTIONS**
-
**FOR:
MATCON**

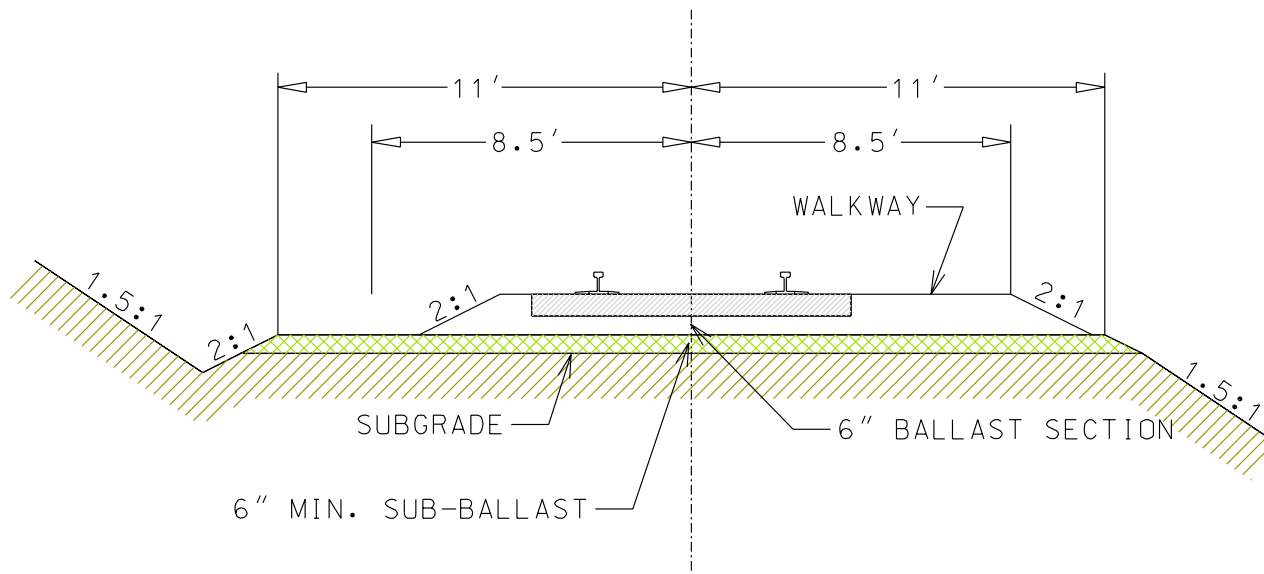
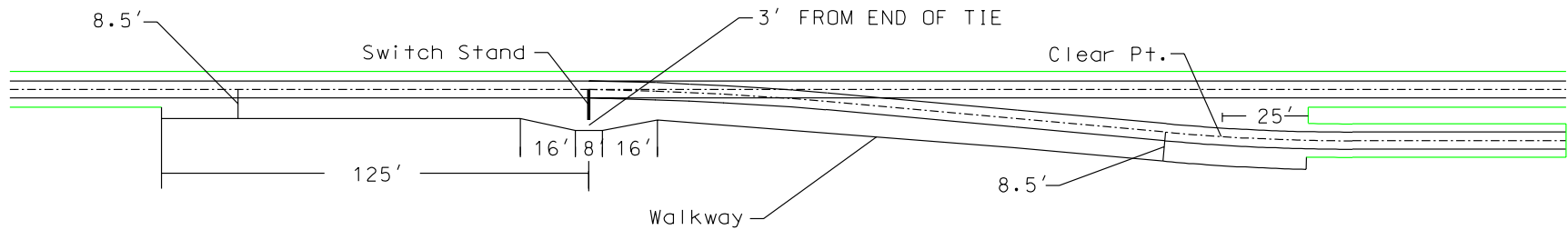
DRAWN BY:
HR
DATE:
-/-/-
JOB NO.
3104.006
SHEET
1 OF 16

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TYPICAL SECTION SINGLE TRACKS



WALKWAYS TO COMFORM WITH
CAL PUC G.O. 118-A



INDUSTRY TRACK STD SECTION
WITH 8.5' WALKWAY

BNSF ENG SVCS - 10/12/01



Attachment H

BNSF Railway Guidelines for Industry Track Projects



BNSF RAILWAY COMPANY

GUIDELINES FOR INDUSTRY TRACK PROJECTS



Engineering Services

System Design & Construction

**4515 Kansas Avenue Kansas
City, KS 66106**

August 2018

BNSF RAILWAY COMPANY

Design Guidelines for Industry Track Projects

August 2018

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3. Standards for Unit Train/Loop Facilities

3.1 Roadbed: Roadbed and ballast section for industrial trackage shall conform to the special roadbed section (see appendix, page A-11), and to the ballast material requirements on page 24.

3.2 Curvature: Maximum degree of curve shall not exceed 7°30' (764.49' radius). All curves are defined using the chord definition method. A minimum tangent length of 100 feet must be placed between reversing curves. No turnouts (switches) can be placed in a curve. Mainline turnouts must be placed at least 200 feet from the end of a mainline curve. Industry turnouts within the facility must be placed at least 100 feet from the end of any curve.

3.3 Profile Grade: Track profile grades shall be limited to a maximum of 1.5%. For loop tracks, the maximum grade will be 0.5%. Other restrictions may be defined for individual projects. A flat grade (0.0%) must be maintained through loading/unloading areas.

3.4 Vertical Curves: Vertical curves must be provided at break points in profile grade. The rate of change shall not exceed 1.0 in summits or 0.5 in sags. Vertical curves shall not extend into limits of turnout switch ties. See appendix, pages A-43 and A-44 for BNSF's standard for vertical curves.

3.5 Track: For New Unit Train Facilities minimum rail section is 115-lb and continuous welded rail (CWR) is recommended. Hardwood ties shall be new 7" X 8" (No. 4) or 7" X 9" (No. 5), 8'-6" long, placed on 21.5" centers with a 6" ballast section. Rail anchorage shall be provided at a minimum rate of 16 anchors per 39' panel. Continuous welded rail (CWR) shall be box-anchored every other tie. Concrete ties can be spaced at 28" center to center with an 8" ballast section. CWR is recommended when using concrete ties. M-10 steel ties (10mm or 13/32" section) can be used in unit facility tracks and are spaced at 24" centers with 8" ballast section.

3.6 Turnouts: All main line, controlled siding and passing track turnouts will be a minimum new No. 11-141 lb. and include either a spring-rail frog or a rigid, railbound manganese frog, as specified by BNSF Engineering. For other turnouts maintained by BNSF, a No. 11-115 lb. is the minimum (see appendix, pages A-22 to A-33). Main line turnout switch ties shall be new and hardwood. All mainline, controlled siding and passing track turnouts and trackage are to be placed by BNSF personnel out to the 14' clearance point. All joints on the side of turnout receiving majority of traffic will be thermite welded.

Mainline, controlled siding and passing track turnouts will require the placement of a construction pad alongside the track to allow assembly of the turnout, with no disruption to traffic. After the turnout is assembled, a track window is obtained to remove the trackage and insert the turnout. An example of a construction pad is shown in the appendix on page A-14.

For turnouts placed off of BNSF property and/or maintained by the Customer, and operated by BNSF, a No. 11 - 115 lb. turnout will be the minimum. All switch stands need to include a "30 Degree" handle (see appendix, page A-35), and a target with alternating green and yellow colors indicating switch position (page A-36).

Switch heaters are required for mainline turnouts where snow and ice present operational challenges. If a power turnout requires a switch heater, the power derail will require one also. The cost estimate will include installation of the switch heaters when required.

3.7 Derails: A derail shall be placed on all tracks connecting with a main line, siding, or industrial lead. Derails protecting mainline tracks and controlled sidings shall be double switch point (see appendix, page A-34) and installed so that the derailed car is directed away from BNSF trackage. A power derail is required when the mainline turnout is powered, and BNSF will install track and signal from the point of switch to the insulated joints just beyond the power derail. Derails protecting mainline tracks shall be placed a minimum of 100 feet behind the 14' clearance point, and placed on tangent track where possible. Derails protecting other-than-mainline tracks shall be

placed a minimum of 50 feet behind the 14' clearance point, and placed on tangent track where possible. The type of derail and actual location may be determined by BNSF Operating Department requirements. A "Derail" sign needs to be placed next to the derail.

3.8 Structures: Bridges, drainage structures, track hoppers, retaining walls, etc. shall be designed to carry Cooper E-80 live load with diesel impact. Structures shall be designed per American Railway Engineering and Maintenance of Way Association (AREMA) Manual chapters 1, 7, 8, or 15 as applicable, and designed by a licensed engineer. See AREMA standards for unloading pits (Chapter 15, Section 8.4). All structural plans will need to be reviewed and accepted by BNSF Engineering. Gratings covering open pits must be bolted in place.

If a project creates the need for existing structures (including BNSF's structures) to be modified, the modifications shall be accounted into the customer's scope of work of the project, subjected to BNSF's review and approval. For drainage related structures, additional information is included in "Culverts" section within the "Specifications for Construction of Industry Trackage by Private Contractor" chapter.

3.9 Road Crossings: The standard for a road crossing surface installed and maintained by the BNSF is concrete plank (for 141-lb. rail) placed on 10-ft. switch ties. Also, ten each 10-ft. switch ties are placed on both ends of the crossing, replacing any standard cross-ties. For crossings installed and maintained by the Customer, a concrete plank is recommended, with a wood plank surface as acceptable (see appendix, pages A-37 to A-39).

3.10 Clearances: BNSF will adhere to the "Clearance Requirements By State," BNSF Dwg. No. 2509, Sheet No. 2 (see appendix, page A-40) for each state. If a state does not have its own clearances, the "BNSF Minimum Clearances Diagram," BNSF Dwg. No. 2509, Sheet No. 1 (see appendix, page A-41) will apply. Side clearances for curves should have an additional 1-1/2" per degree of curvature. All effort should be made to provide adequate clearances. In the event clearances cannot be provided for as prescribed, warning signs will be installed and they must be illuminated at night (see appendix, page A-42).

All loading/unloading equipment that fouls the clearance envelope during operation must positively lock in a non-fouling position when not in use.

All new tracks constructed will maintain a minimum distance of 25 feet for track centers from any main track, controlled siding or passing track. New tracks adjacent to other tracks will maintain a minimum distance of 14 feet for track centers.

At road crossings the set-back distance for storing rail cars on multiple adjacent tracks (track centers less than 25') is 250 feet from the edge of roadway. For single tracks, the setback distance varies for each state and is regulated by the states' appropriate agencies, **but 150 feet from the edge of roadway is the minimum.** However, operating conditions may require greater distances.

3.11 Walkways: Walkways on bridges and adjacent to switches and trackage are governed by the appropriate State Public Service Commission, Railway Commission or other State and/or Federal agencies. Due to revised FRA Airbrake and Train Handling Rules, outbound trains are required to have an airbrake inspection on both sides of the train. New shuttle projects will be required to have a minimum 13' inspection road on one side and a minimum 8.5' walkway on the other. See appendix pages A-11 and A-12 for typical sections of roads and walkways. Walkway ballast shall be Class 2 and no larger than 1" in size (ballast gradation shown on page 24).

- 3.12 Signals and Utility Service:** Customer shall provide electrical service to BNSF property should the proposed trackwork require power for the signal facilities. The requirement and locations will be identified by BNSF Engineering and communicated to the customer. If the service is for an electric switch heater, a 200 Amp, Single Phase, 120/240 volt service, with meter socket and service disconnect is required. The service disconnect shall be a 200 amp, 2 pole breaker by either Cutler Hammer or Square D (QO style), with the meter socket requirement as per the power company specifications. No additional electrical panels are necessary as BNSF will take a feeder from the load side of the 200 amp service disconnect switch. The service may be either overhead or underground. All electrical installations will be made in accordance with the prevailing State/local electrical code(s), or if there is none, the current edition of the National Electrical Code will govern the installation. If an electric switch heater is not involved, 100 Amp service will be sufficient. Customer shall also provide natural gas service to BNSF property should the proposed trackwork require the installation of one or more switch heaters. The requirement and locations will be identified by the BNSF project representative. The service shall be capable of delivering 600-900 thousand BTUs per heater per location required. The actual pressure shall be requested from BNSF for each project specifically (typical pressure should be around 6 psi).
- 3.13 Access Road:** Unless otherwise directed a road will be required that will provide access to inspect the entire train prior to movement from the facility. Due to revised FRA Airbrake and Train Handling Rules, outbound trains are required to have an airbrake inspection on both sides of the train. New shuttle projects will be required to have a minimum 13' inspection road on one side and a minimum 8.5' walkway on the other. See appendix pages A-12 and A-13 for typical sections of roads and walkways. A standard section with a 13-ft wide roadway is shown in the appendix, page A-13. The roadway can be constructed using subballast materials as specified in the Grading & Embankment section of this document, page 20.
- 3.14 Inspection of Materials and Track:** BNSF's Engineering representative should inspect all track materials prior to placement to avoid subsequent removal of sub-standard material. BNSF personnel will inspect the completed track before placing it into service.
- 3.15 General:**
- 3.15.1** Loading and unloading tracks should be designed so that they are completely independent of railroad operating lines and passing tracks such that loading and unloading operations in no way interfere with train operations. Design of trackage must be approved by BNSF Engineering.
 - 3.15.2** Utility installations may require a permit. Pipelines under track are to be encased per BNSF requirements. Wirelines are to be installed per BNSF requirements. Refer to "BNSF Utility Accommodation Policy" booklet <http://bnsf.com/communities/faqs/pdf/utility.pdf>. Utilities within 50 feet beyond the end of track must be underground, and protected as if they were under the track.
 - 3.15.3** The effect on sight distance must be considered when planning construction of trackage in the vicinity of any grade crossings. The required sight distance should be determined and preserved when performing and designing for construction near any grade crossing. Less than the required sight distance will be the liability of the Customer.
- Maintenance of Way Operating Rule No. 6.32.4:
"Leave cars, engines, or equipment clear of road crossings and crossing signal circuits. If possible, avoid leaving cars, engines, or equipment standing closer than 250 feet from the road crossing when there is an adjacent track (<25' track centers)."

- 3.15.4** The effect on queuing distance of a crossing must be considered when planning the extension of a track across a grade crossing. The proposed plans shall not cause vehicles to be trapped in between tracks, cause vehicles to have to stop on a track while waiting in queue for a crossing to clear, or to cause excessive highway congestion by reducing the queuing distance of an existing crossing. Adding new public crossings or adding more tracks to an existing public crossing will be reviewed by BNSF Engineering and the appropriate entity with jurisdiction over the crossing (Typically the State's Department of Transportation).
- 3.15.5** An earthen berm (see appendix, page A-15) or suitable bumping post shall be installed at the end of track. Also, a red retro-reflective marker shall be placed at the end of track.
- 3.15.6** Customer is responsible for all grading including placing all subballast up to BNSF ballast and the placement of a construction pad, if required.
- 3.15.7** Customer is to acquire any additional property required to construct grade and drainage. If the proposed trackage or facility will increase runoff onto BNSF property, a detailed drainage plan needs to be submitted for review prior to construction. Drainage should be handled in a manner as not to overload current drainage structures on BNSF property.
- 3.15.8** Contractor must not at any time foul the main line tracks. A BNSF flagman will be required, at the Contractor's expense, when working within 25 feet from centerline of the track, which would include, but not limited to, work that could foul a track, such as with a large crane, excavation activities that could undermine a track, and overhead wire work which could potentially fall onto the track. Billing for the flagman is separate from the cost for BNSF portion of the track work. Current cost for BNSF flagging is approximately \$1,000 per day with billing based on actual charges.
- 3.15.9** Adequate lighting must be provided for train crews working at night. Work areas near switches, gates, doors, pits and buildings should be illuminated to prevent walking/tripping hazards and allow crewmen riding rail cars to see without reliance upon a flashlight.
- 3.15.10** A track to set out bad order cars unsuitable for loading or unloading needs to be added to the overall design. Set out track should be long enough to place at least 5 rail cars and be accessible to a repair crew. A locomotive tie-up track may also need to be incorporated into the design. This need will be determined at the on-site meeting.
- 3.15.11** Appropriate access must be provided for BNSF to drive an SU-40 maintenance truck (See AASHTO's "A Policy on Geometric Design of Highways and Streets", a.k.a. the "AASHTO Green Book") to the proposed installations to be installed and/or maintained by BNSF or other existing BNSF infrastructure. If switch heaters are required at locations where the installation of a natural gas supply is infeasible, the access must be sufficient for refueling trucks to access the switch heater area. Depending on the location and the fuel providers of the region, refueling trucks may exceed the size of a SU-40 vehicle. Additional requirements related to the backing up of vehicles may be active in certain operating regions, which affects turnaround designs. Consult your project representative for additional region specific requirements.

4. Survey and Plan Requirements

4.1 Surveying on BNSF Right of Way: In order to protect BNSF's investment of its Right of Way (ROW) and for the safety of persons coming onto BNSF property, BNSF requires all parties entering or performing work on the right-of-way to secure appropriate agreement and insurance before beginning any type of work. Please consult the BNSF project representative and the section "Requirements for Working on BNSF Right of Way" before proceeding.

4.1.1 Grading and alignment stake out and re-staking is the responsibility of the customer, including the portions to be installed by BNSF forces. **BNSF project stake out shall not include the point of intersection (PI).** All stake out locations shall be documented by photographs. We encourage marking up photographs to demonstrate the stakes' corresponding feature to minimize misunderstanding. They shall be sent to the BNSF project representative (the BNSF inspector coordinator) when completed. The stakeout guidelines listed below illustrate the various responsibilities of the customer relative to the stage of the project:

Project Stage	Pt. of Switch (PSw)	Power Switch Projects Only	
		Pt. of Derail (Derail)	Alignment
Conceptual: Allows for proper visualization of preliminary site visit.	✓		
Pad Completion: Enables crews to unload and assemble the switch at the correct locations.	✓	✓	
Pre-Install Stake Out: These staked items will be communicated to the BNSF during the pre-install meeting.	✓	✓	✓

4.1.1.1 Point of Switch: A one page document has been included in A-51 of the appendix. This stake out shall include rail markings and center of track markings at a minimum. An offset stake is encouraged after the pad is completed. A flagger will be needed for this stake out due to the need to foul the track.

4.1.1.2 Point of Derail: BNSF will construct and install up to the entering signal for the power switch's control point for projects involving power switches. The power derail shall be marked with both a centerline feather and an offset stake. The stake out shall follow the format included in the point of switch stake out document on A-51 of the appendix with the only difference being replacing "PSw" by the word "Derail".

4.1.1.3 Alignment: BNSF will construct and install up to the entering signal for the power switch's control point for projects involving power switches. The alignment stake out shall start from the last long tie to the entering signal's location. Stakes should be in intervals of 100' or less, and should include centerline feathers and offset stakes at the edge of the pad or a location that will not be easily damaged by construction equipment.

4.2 Plan Requirements: All plans and drawings need to be prepared electronically in a CADD format. This allows for updates to BNSF's maps and records to be done electronically. All information is to be in English units. Plan submittals should be in Adobe's Acrobat pdf format, with 11" x 17" sheet size. Upon approval, BNSF Engineering will revise the project schematic, if necessary.

Plan View Scale: 1" = 50'

Profile View Scale: 1" = 50' horizontal and 1" = 5' vertical

Cross Sections Scale: 1"=10' horizontal and vertical

4.2.1 BNSF Engineering Plan Submittals - Definitions

Conceptual – An alignment plan showing existing track and features along with proposed changes, and the official operating plan. This will be used for the New Business Review (NBR).

30% Design - All items from the conceptual submittal plus plan/profile sheets, cross-sections, typical sections, xing plans, drainage plans, revisions from changes due to land and utility negotiations, and 30% structure plans. This plan will be used for the walk-thru inspection and schematic approval.

90% Design - All items from the 30% submittal plus revisions from the walk-thru inspection, culvert extensions, road xing plans, and 60% structure plans (e.g. pit plans, catwalks, and sheds).

Final Track Plan – All items in 30% and 90% with all relevant details and revisions incorporated from previous comments. Specifications and details included.

As-Built Submittal – The plan/profile sheets updated with post-construction locations as surveyed.

4.2.2 Provide an Operating Plan

Prepare a sketch (does not have to be to-scale) showing in-bound and out-bound switching plans and lengths of tracks to be used. Prepare multiple sketches to show the position of cars and locomotives at different stages of switching/loading/unloading together with a narrative describing the movements depicted by the multiple sketches.

In developing track lengths for operating plans, designers shall be aware that:

- Switches cannot be thrown unless the closest on track equipment is at least 50' from the point of switch
- Cars shall not come within 25' of the end of track bumper at any time
- Parked cars shall be at least 50' or more from the clearance point of a turnout if the other side of the turnout is to be safely used by BNSF crews.
- If a power turnout is required, industry switching cannot come within 50' of the proposed entering signal location of the control point
- If a manual turnout and derail is used, industry switching cannot come within 50' of the proposed point of derail location

Customers are encouraged to reference this document, including standard plan drawings, in the construction specifications.

Conceptual Plan Submittal Checklist:

- ☐ Furnish Milepost and Line Segment in the Title Block, along with name of Industry and date of plan preparation. Contact information for engineering firm should also be included on plans.
- ☐ BNSF Milepost location and BNSF stationing information for switches on proposed on BNSF tracks (Lat/Long information for power switch projects)
- ☐ Curvatures not exceeding 7-30 (unit train) or 9-30 (manifest)
- ☐ Grades not exceeding 0.5% on receiving/departure tracks
- ☐ Grades not exceeding 1.5% on any tracks
- ☐ Track centerline distances from BNSF mainline and for inspection roads & ATV inspection paths
- ☐ Switch sizes for all switches
- ☐ Culverts to be abandoned/extended/replaced for those under BNSF tracks
- ☐ Designated unit train receiving/departure tracks and/or manifest tracks
- ☐ Added tracks across existing BNSF at grade crossings, or additional crossings proposed across public roadways
- ☐ Additional bridges next to existing BNSF infrastructure
- ☐ Distances from proposed turnouts to existing critical BNSF infrastructure
 - ☐ To abutments of BNSF bridges
 - ☐ To the edge of BNSF crossings
 - ☐ To the closest start of BNSF curve (i.e. the distance from the spiral to the PSw/last long tie)
- ☐ Basic property limits & railroad Right of Way lines
- ☐ Graphical operating plan
- ☐ Include a description of work to be performed by BNSF. Example: “Construct 185 track feet including a #11-141 lb. turnout from point of switch to clearance point, raise railroad pole line, adjust signals.”
- ☐ Include a description of work to be performed by the contractor. Example: “Construct remaining trackage from clearance point to end, place wheel stops, install plank crossing and signs, perform all grading, install all drainage structures, install double switch point derail, provide electrical service to a point opposite the proposed switch locations.”
- ☐ Include a list of track materials to be used by the contractor. Example: “115-lb continuous welded rail (CWR) on #4 new cross-ties, #11-115lb BNSF standard turnouts, 32-ft full depth timber crossing planks to be placed in new construction.
- ☐ Effective track capacities of proposed/modified tracks

30% Design Drawings Submittal Checklist:

- ☐ 30% checklist with conceptual checklist included
- ☐ Track Plan alignment included
 - ☐ Dimension from proposed BNSF switch locations to an identifiable fix object in the field (For practicality, shall be in the direction of the track)
 - ☐ Derail location stationing and derail type included
 - ☐ Crossing location(s) with stationing and width included
 - ☐ PC/PT stationing on all curves included
 - ☐ Curvature information on all curves included
 - ☐ 14.21' clearance point stationing included
 - ☐ Point of switch stationing included (PSw)
 - ☐ End of track stationing and structures included
 - ☐ Culvert/other pipe crossings included
 - ☐ Location of connection structures to existing drainage systems
- ☐ Access roadway information called out
 - ☐ Turnout pad sizes called out
 - ☐ Turnarounds/Access at turnout pad determined
- ☐ Track profile plan included
 - ☐ Vertical curves included
 - ☐ Vertical curves' lengths included
 - ☐ Culvert/other pipe structures included on profile
 - ☐ Cover information on culvert/other pipe structures to top of subgrade & base of rail
- ☐ BNSF construction coordination sheet for power turnout projects (One page blow up sheet of pad size, signal house locations, key asset locations such as the derail and the signal locations)
- ☐ Cross section drawings with typical sections included
- ☐ Grading limits plan
- ☐ Survey monuments/control point locations
- ☐ Utility relocates on the BNSF right-of-way with owner information
- ☐ Separate sheet for each public crossing proposed / modified including information
 - ☐ Distance from turnouts to nearest crossings
 - ☐ Cross bucks locations / Lights & gates locations
 - ☐ Access roadway locations
 - ☐ Signal house locations (if applicable)
 - ☐ Distance between multiple track crossings (if applicable)

- ☐ DOT # (if crossing is existing)
- ☐ Queuing distance from adjacent roadways (if applicable)
- ☐ Contour information of surrounding terrain (use light gray lines for contours)
 - At least 300' on each side parallel to the direction of the track
 - At least 100' on each side parallel to the direction of the roadway
- ☐ City, county, and governing roadway authority information

90% Design Drawings Submittal Checklist:

- ☐ 90% checklist with 30% checklist included
- ☐ Clearance submittal for all structures coming within 15' of the centerline of the closest track
- ☐ Clearance submittal for all structures crossing above any track in the facility
- ☐ Finalized drainage plan
 - ☐ Culvert extensions finalized
 - ☐ Culvert locations finalized with cover information requested in 30%
 - ☐ Line drawings for all pipe crossings/drainage structures under existing or proposed tracks that will be impacted by the project
 - ☐ Pre-project drainage pattern with pre-project terrain contours
 - ☐ Post-project drainage pattern with (if available, include post-project terrain contours)
- ☐ Finalized access roadway plan
 - ☐ Final turnout pad access routes
 - ☐ Final crossing locations internal to facility
- ☐ Structure locations included (i.e. building sheds, catwalks, etc.)
- ☐ H&H studies included in submittal (if required)
- ☐ 100% signed and sealed plans for structures included (Only structures that affects track stability or track clearance will require reviews. E.g. pit plans, shed plans, catwalks, etc.)

Final Track Plan / 100% Design Plan Submittal Checklist:

- ☐ 100% checklist with 90% checklist included
 - ☐ Signage plans included
 - ☐ Sign locations included
 - ☐ Lighting plan included
 - ☐ Details included
 - ☐ Switch geometry details
 - ☐ Stand details
 - ☐ Crossing details
 - ☐ Bumper details
 - ☐ Rail weights and tie specifications
 - ☐ Reference to the specifications within the BNSF design guidelines and applicable AREMA guidelines
 - ☐ Culvert specifications
-

As-Built Record Drawing Submittal Checklist:

- ☐ Lat/Lon of actual installed BNSF switch location
- ☐ Actual installed location from an identifiable permanent structure in the field
- ☐ Alignment deviations of actual installed track
- ☐ Actual lengths of tracks and effective lengths of tracks

5. Specifications for Construction of Industrial Trackage by Private Contractor

5.1 Contractor's Responsibility: By acceptance of the contract the contractor assumes complete responsibility for construction of the work. The Contractor should understand that any work not specifically mentioned in the written specifications, but which is necessary, either directly or indirectly, for the proper carrying out of the intent thereof, shall be required and applied, and will perform all such work just as though it were particularly delineated or described. Contractor should also understand that final approval of the track for service is the prerogative of BNSF and close contact with BNSF's Engineering Representative is required. No work is to be performed on BNSF's right-of-way, or in such proximity as to interfere with BNSF's tracks or roadbed, without advance permission by BNSF, including insurance and if necessary, flagging protection.

5.2 Insurance Requirements: Contained within the Contract for Industrial Track Agreement to be executed prior to construction.

5.3 Grading & Embankment: The work covered by this section of the specifications consists of furnishing all plant, labor, material and equipment and performing all operations in connection with construction of track roadbed, including clearing and grubbing, excavation, construction of embankments and incidental items, all in accordance with the contract drawings and specifications.

The Contractor shall load, haul, spread, place and compact suitable materials in embankments and shall finish the embankments to the grade, slope and alignment as shown in the plans. Suitable materials shall consist of mineral soils free from organics, debris, and frozen materials. Embankment slopes shall be compacted and dressed to provide a uniform and dense slope. Embankments shall be built with approved materials from excavation of cuts or from borrow unless otherwise shown on the plans.

If materials unsuitable for embankments (organics, debris, brush and trees, etc.) are encountered within the areas to be excavated, or material existing below the designated subgrade in cuts or within areas on which embankments are to be placed are of such nature that stability of the roadbed will be impaired, such materials shall be removed and wasted or stockpiled for other use. Topsoil removed from embankment areas shall be spread uniformly over the embankment slopes.

Unsuitable material removed from embankment foundations or below subgrade elevation in excavation areas shall be replaced to grade with suitable material compacted as specified for embankments in these specifications.

Wherever an embankment is to be placed on or against an existing slope steeper than four horizontal to one vertical, such slope shall be cut into steps as the construction of the new embankment progresses. Such steps shall each have a horizontal dimension of not less than three feet and a vertical rise of one foot.

At all times, the Contractor shall operate sufficient equipment to compact the embankment at the rate at which it is being placed. Compaction shall be accomplished by sheep's foot rollers, pneumatic-tired rollers, steel-wheeled rollers, vibratory compactors, or other approved equipment. Use construction procedures and drainage design that will provide a stable roadbed.

Each layer in embankments made up primarily of materials other than rock shall not exceed 6" in loose depth and shall be compacted to the dry density as specified hereinafter before additional layers are placed. All embankments shall be compacted to a density of not less than 95% of the maximum standard laboratory density, and not more than +4 percentage points above the optimum moisture content, unless otherwise specified on the drawings. The standard laboratory density and optimum moisture content shall be the maximum density and optimum moisture as determined in accordance with ASTM Designation: D 698 (Standard Proctor Test). Copies of soil test results shall be furnished to owner.

On top of the embankment fill, the Contractor shall place a minimum of 6 inches of granular sub-ballast which meets the above criteria and contains no material larger than that which will pass through a (3) inch square sieve. Sub-ballast shall be crushed gravel or crushed stone with a minimum 75% of the material having two fractured faces. Sub-ballast must meet the quality requirements of ASTM Designation: D 1241 and be approved by the Engineer. Additional sub-ballast may be required as determined from an engineering soil analysis.

- 5.4 Culverts:** The minimum diameter for all culverts installed under main tracks or tracks maintained by BNSF is 36 inches. This is to accommodate regular inspection and cleaning. Culverts maintained by the Customer should be 24 inches or larger. Impacts to existing culverts shall be included in the customer's scope of the project.

Culvert extensions with a change in direction or a change in pipe section (including size) is generally not permitted. If the project involves removing/abandoning existing culverts under BNSF tracks, adding additional culverts under BNSF tracks or extending an existing culvert under BNSF tracks, a hydraulic study shall be provided to demonstrate that the post project condition will meet or exceed the existing hydraulic capacity. Projects adjacent to BNSF right-of-way with potential hydraulic impacts to BNSF will also require a hydraulic study. The hydraulic study can be waived if the project area is less than 1.0 Ac and does not have any hydraulic impact to an existing BNSF bridge/drainage structure.

Existing pipes that have to be extended will become the responsibility of the customer in installation, ownership and maintenance. If it is determined by BNSF Structures that an existing pipe cannot be extended in an acceptable manner, the cost of installing an acceptable replacement pipe shall be the responsibility of the customer. Additional guidelines related to pipe installations can be requested from your BNSF engineering project representative.

- 5.5 Corrugated Metal Culverts:** These instructions cover the selection, installation, and fabrication of circular type zinc coated (galvanized) corrugated steel culverts for nominal diameters of 36-inch to 96-inch, inclusive. Additional protective coatings may be specified or allowed by BNSF Engineering.

Galvanized corrugated steel pipe shall be manufactured in accordance with AASHTO Specifications M 36 and M 218. All areas of surface rust on re-corrugated ends or lock seams shall be painted using the hot-dip or metallizing process.

Design, installation, and fabrication shall be in accordance with current American Railway Engineering and Maintenance of Way Association (AREMA) Specifications Chapter 1, Part 4, Culverts. Additionally, all culvert pipes shall meet the requirements shown in Table 1.

TABLE 1

<u>Nominal Diameter (Inches)</u>	<u>Nominal* Corrugation (Inches)</u>	<u>Minimum** Width of Lap (Inches)</u>	<u>Nominal Thickness (Inches)</u>	<u>Thickness U.S. Std. Gage</u>	<u>Rivet** Diameter (Inches)</u>	<u>Max. Cover</u>	<u>Min. Cover</u>
36	2-2/3 x 1/2	2	0.109	12	3/8	40'	***
42	2-2/3 X 1/2	3	0.138	10	3/8	70'	***
42	3 x 1 & 5 x 1	3	0.109	12	7/16	70'	***
48	2-2/3 x 1/2	3	0.138	10	3/8	65'	***
48	3 x 1 & 5 x 1	3	0.109	12	7/16	70'	***
54	2-2/3 x 1/2	3	0.168	8	3/8	60'	***
54	3 x 1 & 5 x 1	3	0.138	10	7/16	75'	***
60	2-2/3 x 1/2	3	0.168	8	3/8	55'	***
60	3 x 1 & 5 x 1	3	0.138	10	7/16	70'	***
66	3 X 1 & 5 X 1	3	0.138	10	7/16	60'	***
72	3 X 1 & 5 X 1	3	0.168	10	7/16	65'	***
84	3 X 1 & 5 X 1	3	0.168	8	7/16	55'	***
96	3 X 1 & 5 X 1	3	0.168	8	7/16	45'	***

* Where two types of corrugation are acceptable, the use of standard 2-2/3" x 1/2" material is preferred, if available. 5 x 1 corrugations to be used only on helical pipe.

** For riveted pipe.
Pipes 48 inches or greater in diameter shall be shop-elongated 5 percent of their diameter in a vertical direction and have lifting lugs.

*** Minimum cover to be one-half diameter of culvert pipe from top of subgrade to top of pipe.

Due to settlement of culvert pipes, cambering longitudinally is recommended to improve the flow line profile after settlement. This is accomplished by laying the upstream half of the pipe on a flatter grade than the downstream half. Riveted pipe shall be placed with the inside circumferential laps pointing downstream and with the longitudinal laps at the side. Pipes shall be installed with a camber suitable to the height of the cover over the pipe and bearing capacity of the supporting soil.

Firm support must be provided to obtain a satisfactory installation. The filling material adjacent to pipes shall be loose granular material, free from large stones, frozen lumps, cinders, or rubbish. The filling shall be deposited alternately on opposite sides of the pipe in layers not exceeding 6 inches in depth, and each layer shall be thoroughly tamped before placing the next layer. Special care shall be taken in tamping under the lower part of the pipe. For a trench installation, the backfill shall be tamped the entire width of the trench, and for surface installation it shall be tamped not less than one half the pipe diameter out from the sides of the pipe. The density of the backfill after tamping must be at least 95% of its maximum density, as determined by ASTM D 698.

Any other type or size drainage structure shall have approval of BNSF Engineering prior to installation under track locations.

5.6 Utility Crossings: Utility crossings and relocations shall conform to BNSF standards as outlined in the "BNSF Utility Accommodation Policy" <http://bnsf.com/communities/faqs/pdf/utility.pdf> Applications for utility crossings and relocations are handled by Jones, Lang, LaSalle (JLL), phone number 1- 866-498-6647. Any questions regarding utilities can be directed to the BNSF Engineering representative.

- 5.7 Curvature and Grades:** Tracks will be staked by the customer's surveyor (under flag protection if necessary) and constructed as shown on the approved plans. Any changes to the approved design need to be reviewed by BNSF Engineering or appointed representative.
- 5.8 Clearances:** BNSF will adhere to the "Clearance Requirements By State," BNSF Dwg. No. 2509, Sheet No. 2 (see appendix, page A-38) for each state. If a state does not have its own clearances, the "BNSF Minimum Clearances Diagram," BNSF Dwg. No. 2509, Sheet No. 1 (see appendix, page A-41) will apply. Side clearances for curves should have an additional 1-1/2" per degree of curvature. Warning signs will be installed for all close clearances less than standard (see appendix, page A-42). All loading/unloading equipment that fouls the clearance envelope during operation must positively lock in a non-fouling position when not in use.
- 5.9 Material:** BNSF's Division Engineer representative should inspect all track materials prior to placement to avoid removal of sub-standard material. BNSF personnel will also inspect the track before placing it into service.
- 5.9.1 Rail:** For trackage maintained by the Customer the minimum acceptable rail shall be 112# section (5-1/2" base) and shall be compatible with BNSF standard rail section. For locations where trackage will be maintained by BNSF rail and fastenings shall conform to the BNSF standard rail section in use in that area. Contractor shall contact BNSF Engineering for approved section. Transition rails or compromise joints at the BNSF-Customer interface are the responsibility of the customer. Minimum length shall not be less than 39 feet except in turnouts and shall be free from defects. Rail should be minimum full ball relay rail, not exceeding 3/16 inch wear on any surface. Continuous welded rail (CWR) will need to be de-stressed as soon as possible after laying (see "Procedures for the Installation, Adjustment, Maintenance, and Inspection of CWR in Industry Tracks" appendix, page A-1 thru A-9). CWR is recommended when using concrete ties. Thermite and flash-butt welds must be placed in crib area between ties. An abrasive rail saw will be used to cut rail—no torch-cutting.
- 5.9.2 Anchors:** Rail anchors shall be new or reconditioned, sized to fit the rail section, and shall be provided per industrial track design criteria on pages 3 and 6. High traffic volumes or unusual grade or alignment problems may require additional anchors as determined by BNSF Engineering. Turnouts shall also be anchored.
- 5.9.3 Ties:** Hardwood ties shall be new 7" X 8" (AREMA No. 4) or 7" X 9" (No. 5), 8'-6" long, placed on 21.5" centers. Switch ties shall have a minimum cross section of 7" x 9" and minimum lengths shall conform to applicable BNSF Standard plans. Concrete ties shall be pre-stressed, measure 11" wide at the bottom and 9" high with a length of 8' 3" and weight of 630 pounds. Concrete ties can be placed on 28" centers provided there is a minimum ballast section of 8" below the tie. Second-hand, or "3/4" concrete ties can be used after inspection and approval from the BNSF Roadmaster. When placing 3/4 ties, the damaged shoulders should be alternated from left to right sides so that they are not on the same side. Steel ties are spaced at 24" centers with 8" ballast section and can be used with timber or concrete ties. Steel ties should not be used within 200 feet of a signal circuit identified by insulated joints.
- 5.9.4 Turnouts (Switches, Frogs & Guardrails):** All parts shall be new or good secondhand, with secondhand parts being free of injurious defects.
- 5.9.5 Tie Plates:** Tie plates may be new or secondhand, free of injurious defects and foreign material, conforming to AREMA Specifications, and shall fit rail being used. For rail 110# section and greater, all plates will be double-shouldered.

- 5.9.6 **Joints:** New or secondhand joints, free of foreign material and without injurious defects, and with 4 or 6 bolt holes, conforming to AREMA requirements, may be furnished to fit rail section for which they are designed. Bolt holes must be drilled with proper equipment. Torch-cutting of bolt holes is not allowed. New or secondhand compromise joints of manufactured type (welded or homemade are not acceptable), free of foreign material and without injurious defects, shall be furnished and used where rail section (weight or design) changes. Rail section by weight shall not be compromised where difference in weight is in excess of 25 lbs. When this becomes necessary, a rail of some weight between the two different rail sections, in excess of 25 lbs., shall be used and the compromise made in two steps. The length of the medium-weight rail should be 39 feet where practical.
- 5.9.7 **Spikes:** 5/8" x 6" cut track spikes shall be installed. All spikes shall conform to AREMA requirements.
- 5.9.8 **Track Bolts & Nuts:** Track bolts and nuts shall be installed conforming to AREMA Specifications. Bolts will be correct size and length to fit rail.
- 5.9.9 **Lock Washers:** One lock washer conforming to AREMA Specifications shall be installed on each track bolt.
- 5.9.10 **Ballast:** Track ballast shall be Class 2 (1" - 3/8"). Ballast shall be free from loam, dust, and other foreign particles and shall not have less than 75% crushed particles with two or more fractured faces, unless otherwise approved by BNSF. Processed ballast shall be hard, dense, of angular particle structure, providing sharp corners and cubicle fragments and free of deleterious materials. Ballast materials shall provide high resistance to temperature changes, chemical attack, have high electrical resistance, low absorption properties and free of cementing characteristics. Materials shall have sufficient unit weight (measured in pounds per cubic foot) and have a limited amount of flat and elongated particles. Unless it meets or exceeds BNSF requirements, slag is not an approved ballast material. Walkway ballast shall be Class 2 (1" - 3/8").

NOMINAL BALLAST SIZE		PERCENT PASSING (BY WEIGHT)										
SIZE NO.	SQ. OPENING	2 1/2"	2"	1 3/4"	1 1/2"	1 1/4"	1"	3/4"	1/2"	3/8"	No. 4	
Class 2	1" – 3/8"				100		90-100	40-75	15-35	0-15	0-5	

- 5.9.11 **Bumping Post:** An earthen berm (see appendix, page A-15) or suitable bumping post, approved by the Railroad, shall be installed at the ends of tracks. Also, a red retro-reflective marker shall be placed at the end of track. Cars shall not be parked or spotted closer than 25 feet to the end of the track.
- 5.9.12 **Derails:** A derail shall be placed on all tracks connecting with a main line, siding, or industrial lead. Derails protecting mainline tracks and controlled sidings shall be double switch point (see appendix, page A-34) and installed so that the derailed car is directed away from BNSF trackage. A power derail is required when the mainline turnout is powered, and BNSF will install track and signal from the point of switch to the insulated joints just beyond the power derail. Derails protecting mainline tracks shall be placed a minimum of 100 feet behind the 14' clearance point, and placed on tangent track where possible. Derails protecting other-than-mainline tracks shall be placed a minimum of 50 feet behind the 14' clearance point, and placed on tangent track where possible. The type of derail and actual location may be determined by BNSF Operating Department requirements. A "Derail" sign

needs to be placed next to the derail. Timber ties are recommended within 50 feet of a derail.

A second derail may be required where BNSF locomotives are parked during unit train loading operations. BNSF's Operating department will determine the necessity and type. If required, placement will be 275 feet from first derail. A "Derail" sign needs to be placed next to the derail.

- 5.9.13 **Highway Crossings:** All crossings shall be approved by BNSF Engineering and local governments as to type and design, in advance of placing order. Effect on sight distance of crossings must be considered when planning construction of trackage in vicinity of public grade crossings not equipped with automatic signals.
- 5.9.14 **Under Track Hoppers or Pits:** Plans shall be approved by BNSF Engineering or authorized representative. Specifications for unloading pits are covered in the "AREMA Manual for Railway Engineering," (Chapter 15, Section 8.4). Gratings covering open pits must be bolted in place.

5.10 Track Construction

- 5.10.1 **General:** All work shall be of good quality in materials, equipment and workmanship and shall conform in every respect with the specifications and instructions.
- 5.10.2 **Ties:** Ties will be unloaded and handled in such a manner as not to damage ties, using approved handling equipment. Ties to be placed at design spacing of 21.5-inch center to center (22 ties/39 feet) for wood, and 28-inch centers for concrete, on the finished subgrade, perpendicular to center line of track with the right hand ends of ties being parallel. Exception: On curves, align the ties to the inside of the curve. All joints are to be suspended between ties. Top surface of ties shall be clean and smooth to provide full bearing for tie plates. Lay wood ties with heartwood face down, and if not possible to determine position of the heartwood, lay the widest surface of the tie down. If spikes are pulled from any tie, hole shall be filled by driving in a treated wood tie plug the full depth of the hole. Boring or adzing of ties shall be kept to a minimum.
- 5.10.3 **Tie Plates:** Double-shouldered tie plates will be used on all ties and set in position with cant surface sloping inward, making sure they are firmly seated and have full bearing. After rails are in place, shoulder of plates shall be in full contact with outside edge of rail base.
- 5.10.4 **Rails:** Assemble joints before fastening rails to ties, using joint bars with full number of track bolts and spring washer for each bolt, first removing loose mill scale and rust from contact surfaces or joint bars and rails. In laying secondhand rail, care must be taken to rail end mismatch at the joints. Under no circumstances must rail be struck in web with tool or any metal object. The right-hand rail facing in direction of increasing construction shall be spiked to ties, and the opposite rail shall be brought to gage of 4' 8-1/2", measured at right angles between the rails, in a place 5/8" below top of rail. A track gauge manufactured for the purpose of measuring gage should be used rather than a tape measure. Gage is to be checked at every third tie. Do not strike rail directly with a maul, either on top when driving spikes, or on side to obtain track gage. Rail shall be laid with staggered joints. Joints shall be located as nearly as possible to the middle of the opposite rails with the following variation: (a) except through turnouts, the staggering of the joints on one side shall not vary more than 6' in either direction from the center of the opposite rail.

Continuous welded rail (CWR) will need to be de-stressed as soon as possible after laying (see "Procedures for the Installation, Adjustment, Maintenance, and Inspection of CWR in

Industry Tracks” appendix, pages A-1 thru A-9). The completed “Record of Neutral Temperature of Welded Rail as Laid” form will be completed and presented to the BNSF Engineering representative at time of final track inspection.

- 5.10.5 **Joints:** If necessary to force joint bar into position, strike lower edge of bar lightly with 4-lb. maul. Do not drive bolts in place. Tighten bolts in sequence, beginning at joint center and working out to ends. Bolts are to be tightened to a range of 20,000 to 30,000 ft.-lbs. tension. If a bolt tightening machine is not used, a standard track wrench with a 42" long handle may be used. At the time of installation, rail expansion shims of softwood not over 1" width shall be placed between the ends of adjacent rails to insure proper space allowance for expansion required by the rail temperatures in the following table, and shall be left in place:

39-ft Rail

Temperature	
<u>Deg. F</u>	<u>Expansion</u>
Over 85	None
66 to 85	1/16
46 to 65	1/8
26 to 45	3/16
6 to 25	1/4
Below 6	5/16

- 5.10.6 **Bending Stock Rails:** Use approved rail bending equipment. Make bends uniform and accurate for all stock rails.
- 5.10.7 **Spiking to Wood Ties:** Rails shall be spiked to every tie, using not less than 2 spikes for each rail at each tie. Drive spikes through tie plate holes into ties, located diagonally opposite each other but not less than 2" from edge of tie. Start and drive spikes vertically and square with rail. Take care to avoid slanting, bending, or causing sideways movement of spike. Each rail will be spiked with two spikes per tie plate on tangent track staggered with inside spikes to the east or north and outside spikes to the west or south. On curves a third spike is required on the gage side of the rail. Spikes should not be placed in the slots on skirted joint bars when such practice can be avoided by providing other plates with a hole pattern that will clear the skirts. When spikes are driven by machine, work shall be closely supervised to see that they are driven with hammer centered exactly over each spike head and drive spike vertically. Set stop bolt on the machine to prevent over-driving. Withdraw spikes that are incorrectly driven and fill hole by driving a tie plug to full depth of hole. Locate replacement spike at another hole in tie plate and tie.
- 5.10.8 **Ballast and Surfacing:** Raise track by means of jacks placed close enough together to prevent excessive bending of rails or strain on joint. Lift both rails simultaneously and as uniformly as possible. Power jack may also be used. Each track raise shall not exceed 4" with ties tamped prior to additional raise.
- 5.10.9 **Unloading and Tamping Ballast:** Unload and level down ballast by most practical means, taking care not to disturb grade stakes. Perform tamping, using power tamping machines wherever possible, or manually, using approved AREMA tamping tools appropriate for type of ballast being placed. Tamp each layer of ballast from a line 15" inside each rail, on both sides of and to the ends of ties. Center area between these limits shall be filled lightly with ballast but not tamped. At turnouts and crossovers, tamp ballast uniformly for full length of ties. Tamping shall proceed simultaneously at both ends of same tie, making sure ballast is forced directly under the ties and against sides and ends of ties.

5.10.10 **Finishing and Dressing:** Dress ballast in conformance with dimensions shown on drawings, placing additional ballast material as necessary. When placing pavement up to the track and flush with top of rail it is important to make sure water drains away from the track. This will prevent pooling and freezing which create hazardous walking conditions. Lines should be painted 10 feet parallel to the centerline of track on both sides to serve as visual reminder of the track's foul zone. Crushed rock or fabric should be placed over the ties to keep the pavement from adhering to them. Flange ways need to be kept clean to allow wheels to contact top of rail at all times.

5.10.11 **Final Inspection:** After ballasting and surfacing are completed, inspect track to see that joints are tight and rail attachments to ties are secure. Customer will notify the BNSF Engineering Representative that the track work is complete and ready for inspection. The BNSF Engineering Representative will inspect the finished track work and complete the Project Closeout Checklist (not included in this document). Civil and Track items to be inspected are included in a list in the next section. The Contractor will provide a copy of the "Record of Neutral Temp of Welded Rail as Laid" form to the BNSF Engineering Representative prior to or during inspection. After the BNSF Engineering Representative's approval, the track will be placed in service by the Division's General Manager and can then accept rail cars. Rail cars delivered to site before the track is in service will be stored at another location at an additional cost to the customer, or returned to origination point.

5.11 Miscellaneous

5.11.1 **Fencing and Gates:** Gates and fences must be grounded in accordance with National Electric Safety Code requirements to prevent an injury resulting from an electrical charge. Gates crossing tracks must have the ability to lock in the open position during train operations. If a fence parallel to a track has an angled piece at the top with security wire it must not foul the clearance envelope of the track.

6. Acceptance

CIVIL
All slopes meet design plans
Drainage ditches drain properly
All access roads and Inspection Paths completed
All drainage devices (Culverts, Catch Basins, etc.) Installed as per the plans
All abandoned culverts properly sealed, filled, and communicated to Structures and RIS
Gates/fences installed per plans and are appropriately locked
Paving and grading for disturbed crossings completed per plan
Grade crossing roadway markings established per crossing agreement
Temporary road crossings removed and proper drainage established
Temporary traffic controls removed
All structures placed according to the design plans
All clearances meet the design plans
Full and proper seeding completed

TRACK
All rail joints identified as part of the project scope are welded
Record of target neutral temperature recorded for CWR as laid
Destressing completed
Site cleaned and scrap rail and ties stockpiled
Track surfaced to design plans
Placed ballast meets design standards
Switch stands dressed properly with walkway ballast
All turnouts installed as per the plans
Targets installed and properly oriented
Derails installed in proper locations and positions with appropriate locks
Insulated Joints installed per plan (with 10ft ties and correct plates installed)
All retired insulated joints identified by project scope have been removed (OS, Intermediates, and Turnouts)
All crossings installed according to plans
Crossing approaches paved/graded to provide a smooth transition (if performed by track)
All signage has been installed per plan (Track, road crossings, etc.)
All track work completed to plan

EXHIBIT F

BLM ROW Approval and Temporary Permit

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

Issuing Office
Barstow Field Office

Serial Number
CACA106349796

1. A (right-of-way) (permit) is hereby granted pursuant to:

- a. ☒ Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);
- b. ☐ Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185);
- c. ☐ Other (describe) _____

2. Nature of Interest:

- a. By this instrument, the holder LCM Development LLC receives a right to construct, operate, maintain, and terminate a railroad spur on public lands (or Federal land for MLA Rights-of-Way) described as follows:

San Bernardino Meridian, California

T. 10 N., R. 4 W.,

sec. 23, NE1/4NE1/4; being that portion lying northerly a line parallel with and 100 feet northerly of the centerline of the existing railroad track as constructed and maintained by the Burlington Northern Santa Fe Railway;

sec. 24, NW1/4NW1/4; being that portion lying northerly a line parallel with and 100 feet northerly of the centerline of the existing railroad track as constructed and maintained by the Burlington Northern Santa Fe Railway.

- b. The right-of-way or permit area granted herein is 200 feet wide, 1500 feet long and contains 7.71 acres, more or less. If a site type facility, the facility contains _____ acres.
- c. This instrument shall terminate on December 31, 2056, 30 years from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument ☒ may ☐ may not be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations parts 2800 and 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 120 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. Each grant issued pursuant to the authority of paragraph (1)(a) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibit(s) A, B, C, and D, dated 09/22/2025, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

(Signature of Holder)

(Signature of Authorized Officer)

(Title)

(Title)

(Date)

(Effective Date of Grant)

EXHIBIT G

IS/MND Comment Letters

PUBLIC UTILITIES COMMISSION

320 WEST 4TH STREET, SUITE 500
LOS ANGELES, CA 90013



October 14, 2025

ENVR 20251000002

Derek Newland
Planner II
San Bernardino County Land Use Services - Planning Division
385 North Arrowhead Avenue
San Bernardino, CA 92415

Re: LCM Railroad Proj-2024-00080 [SCH 2025090950](#) – *Mitigated Negative Declaration*

Dear Derek Newland,

The California Public Utilities Commission (Commission/CPUC) has jurisdiction over rail crossings (crossings) in California. The CPUC ensures that crossings are safely designed, constructed, and maintained. The Commission's Rail Crossings Engineering Branch (RCEB) is in receipt of the *Mitigated Negative Declaration (MND)* for the proposed LCM Railroad Proj-2024-00080 Project. The County of San Bernardino (County) is the lead agency.

The project site is located in at 18800 Santa Fe Ave Hinkley California, 92347, on 140 acres of a 640 acre parcel. The Project proposes to install a two-track rail loop and aggregate loading facility, approximately 1.5 miles north of State Route (SR) 58, which will tie into the mainline of the Burlington Northern Santa Fe (BNSF) Mojave Subdivision with a "Y" track at milepost (MP) 760.33 and MP 760.77. Santa Fe Rd, which is a public unpaved road, currently runs through the proposed facility and will be realigned to be outside of the facility and the rail loop. The figures show two proposed track crossings. The usage restrictions of the crossings are not defined in the filing. Presumably, it will be a private crossing restricted to use by only employees of the facility and the public will not be allowed to utilize it. As such, authorization from the CPUC is not required. Should that not be the case and the public is allowed to utilize the crossing, authorization from the CPUC will be required through a [formal application](#) to the Commission.

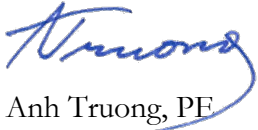
The project should consider installing delineation along Santa Fe Rd to ensure that the vehicles traveling along the unpaved road do not park near the tracks where it could potentially be struck by a railcar. The delineation would also serve as a guide for vehicles in the evening hours or times of low visibility to stay along the road and not inadvertently drive onto the tracks. Delineation could be posts spaced at a specified distance or fencing, which could also serve to secure the facility if there is a need for it.

Lastly, as noted, it is presumed that the proposed crossings will be private crossings and as such authorization from the CPUC is not required. However, RCEB requests that the operating railroad notify RCEB once the crossings are installed, so that we may update our database containing the inventory of all the crossings in the state, including private crossings. A Department of Transportation (DOT) crossing identification number, which can be provided by BNSF or the Federal Railroad Administration (FRA), should be assigned to the crossings. Notifications should be made using [CPUC Form G](#) and can be submitted to rceb@cpuc.ca.gov.

Derek Newland
ENVR 20251000002
October 14, 2025

If you have any questions, please contact Sergio Licon at (213) 503-4866, or sergio.licon@cpuc.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Anh Truong', with a stylized flourish at the end.

Anh Truong, PE
~~Senior Utilities Engineer~~ (Supervisor)
Rail Crossings Engineering Branch
Rail Safety Division

cc: State Clearinghouse, state.clearinghouse@opr.ca.gov
Dionisio Martinez, BNSF Railway, dionisio.martinez@bnsf.com
Joe Mathewson, joem@lcmquarry.com



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 21, 2025
Sent via email.

Derek Newland, Land Use Planner II
San Bernardino County
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415
derek.newland@lus.sbcounty.gov

AGGREGATE LOADING FACILITY AND RAIL LOOP PROJECT (PROJECT)
INITIAL STUDY/MITIGATED NEGATIVE DECLARATION (IS/MND)
SCH# 2025090950

Dear Mr. Newland:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an IS/MND from San Bernardino County for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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

CDFW ROLE

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

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

Derek Newland, Land Use Planner II
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G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Project Proponent: LCM Development, LLC

Objective: The Project includes the development of 131 acres of undeveloped land into an aggregate loading facility and rail loop. Project activities include grubbing, grading, trench digging, excavation, loading and stockpiling, railway construction and alignment, railroad crossing construction, road construction and maintenance, road relocation, fencing, and other activities. The haul road to the main Lynx Cat Mine quarry will be used to transfer materials to and from the loading facility. A “Y”-track is also being developed to transport materials to the rail line.

Location: The Project is located at 18800 Santa Fe Road, approximately three miles west of the town of Hinkley in the southwest $\frac{1}{4}$ of Section 13, Township 10 North, Range 4 West, on Assessor’s Parcel Numbers 0496-011-07-000 and 496-14-101-0000, in San Bernardino County at latitude 34.964890°N and longitude -117.270864°W. The Project site is bounded by the Burlington Northern and Santa Fe Railway (BNSF) main rail line to the south, intersects with Santa Fe Road, and is bounded by Lynx Cat Road to the north.

Timeframe: No timeframe for construction or completion is listed in the MND.

COMMENTS AND RECOMMENDATIONS

CDFW appreciates that the Project Proponent has applied for a CESA incidental take permit (ITP) for Mohave ground squirrel (*Xerospermophilus mohavensis*) and desert tortoise (*Gopherus agassizii*). CDFW offers the comments and recommendations below to assist San Bernardino County in adequately identifying and/or mitigating the Project’s significant, or potentially significant, direct and indirect impacts to nesting birds and fur-bearing mammals. Editorial comments or other suggestions may also be included to improve the document.

COMMENT #1: Nesting Birds

Section #IV Biological Resources, Pages #29-31

Issue: CDFW appreciates that the MND included a mitigation measure for pre-construction surveys for nesting birds (i.e., BIO-3). However, BIO-3 only requires a pre-construction survey for nesting birds if construction occurs between February 1 to September 15, which is the general nesting bird season. CDFW recommends that disturbance to occupied nests of non-migratory birds, migratory birds, and raptors

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within the Project site and surrounding area be avoided *any time* birds are nesting onsite. This is in consideration that studies have shown that migratory bird species arrive earlier in the season partially in response to higher temperatures influenced by climate change (Usui et. al. 2016). In addition, in response to warming, birds have been reported to breed earlier and CDFW staff have observed that climate change conditions may result in nesting bird season occurring earlier and later in the year than historical nesting season dates

Specific impact: As proposed BIO-3, will only detect nesting birds during the typical nesting bird season and may lead to birds nesting outside of February 1 to September 15 to be missed. If nesting birds are present outside of this timeframe and not identified, the Project could result in injury, mortality, or disturbance.

Why impact would occur: Without proper detection of nesting birds, impacts to nesting birds cannot be avoided and minimized. For example, take of nesting birds or failure of a nest may occur if buffers are not established to avoid Project activities occurring within an appropriate distance of nesting birds.

Evidence impact would be significant: It is the Project Proponent's responsibility to avoid take of all nesting birds. Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds of prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto.

Recommended Mitigation Measure: CDFW recommends the following minor revisions (additions are in **bold** and deletions are in ~~striketrough~~) to BIO-3 for adoption in the final MND to avoid and minimize impacts to nesting birds:

Mitigation Measure BIO-3: Pre-construction Nesting Bird Surveys (Revised)

*~~If construction occurs between February 1st and September 15th, A~~ a pre-construction clearance survey for nesting birds shall be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction. The **qualified** biologist conducting the clearance survey should document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur. If an active avian nest is discovered during the pre-construction clearance survey, construction*

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*activities ~~shall~~ should stay outside of a no-disturbance buffer. The size of the no-disturbance buffer will be determined by the ~~wildlife~~ **qualified** biologist based on on-site conditions **and the species nesting** (a **minimum** 250-foot buffer shall be marked around songbird nests). Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed on the sensitivity of nest areas. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur.*

COMMENT #2: American Badger (*Taxidea taxus*) and Desert Kit Fox (*Vulpes macrotis*)

Section #IV Biological Resources, Page #29

Issue: Due to their similar life history, desert kit fox and American badger are hereby addressed together. Desert kit fox and American badger are special status species and according to the California Natural Diversity Database (CNDDDB), the Project is within predicted habitat for American badger (CDFW Species of Special Concern), and desert kit fox (fur bearing mammal) is found within four miles of the Project site. However, the MND did not consider desert kit fox in its analysis and stated that American badger has a nominal chance of occurring on-site due to a lack of food, but American badger are opportunistic predators and primarily eat small mammals such as Mohave ground squirrel, which are likely present on-site.

Specific impact: Impacts to desert kit fox and American badger could occur during the construction of the Project. For example, the Project could result in the collapse of occupied burrows, permanent loss of foraging and nesting habitat, and/or direct mortality or injury.

Why impact would occur: The MND did not include a pre-construction clearance survey for American badger and desert kit fox to ensure these species are absent from the Project site and that Project impacts to these species would not occur.

Evidence impact would be significant: Desert kit foxes are considered uncommon to rare, and permanent residents of arid regions of southern California. Desert kit fox is addressed in Title 14 of the California Code of Regulations. California Code of Regulations, Title 14, section 460 states that “Fisher, marten, river otter, desert kit fox and red fox may not be taken at any time”. Desert kit fox and the American badger are also found within Fish and Game Code section 4000: “Fur-bearing mammals enumerated. The following are fur-bearing mammals: pine marten, fisher, mink, river otter, gray fox, red fox, kit fox, raccoon, beaver, badger, and muskrat”. Further, Fish and Game Code section 4002 states, “Fur-bearing mammals may be taken only with a trap, a firearm, bow and arrow, poison under proper permit, and

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with the use of dogs.” All other forms of take of fur-bearing mammals are not authorized.

Recommended Mitigation Measure: CDFW recommends the adoption of BIO-21 below in the final MND to avoid and minimize impacts to American badger and desert kit fox.

Mitigation Measure BIO-21: Pre-Construction American Badger and Desert Kit Fox Surveys (New)

No more than 30 days prior to the beginning of ground disturbance and/or Project activities, a qualified biologist shall conduct a survey to determine if potential desert kit fox or American badger burrows are present in the Project site. If potential burrows are located, they shall be monitored by the qualified biologist. If the burrow is determined to be active, the qualified biologist shall verify there are suitable burrows outside of the Project site prior to undertaking passive relocation actions. If no suitable burrows are located, artificial burrows shall be created at least fourteen days prior to passive relocation. The qualified biologist shall block the entrance of the active burrow with soil, sticks, and debris for 3-5 days to discourage the use of the burrow prior to Project activities. The entrance shall be blocked to an incrementally greater degree over the 3-5-day period. After the qualified biologist has determined there are no active burrows, the burrows shall be hand excavated to prevent re-use. No disturbance of active dens shall take place when juvenile desert kit fox and juvenile American badgers may be present and dependent on parental care. The qualified biologist shall determine appropriate buffers and maintain connectivity to adjacent habitat should natal burrows be present.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to CNDDDB. The CNDDDB field survey form can be filled out and submitted online at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the

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Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist San Bernardino County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Scott Jakubowski, Senior Environmental Scientist (Specialist), at (909) 354-0919 or Scott.Jakubowski@wildlife.ca.gov.

Sincerely,

DocuSigned by:

84FBB8273E4C480...

Alisa Ellsworth
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento
state.clearinghouse@lci.ca.gov

Joe Mathewson, Project Proponent
LCM Development, LLC
joem@lcmquarry.com

ATTACHMENT

A. Mitigation and Monitoring Reporting Plan

REFERENCES

Usui, T., Butchart, S.H.M., and Philmore A.B., (2016). Temporal Shifts and Temperature Sensitivity of Avian Spring Migratory Phenology: a Phylogenetic Meta-analysis. Journal of Animal Ecology 86(2): 250-261.

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Attachment A
Mitigation Monitoring and Reporting Plan

Measure Number	Biological (BIO) Mitigation Measure	Implementation Schedule	Responsible Party
BIO-3	A pre-construction clearance survey for nesting birds shall be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction. The qualified biologist conducting the clearance survey should document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur. If an active avian nest is discovered during the pre-construction clearance survey, construction activities shall stay outside of a no-disturbance buffer. The size of the no-disturbance buffer will be determined by the qualified biologist based on on-site conditions and the species nesting (a minimum 250-foot buffer shall be marked around songbird nests). Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed on the sensitivity of nest areas. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur.	Prior to initiation of Project Activities	Project Proponent and Qualified Biologist
BIO-21	No more than 30 days prior to the beginning of ground disturbance and/or Project activities, a qualified biologist shall conduct a survey to determine if	Prior to initiation of Project Activities	Project Proponent and Qualified Biologist

Derek Newland, Land Use Planner II
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	potential desert kit fox or American badger burrows are present in the Project site. If potential burrows are located, they shall be monitored by the qualified biologist. If the burrow is determined to be active, the qualified biologist shall verify there are suitable burrows outside of the Project site prior to undertaking passive relocation actions. If no suitable burrows are located, artificial burrows shall be created at least fourteen days prior to passive relocation. The qualified biologist shall block the entrance of the active burrow with soil, sticks, and debris for 3-5 days to discourage the use of the burrow prior to Project activities. The entrance shall be blocked to an incrementally greater degree over the 3-5-day period. After the qualified biologist has determined there are no active burrows, the burrows shall be hand excavated to prevent re-use. No disturbance of active dens shall take place when juvenile desert kit fox and juvenile American badgers may be present and dependent on parental care. The qualified biologist shall determine appropriate buffers and maintain connectivity to adjacent habitat should natal burrows be present.		
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DESERT TORTOISE COUNCIL

3807 Sierra Highway #6-4514

Acton, CA 93510

www.deserttortoise.org

eac@deserttortoise.org

Via email only

October 23, 2025

Derek Newland
County of San Bernardino
Land Use Services Department, Planning Division
385 N. Arrowhead Ave 1st Floor
San Bernardino, CA 92415-0187
derek.newland@lus.sbcounty.gov

RE: LCM Railroad (Project No.: PROJ-2024-00080; Assessor Parcel Number(s): 0496-011-07)

Dear Mr. Newland,

The Desert Tortoise Council (Council) is a non-profit organization comprising hundreds of professionals and laypersons who share a common concern for wild desert tortoises and a commitment to advancing the public's understanding of desert tortoise species. Established in 1975 to promote conservation of tortoises in the deserts of the southwestern United States and northern Mexico, the Council routinely provides information and other forms of assistance to individuals, organizations, and regulatory agencies on matters potentially affecting desert tortoises within their geographic ranges.

Both our physical and email addresses are provided above in our letterhead for your use when providing future correspondence to us. When given a choice, we prefer to receive emails for future correspondence, as mail delivered via the U.S. Postal Service may take several days to be delivered. Email is an "environmentally friendlier way" of receiving correspondence and documents rather than "snail mail."

We appreciate this opportunity to provide comments on the above-referenced project. Given the location of the proposed project in habitats potentially occupied by the Mojave desert tortoise (*Gopherus agassizii*) (synonymous with Agassiz's desert tortoise), our comments include recommendations intended to enhance protection of this species and its habitat during activities that may be authorized by the County of San Bernardino, Land Use Services Department, Planning Division (County), which we recommend be added to project terms and conditions in the authorizing documents [e.g., issuance of permits, etc.] as appropriate. Please accept, carefully review, and include in the relevant project file the Council's following comments for the proposed action.

The Mojave desert tortoise is among the top 50 species on the list of the world's most endangered tortoises and freshwater turtles. The International Union for Conservation of Nature's (IUCN) Species Survival Commission, Tortoise and Freshwater Turtle Specialist Group, now considers the Mojave desert tortoise to be Critically Endangered (Berry et al. 2021), "... based on population reduction (decreasing density), habitat loss of over 80% over three generations (90 years), including past reductions and predicted future declines, as well as the effects of disease (upper respiratory tract disease/mycoplasmosis). *Gopherus agassizii* (sensu stricto) comprises tortoises in the most well-studied 30% of the larger range; this portion of the original range has seen the most human impacts and is where the largest past population losses have been documented. A recent rigorous rangewide population reassessment of *G. agassizii* (sensu stricto) has demonstrated continued adult population and density declines of about 90% over three generations (two in the past and one ongoing) in four of the five *G. agassizii* recovery units and inadequate recruitment with decreasing percentages of juveniles in all five recovery units."

This status, in part, prompted the Council to join Defenders of Wildlife and the Desert Tortoise Preserve Committee (DTPC) to petition the California Fish and Game Commission (Commission) in March 2020 to elevate the listing of the Mojave desert tortoise from Threatened to Endangered under the California Endangered Species Act (CESA) (Defenders of Wildlife et al. 2020). Importantly, following California Department of Fish and Wildlife's (CDFW) (2024a) status review, in their April 2024 meeting the Commission voted unanimously to accept the CDFW's petition evaluation and recommendation to uplist the tortoise from threatened to endangered under the CESA. This unanimous vote was based on the scientific data provided on the species' status, declining trend, numerous threats, and lack of effective recovery implementation and land management (CDFW 2024b). On July 15, 2025, the tortoise was officially uplisted to endangered status under the CESA (Commission 2025).

Thank you for including the Council on the County's list of Affected Interests and contacting us via email on 9/22/2025 regarding the public comment period on this "Initial Study and Mitigated Negative Declaration for the LCM Railroad (Project No.: PROJ-2024-00080; APN 0496-011-07) (County 2025) (Initial Study/Mitigated Negative Declaration). In the Initial Study/Mitigated Negative Declaration, we found the following project description.

Description of the Proposed Project

LCM Development, LLC (LCMD; Applicant or project proponent), who operates the nearby Lynx Cat Mountain Quarry (Quarry), is requesting approval of a Conditional Use Permit (CUP) from the County to construct a railway track loop and loading facility for aggregate materials. The track alignment would consist of two parallel separate single standard rail tracks approximately 8,758 feet in length (outer loop) converging as a "Y" into a single track across public lands managed by the Bureau of Land Management (BLM). The "Y" rail line will extend south approximately 1,500 linear feet long and 100 feet in width to tie into the Burlington Northern Santa Fe (BNSF) mainline.

The proposed project also includes the realignment of an approximately 4,000-foot section of the unpaved County-maintained Santa Fe Road and the construction of a private unpaved haul road extending from the Lynx Cat Mine Road southwest to the rail loadout facility. The relocated Santa Fe Road will be approximately 4,500 feet in length, 60 feet wide, and adjacent to the outer rail track loop. It would be 300 feet north of its present alignment. In addition, a private unpaved haul road will be constructed and will be entirely within the applicant's private land. It will be approximately 4,750 feet long and 40 feet wide including shoulders (approximately 6.5 acres).

A 60 ft. wide X 60 ft. long concrete rail crossing capable of supporting the 65-ton rock trucks delivering the aggregate from the quarry to the facility will be constructed across both Santa Fe Road and the rail loop track. Haul trucks would deliver aggregates from the Quarry located about 3 miles north of the proposed project to the proposed rail loading facility, where it would be stored in stockpiles inside the rail loop, loaded by 2 - 3 loaders into hopper rail cars with 100 to 110-ton capacities (typical), and then transported by rail to various projects in the high desert and across the southwest region. The proposed project is located about 3 miles west of Hinkley and 1.5 miles north of State Route 58 (Figures 1, 2, and 3). The proposed facility is to be constructed on a 131-acre portion of a 640-acre property owned by LCMD. The entire facility and rail loop would be constructed on the privately owned property. The 640-acre property has BLM-managed land on the north, east, and south sides of the proposed project.

Comments on the Proposed Project

General Biological Resources Assessment

The following comments are for the General Biological Resources Assessment, Rail Loop Project Hinkley, San Bernardino County, California, prepared by RCA Associates, Inc. (2024).

Pages 3 & 4, Methodologies, Desert Tortoise: “A habitat assessment of the primary project area, the BLM easement area, and the 1-mile haul road leading to the planned rail loop area was conducted on May 14, 2024.” “Transects were walked in 10-meter intervals in an east-west direction inside and around the rail loop project. 10-meter transects were then walked along the proposed haul road in a northeast-southwest direction until the entire property had been checked for any tortoise sign (burrows, tracks, scats, etc.). Surveys in the zone of influence (ZOI) were also conducted surrounding the site out to 500 feet.”

The USFWS (2019a) survey protocol for the tortoise to determine whether tortoise may use the area impacted by the project does not include a Zone of Influence. Rather, it encompasses the action area.). The “action area” is defined in 50 Code of Federal Regulations 402.2 and the USFWS Desert Tortoise Field Manual (USFWS 2009) as “all areas to be affected directly or indirectly by proposed development and not merely the immediate area involved in the action.” For a project that includes the construction and use of a new road, the action area may extend away from the road on either side to a distance of 3576 feet if using the results from von Seckendorff Hoff and Marlow (2002) on the impacts of roads to tortoise presence/tortoise sign. Thus, a 500-foot buffer would not have met the requirement for conducting surveys of the action area because it did not include the entire area indirectly affected by the proposed project with respect to the tortoise.

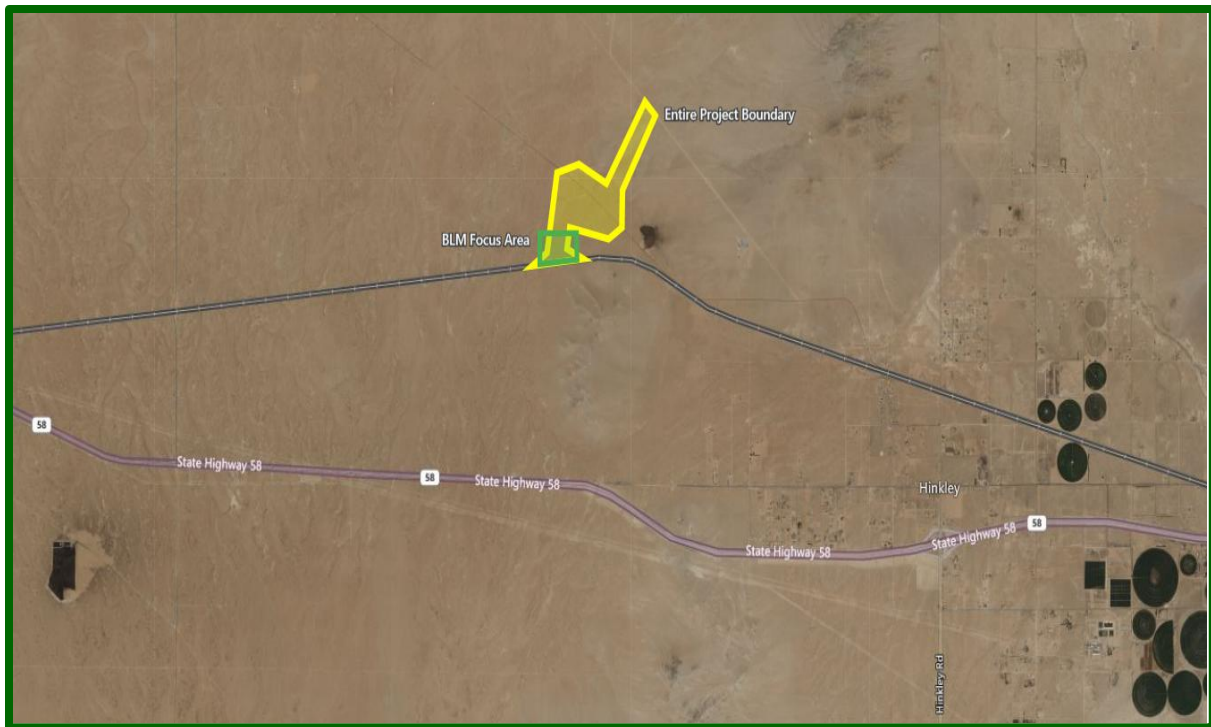


Figure 1. General location of the rail loop, new haul road to the northeast, and the “Y” rail line on BLM managed land to the south to connect to the BNSF track.

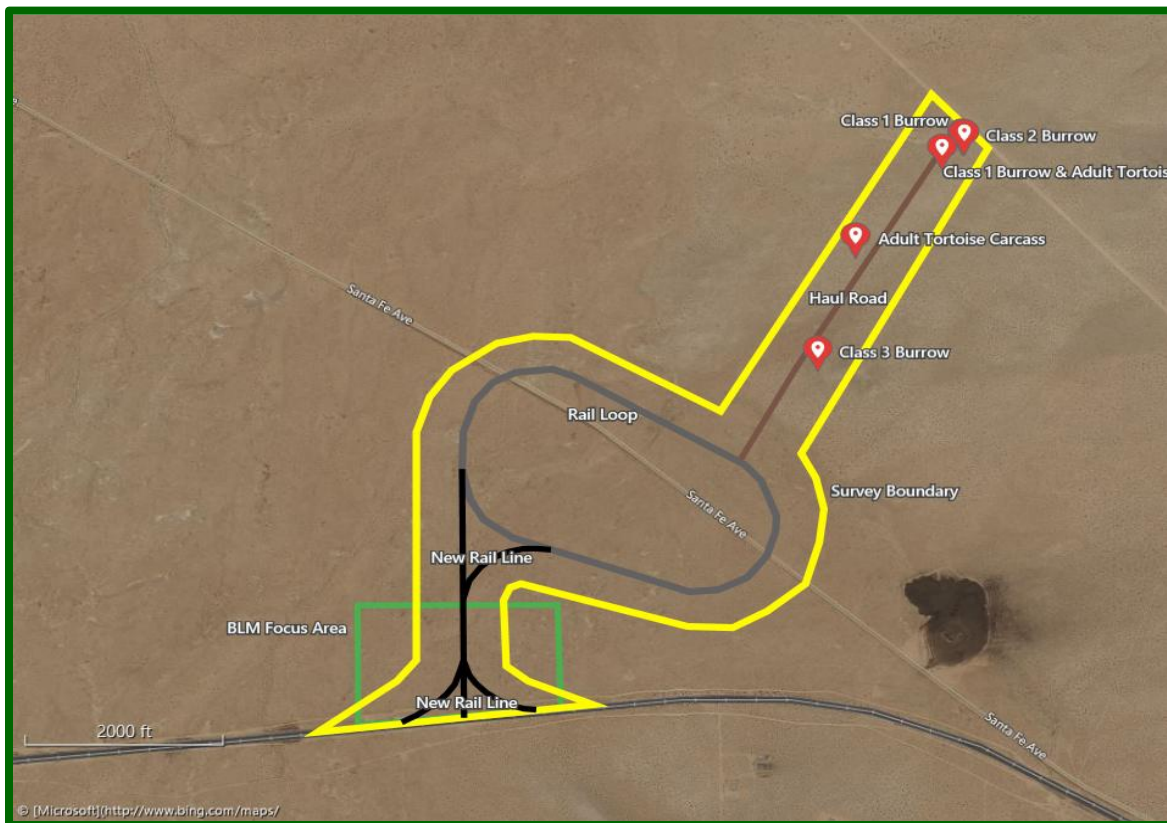


Figure 2. Location of the new rail line, rail loop, and haul road.

Please see our comments at the end of this letter regarding the citing and use of data from the scientific literature to develop conclusions about impacts to the tortoise and other listed/special status species to support a decision made by the County.

Page 4, Methodologies, Desert Tortoise: “Due to the presence of tortoises and tortoise sign on site, a Section 10(a) incidental take permit from the USFWS and a Section 2081 permit from CDFW will be required to mitigate impacts to the species.”

We wish to clarify this statement. Because a tortoise and tortoise sign were located in the project area, the project cannot be implemented without obtaining incidental take permits (ITPs) from USFWS and CDFW under FESA and CESA, respectively. The purpose of the ITPs is twofold – to authorize the incidental take of the tortoise, which is otherwise prohibited by FESA and CESA, and to minimize and mitigate the impacts of the taking under FESA and fully mitigate under CESA.

Page 5, Methodologies, Burrowing Owl: “A habitat assessment (Phase 1) was conducted for the burrowing owl in conjunction with the general biological surveys to determine if the site supports suitable habitat for the species on May 14, 2024.”

The burrowing owl was designated as a Candidate Species for Listing with the California Fish and Game Commission on 10/9/2024. This designation occurred after the General Biological Resources Assessment for the proposed project was prepared. Until the Commission makes a final decision on its status, under CESA, the burrowing owl is treated as a listed species under CESA. Please revise the information in the General Biological Resources Assessment and the Initial Study/Draft Mitigated Negative Declaration to reflect this change in the species’ legal status.

We recommend that the General Biological Resources Assessment include appropriate information on how the CDFW’s (CDFG 2012) survey requirements for the burrowing owl were implemented by the consultant.

Regarding this statement, we are unclear whether general biological surveys were conducted in addition to the USFWS’s (2019a) presence-absence surveys for the tortoise or whether only general biological surveys were conducted. The USFWS methodology for conducting presence-absence surveys was developed from statistical analysis of the survey data collected annually during rangewide surveys for the tortoise since 2001. These data were used to determine the survey methodology such as the appropriate transect width in which a surveyor would see tortoises or tortoise sign that is present. Tortoises are cryptic in coloration and behavior; thus, they are not easily seen when above ground and spend most of their time underground. The USFWS tortoise presence-absence survey methodology presumes that the qualified tortoise surveyor is searching only for tortoises and no other special status species concurrently. Please clarify this information in the General Biological Resources Assessment.

“After the field investigation it was determined that there was no owl sign (e.g. whitewash, feathers, or castings) or inhabiting owls due to the lack of many suitable burrows on site or in the immediate vicinity.”

However, on page 9 of the General Biological Resources Assessment is the information that “Two mammals were observed during field surveys, the California ground squirrel (*Otospermophilus beecheyi*) and Antelope ground squirrel (*Ammospermophilus leucurus*).” Because the California ground squirrel is one of the species occurring onsite, there would be ground squirrel burrows onsite. California ground squirrel burrows are one of the primary burrow types used by burrowing owls, assuming they are not occupied by squirrels. As such, the conclusion by RCA Associates, Inc. (2024) that owls were not present “due to the lack of many suitable burrows on site or in the immediate vicinity” seems to conflict with the survey findings for both burrowing owls and California ground squirrels. Please clarify this discrepancy in the General Biological Resources Assessment and the Initial Study.

Page 5, Methodologies, Mohave Ground Squirrel: “An evaluation for suitable habitat of the Mohave ground squirrel was performed as per CDFW protocol including evaluation of local populations and an assessment of connectivity with habitats in the surrounding area which might support populations of the Mohave ground squirrel.” “. . . it is the opinion of RCA Associates, Inc. that the likelihood of a Mohave ground squirrel occurring on the proposed project site is extremely low.”

The Council questions whether the CDFW protocol for suitable habitat assessment for the MGS was followed. CDFW’s protocol (2023a) says that the time for “conducting visual surveys to determine Mohave ground squirrel activity and habitat quality [is] during the period of 15 March through 15 April.” However, the field work at the location of the proposed project was conducted on May 14 which is outside this survey window.

In addition, it is not possible for a biologist to conduct ambulatory, visual surveys of the project area to determine that MGS are absent. This conclusion by the consultant is not appropriate because the methodology implemented for MGS surveys did not comply fully with the Mohave Ground Squirrel Survey Guidelines published by CDFW (2023a).

In addition, please see our comments on “Page 11, Results, Federal and State Listed Species, Mohave Ground Squirrel” for more information on CDFW’s (2023a) survey protocol.

Page 7, Literature Search, Table 4-2: In this table, the burrowing owl’s legal status is given as “Federal: None State: None, CDFW: SSC [species of special concern]” However, as mentioned earlier in this letter, the burrowing owl is a candidate species under CESA and afforded all the protections of CESA. Please revise this information the General Biological Resources Assessment and Initial Study/Draft Mitigated Negative Declaration.

Also, on page 12 the burrowing owl’s legal status should be revised from “Species of Special Concern – Sensitive Wildlife” to candidate under CESA.

Page 8, Literature Search, Table 4-2: In this table the status of the tortoise is given as State threatened. The tortoise is State endangered. Please revise the legal status of the tortoise in the General Biological Resources Assessment and the Initial Study/Draft Mitigated Negative Declaration. (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109405&inline>).

Page 10, Results, BLM Easement: “This project area includes a 1500 LF x 100 ft. wide “Y”-Track easement from the BNSF Main rail line across BLM property and into the proposed rail loop area in Section 13 (Figures 5, 7, and 8). To satisfy BLM requirements this survey included this easement and its zone of influence.” What was the areal extent of the zone of influence and how was it determined? Did it comply with the zone of influence for burrowing owl surveys and the action area for tortoise surveys? Please provide this information in the General Biological Resources Assessment and Initial Study/Draft Mitigated Negative Declaration.

Pages 10 & 11, Results, Federal and State Listed Species, Desert Tortoise: “Due to the presence of tortoises and tortoise sign on site, a Section 10(a) incidental take permit from the USFWS and a Section 2081 permit from CDFW will be required to mitigate impacts to the species. It is the opinion of RCA Associates, Inc. that with proper mitigation measures such as the installation of a tortoise fence the mortality of any tortoises can be avoided.”

Please see our earlier comments on page 4, Methodologies, Desert Tortoise regarding ITPs. This information should clarify that the purpose on an ITP is not just to avoid direct mortality and that management and monitoring actions in addition to the “installation of a tortoise fence” would likely be required for the construction, operation, and maintenance of the proposed project.

Page 11, Results, Federal and State Listed Species, Mohave Ground Squirrel: CDFW (2019) published a “A Conservation Strategy for the Mohave Ground Squirrel (*Xerospermophilus mohavensis* = MGS).” In this document CDFW identified 11 core population areas (CPAs) for MGS including the Harper Lake CPA. This CPA is located west of Hinkley, along Highway 58 from Harper Lake to 5 miles (8 km) east of Kramer Junction, extending to approximately 15 miles (24 km) east of the junction, approximately 68,061 acres (27,543 ha). The proposed project is located in this CPA. In this Conservation Strategy, CDFW (2019) provided a map of known locations of MGS, and the map indicates that MGS have been found in the project area.

CDFW has published survey guidelines for the MGS (CDFW 2023a). These MGS Survey Guidelines include conducting surveys by qualified biologists that have obtained a Memorandum of Understanding from CDFW prior to trapping; conducting visual surveys to determine Mohave ground squirrel activity and habitat quality during the period of 15 March through 15 April; if no MGS are observed, establishing standard small-mammal trapping grids from late winter through mid-summer. Once the results of the trapping are completed, they should be shared with CDFW.

Once a project area is determined to be occupied by MGS, it will be considered occupied in subsequent years, given the relatively low detectability of MGS using standard survey methods and the dynamic nature of site occupancy during population cycles of expansion and contraction. In the absence of other MGS detection data for the site, surveys conducted according to these guidelines that result in no detection of MGS (“negative” survey results) are interpreted to mean that MGS are not present on the project area for the survey year. In other words, negative survey results are valid until the start of the next survey season (March of the subsequent year).

In these Guidelines, CDFW provides the following caution – “it is essential for project proponents or their biological consultants to confer with the appropriate regional CDFW office prior to implementing a survey program for MGS to ensure the surveys consider the site-specific conditions of the project area and the nature of the project. Lack of consultation with CDFW prior to implementing an MGS survey program may cast doubt on a negative finding (“absence”) determination.”

To determine whether the proposed project may result in take of MGS, the County should ensure that the project proponent implements CDFW's requisite surveys before the CEQA document is written so that the survey results can be published in the appropriate CEQA document. The County should ensure quality control in this matter. Requisite MGS surveys are conducted from March through July of a given year.

We strongly recommend that the site be live-trapped and that tissue be collected from any captured MGS to determine whether any of them have hybridized with round-tailed ground squirrels (*Xerospermophilus tereticaudis*). In 2014 at a site located nearby, an adult female MGS and four juveniles were captured by eight live traps placed in the vicinity of an incidental observation. When the tissue was analyzed, the female and three of the juveniles were determined to be MGS and the fourth juvenile was a hybrid. Given the proximity of the proposed project to this location, it is important to determine whether any squirrels captured are MGS or hybrids.

Page 12, Species of Special Concern, Sensitive Wildlife: "Three of the five species have a nominal chance to occur on site being the American badger, burrowing owl, and Mojave fringe-toed lizard. The site shows very little suitable habitat for these species, and they are most likely not to occur on site."

First, please see our comment above on the legal status of the owl, a candidate for listing under CESA. Second, this statement should be supported with citations from the scientific literature and the results from implementing CDFW's burrowing owl survey protocol (CDFG 2012).

Page 13, Impacts and Mitigation Measures, Federal and State Listed and Species of Special Concern: "Only one federal or State-listed species was observed on the site during the field investigations, which was the desert tortoise."

In this section of the General Biological Resources Assessment, we found no description or analysis of direct, indirect, or cumulative impacts to the tortoise or tortoise habitat. Despite the observation of a tortoise and tortoise sign in the project area, no mitigation or monitoring measures were recommended in this section of the General Biological Resources Assessment. We question how the County is able to determine that a mitigated negative declaration is the appropriate CEQA document when no mitigation or monitoring is recommended in the General Biological Resources Assessment for the loss and degradation of tortoise habitat and other impacts to the tortoise from the construction, operations and maintenance of the proposed project.

"As per CDFW Staff Report on Burrowing Owl Mitigation, a pre-construction survey is required to determine if any owls have moved on to the site since the May 2024 survey. As stated by CDFW's protocol, the most effective method of completing a pre-construction survey (take avoidance survey) should be performed no less than 14 days prior to ground disturbance, followed by a final pre-construction survey within 24 hours of breaking ground."

This is a data-gathering process to help determine what the impacts to the owl are likely to be from project implementation. It is not an assessment of the impacts to the owl or description of mitigation recommended to offset these impacts.

Page 14, Conclusions and Recommendations: “However, the cumulative impacts to the general biological resources (plants and animals) in the surrounding area are expected to be negligible. This assumption is based on the presence of ample suitable habitat in the surrounding areas. In addition, future development activities are expected to have minimal impact on any State or Federal listed or State special status plant or animal species.”

The Council requests that any conclusions or recommendations be supported with data and references from the scientific literature. Otherwise, this is an unsupported conclusion and as indicated from the citations below, an inaccurate conclusion.

If there is ample suitable habitat available for the tortoise and future development activities are expected to have minimal impact on any State or Federal listed or State special status plant or animal species, why is the USFWS considering listing the MGS under FESA, why is the Commission considering listing the burrowing owl under CESA, and why have tortoise numbers and densities sharply declined since 2004 (Allison and McLuckie 2018, USFWS, 2016, 2018, 2019b, 2020a, 2022a, 2022b, 2025) and continue to be below the viability level for the tortoise in the West Mojave Desert? Why did the California Fish and Game Commission recently uplist the tortoise from threatened to endangered?

For the tortoise, the Council concludes from the available scientific data that the demographic status of the tortoise and its ongoing declining trend demonstrate that there is not suitable habitat for the tortoise to survive, reproduce, and recruit new tortoises into the population to sustain the population well into the future. Please see Appendix A – Demographic Status and Trend of the Mojave Desert Tortoise including the Western Mojave Recovery Unit (attachment) for data and scientific references that support this conclusion.

Page 14, Conclusions and Recommendations; “The following mitigation measures are recommended:

1. Pre-construction surveys for burrowing owls, desert tortoise, and nesting birds protected under the Migratory Bird Treaty Act and Section 3503 of the California Fish and Wildlife Code shall be conducted prior to the commencement of Project-related ground disturbance.

a. Appropriate survey methods and timeframes shall be established, to ensure that chances of detecting the target species are maximized. In the event that listed species, such as the desert tortoise, are encountered, authorization from the USFWS and CDFW must be obtained. If nesting birds are detected, avoidance measures shall be implemented to ensure that nests are not disturbed until after young have fledged.

b. Pre-construction surveys shall encompass all areas within the potential footprint of disturbance for the project, as well as a reasonable buffer around these areas.”

We support the implementation of these survey protocols. However, these are not mitigation measures, Rather they are prescribed actions to collect data that are needed to determine the type and extent of impacts, if any, to the subject species and whether any impacts can be avoided, fully offset, or reduced by implementing mitigation measures. For example, the surveys for the MGS to determine presence-absence should have been performed and the results included in the Initial Study/Draft Mitigated Negative Declaration for the proposed project. This information should be included in the CEQA document and used to help assess the direct, indirect, and cumulative impacts to the MGS and other species protected under FESA and CESA (e.g., desert tortoise and burrowing owl) and other special status species.

In the General Biological Resources Assessment, we were unable to find a recommendation that the project proponent comply with the CDFW (2023a) survey guidelines for the MGS. This should be a standard requirement by the County for all proposed projects located in the known distribution of the MGS (CDFW 2019).

Pages 14 & 15, Conclusions and Recommendations: “If any sensitive species are observed on the property during future activities, CDFW and USFWS (as applicable) should be contacted to discuss specific mitigation measures which may be required for the individual species. CDFW and USFWS are the only agencies which can grant authorization for the “take” of any sensitive species and can approve the implementation of any applicable mitigation measures.”

The last part of this statement is not entirely correct. Avoidance is a form of mitigation and avoidance of take of a species protected under FESA or CESA does not necessarily require approval by USFWS or CDFW. However, USFWS and CDFW are the agencies that have the knowledge and experience to determine whether a mitigation measure would be effective when implemented and how to monitor the effectiveness of the implemented mitigation. Monitoring usually is required to determine the effectiveness of mitigation that is implemented.

Pages 16 & 17, Bibliography: The references used in preparing this General Biological Resources Assessment do not appear to be current. For example, the USFWS document that is cited for survey protocols for the tortoise is U.S. Fish and Wildlife Service 2010 Desert Tortoise Survey Protocol. The version that the USFWS uses currently for presence-absence and clearance surveys are provided in the Literature Cited section at the end of this letter.

In addition, we found no reference for the current CDFW (2023a) survey guidelines for the MGS.

Also, there may be an editing error in the citation for the version of the Natural Diversity Database that was used, which is given as 2014 (California Department of Fish and Game. 2014. Rarefind 3 Natural Diversity Database. Habitat and Data Analysis Branch. Sacramento, CA).

The General Biological Resources Assessment should be using nomenclature sources and scientific names that are current. For example, nomenclature for reptiles and amphibians on-site used Stebbins (2003) but should be updated to nomenclature used in Stebbins and McGuinness (2018), Hanson and Shedd (2025), and the California Herps website. The use of outdated species names leads to confusion about conservation status. Additionally, nomenclature for vegetation community classifications should follow the California Native Plant Society’s Manual of California Vegetation to be able to make proper determinations of sensitivity cross-referencing the CDFW California Natural Communities List (CDFW 2023b).

The County should be aware that the Commission was petitioned to list the Bendire’s thrasher (*Toxostoma bendirei*) and LeConte’s thrasher (*Toxostoma lecontei*) as a threatened or endangered species under CESA. CDFW will evaluate the petition and make its recommendation to the Commission whether to list one or both species likely in February 2026. If the recommendation is to list, the species will be candidates under CESA and treated as listed species until the Commission makes a final decision. The proposed project is located within the known distribution of these species. Thus, additional surveys and mitigation measures may be needed for implementation of the proposed project if these species become candidate species under CESA.

Initial Study and Draft Mitigated Negative Declaration

Pages 28 – 30, IV. Biological Resources, Question a. Have substantial adverse effects, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?: In this section of the Initial Study/Draft Mitigated Negative Declaration, the County repeats the information from the General Biological Resources Assessment. Because some of this information is not correct and other information is missing (e.g., results from the MGS surveys, etc.), we recommend that the County review our comments on the General Biological Resources Assessment and correct/add this information to the CEQA document.

Pages 30 & 31, Mitigation Measure BIO-1 (desert tortoise): Mitigation: While the County has authority to require the implementation of mitigation measures to reduce the impacts to the tortoise/tortoise habitat, the information provided in the General Biological Resources Assessment confirms that tortoises occur within the project area and that tortoise sign was also found. Consequently, the one mitigation measure that the County did not require but that the data indicate is needed and as stated in the General Biological Resources Assessment is to consult with the USFWS and CDFW on obtaining ITPs from these agencies prior to initiating any surface disturbance associated with the proposed project. Please add this mitigation measure to the Initial Study/Draft Mitigated Negative Declaration and add that the implementation of all terms and conditions in the ITPs must occur, including monitoring and reporting.

The County is requiring clearance surveys for the tortoise. This is standard operating procedure when a tortoise or tortoise sign is found in the action area of a proposed project. However, the authorized biologist(s) conducting the clearance surveys would be handling any tortoises found during this survey. Handling is a form of take under FESA and CESA and authorization from USFWS and CDFW is required prior to taking a species. This authorization is in the form of an ITP under CESA and an ITP (for a non-federal action) or a biological opinion (for a federal action) under FESA. Please add these requirements to the CEQA document.

From the information provided in the Initial Study/Draft Mitigated Negative Declaration, there is no federal nexus under FESA. Although part of the proposed project would occur on BLM land, BLM has no enforcement authority to ensure that the minimization measures for the tortoise that the USFWS would require will be implemented on adjacent private land. Thus, the project proponent would need to obtain an ITP from USFWS and CDFW prior to implementing clearance surveys.

We request that the County specify that authorized biologists (authorized by USFWS and CDFW) are implementing fully the clearance survey methodology as described in USFWS (2009). This methodology requires two negative passes along transects spaced at 5-meter intervals as well as other requirements. We request this clarification so that the clearance survey for the tortoise is not confused with the presence-absence survey as described in USFWS (2019a), which requires a single pass along transects spaced at 10-meter intervals.

For the second bulleted mitigation measure, “If desert tortoise are found on-site during the pre-construction clearance survey, coordination will be required with the USFWS and CDFW to determine if avoidance and minimization measures can be implemented to avoid any direct or indirect impacts to desert tortoise, or if an ITP will need to be prepared, and approved by the USFWS and CDFW,” the presence-absence survey has already determined that tortoises use the site. Because of the type of activities that would be implemented in the proposed project and results of research on impacts to the tortoise/tortoise habitat from these activities, there will be direct and indirect adverse impacts. For example, the construction and use of a new road in occupied tortoise habitat has a suite of adverse direct and indirect impacts that would occur to the tortoise/tortoise habitat.

The construction/use of a new road and increased traffic on an existing/relocated road are sources of mortality for the tortoise. These sources of mortality are from both direct and indirect impacts to the tortoise. The impacts of road use are extensive and far reaching. Road construction, use, and maintenance impact the tortoise and other species of wildlife through numerous mechanisms that can include mortality from vehicle collisions; the loss, fragmentation, alteration/destruction of habitat; collection; vandalism; increased predation; and modification of behavior with increasing levels of stress and energy expenditure (Harju et al. 2024); and transport and spread of invasive non-native plants. Field studies (LaRue 1992, Nafus et al. 2013,; von Seckendorff Hoff and Marlow 2002) have shown impact zones from road use eliminate or substantially reduce tortoise numbers along/near roadways. These impacts are attributed to road kill with roads acting as a population sinks for tortoises.

Nafus et al. (2013) state that the ecologically affected areas along roads, otherwise known as “road-effect zones,” are those in which a change in wildlife abundance, demography, or behavior is observed. Von Seckendorff Hoff and Marlow (2002) reported that they detected reductions in tortoise numbers and sign from infrequent use of roadways to major highways with heavy use. There was a linear relationship between traffic level and reduction. For two graded, unpaved roads that were utility rights-of-ways (ROWs), the reduction in tortoises and sign was evident 1.1 to 1.4 km (3,620 to 4,608 feet = 0.68 to 0.87 mile) from the road on each side. For roads with more than 5000 vehicles per day, the reduction was evident more than 4000 meters (13,166 feet = 2.49 miles) from the road. They noted that the installation of exclusion fences and other barriers along roadways helps reduce direct tortoise mortalities. However, exclusion fencing needs to be monitored and maintained. It also fragments populations of tortoises and other wildlife.

Nafus et al. (2013) reported that roads may decrease tortoise populations via several possible mechanisms, including cumulative mortality from vehicle collisions and reduced population growth rates from the loss of larger reproductive animals. Other documented impacts from increased road use include increases in roadkill of wildlife species as well as tortoises, creating or increasing food subsidies for common ravens, and contributing to increases in raven numbers and predation pressure on the desert tortoise. The same “benefits” from road use occur to coyotes, also predators of the tortoise.

We were unable to find information in the General Biological Resources Assessment and the Initial Study/Draft Mitigated Negative Declaration on the impacts to the tortoise from the construction, use, and maintenance of the newly aligned Santa Fe Road and the new haul road. The proposed project would increase vehicle use on existing roads and create a new road in tortoise habitat resulting in increases in these direct and indirect impacts to the tortoise and tortoise habitat.

We found no analysis of these impacts or requirements to mitigate these impacts in the Initial Study/Draft Mitigated Negative Declaration. Please revise the CEQA document to include this information along with an analysis of the direct, indirect, and cumulative impacts from the construction, use, and maintenance of the proposed project for the tortoise and other species protected under CESA and FESA as well as other special status species whose distribution overlaps the project area.

An example of one indirect impact from the Project's construction, operations, and maintenance and how it is likely to result in take of the tortoise is increased tortoise predation. Common ravens are known to prey on juvenile desert tortoises based on direct observations and circumstantial evidence, such as shell-skeletal remains with holes pecked in the carapace (Boarman 1993). The number of common ravens increased by 1,528% in the Mojave Desert since the 1960s (Boarman 1993). This increase in raven numbers is attributed to unintentional subsidies provided by humans in the Mojave Desert.

In the Mojave Desert, common ravens are subsidized predators because they benefit from resources associated with human activities that allow their populations to grow beyond their "natural" carrying capacity in the desert habitat. Kristan et al. (2004) found that human developments in the western Mojave Desert affect raven populations by providing food subsidies, particularly trash and roadkill. Boarman et al. (2006) reported raven abundance was greatest near resource subsidies, specifically food (= trash) and water. Human subsidies include food and water from landfills and other sources of waste, reservoirs, sewage ponds, agricultural fields, feedlots, gutters. Subsidies also include perch, roost, and nest sites on power towers, telephone poles, light posts, billboards, fences, freeway or railroad overpasses, abandoned vehicles, and buildings (Boarman 1993). The human-provided subsidies allow ravens to survive in the desert during summer and winter when prey and water resources are typically inactive or scarce. Boarman et al. (1993) concluded that the human-provided resource subsidies must be reduced to facilitate a smaller raven population in the desert and reduced predation on the tortoise.

Coyotes are known predators of tortoises. High adult tortoise mortality from coyote predation was reported by Petersen (1994), Esque et al. (2010) and Nagy et al. (2015) in part of the range of the tortoise. In some areas, numbers of ravens correlated positively with coyote abundance (Boarman et al. 2006). Lovich et al. (2014) reported tortoise predation may be exacerbated by drought if coyotes switch from preferred mammalian prey to tortoises during dry years. Because the Mojave Desert has been in a multi-decade drought (Stahle 2020, Williams et al. 2022) due to climate change and these drought conditions are expected to continue and intensify in future years, increased predation pressure from coyotes on tortoises is expected to continue.

The proposed project would likely increase the availability of human-provided subsidies for predators of the tortoise including the common raven and coyote during the construction, operations, and maintenance phases of the proposed project. For example, during the construction phase the water used to control dust and the waste generated during construction including food brought to the project area by workers for meals, etc., are examples of food and water subsidies for ravens and coyotes that would attract these predators to the project area and increase their numbers in the surrounding area. Grading the site would expose, injure, or kill fossorial animals and provide a subsidized food source for ravens and coyotes. During the operations and

maintenance phases, the presence of food waste in uncovered trash containers or litter from the meals of workers would provide food subsidies for ravens and coyotes that would attract them to the project area and increase the likelihood of them preying on tortoises in the project area. Vehicles driving to and from the project area daily are likely to result in roadkill of wildlife that would subsidize ravens and coyotes thus increasing their numbers in the project area and increasing predation pressure on the tortoises in the area.

Other impacts to the tortoise from new roads and vehicle use include repeatedly transporting invasive plants to the area by vehicle use, providing an enhanced supply of water to areas along roads that collect water during precipitation events and depositing it off of the shoulder of the road. This increased amount of water promotes the growth of non-native invasive plant species near the roadway (an area of surface disturbance) for its entire length, outcompetes native plants, provides a fuel source for fire, provides a recurring seed source of non-native seed for the seed bank near the road – all of this promotes the growth of non-native plants that provide inadequate nutrition for tortoises to survive (Drake et al. 2016). Thus, a new road and its use establish a long-term cycle that promotes the growth of invasive annual vegetation.

Although some of these food subsidies for ravens and coyotes are mitigated in the Initial Study/Mitigated Negative Declaration, many still remain. Thus, this impact is not fully mitigated or mitigated to the maximum extent practicable.

Rail lines have been documented to take tortoises and create a barrier to their movements. Popp and Bole (2017) describe a “rail effect zone” similar to a road effect zone. For herpetofauna, they indicate that the largest effects are seen within 500 m of railway, but smaller impacts have been detected up to 3500 m away. Railways have been noted to trap and potentially lead to overheating of smaller vertebrates between the tracks. Similar to roadkill, rail kill of small vertebrate animals would attract scavengers such as coyotes and ravens, predators of tortoises, and increase the predation rate on tortoises.

The mitigation the County proposes appears to be limited to addressing only actions conducted during the construction phase of the proposed project and only actions that would result in the direct take of a tortoise. We found no mitigation that was required during the use of the project area or the maintenance of the facilities at the project area. The use of the roads, rail line, and area inside the rail line for storage and processing of material from the quarry will likely continue for decades. We found no mitigation for the loss or degradation to tortoise habitat or the habitat of other species protected under CESA/special status species.

Because of the long-term impacts to the tortoise/tortoise habitat from the implementation of the proposed project, take of tortoises is likely to continue for this same time as long as tortoises continue to survive within a few miles of the project area. Mitigation should include the impacts during construction, use, and maintenance of the proposed project. It should also address, direct, indirect, and cumulative impacts to the tortoise and other species protected under FESA, CESA, and special status species.

Currently the priority for managing the tortoise is to substantially reduce mortality and manage desert tortoise habitat for persistence and connectivity of the species (Averill-Murray et al. 2021, Holcomb 2025 personal communication). The major threat to the survival of the tortoise is mortality from the impacts from human activities – direct, indirect, and cumulative impacts. These include human activities that result in the destruction, degradation and/or fragmentation of tortoise habitat; surface disturbance and introduction of non-native invasive plant species from vehicles and equipment brought to the project area during construction, operation, and maintenance; replacement of native forbs that have high nutritional and water value with low nutritional non-native invasive grasses (Drake et al. 2016); increased fire size, intensity, and frequency of human-caused wildfires fueled by non-native invasive plant species (Brooks and Esque 2002); increased predation from increased numbers of predators that utilize human-provided subsidies of food, water, and nesting locations (Boorman 2003); and increased human access that provides opportunities for vandalism and collecting tortoises for pets. Most of these are indirect impacts and they occur throughout much of the Mojave and Colorado Deserts in California resulting in cumulative impacts to the tortoise. Major sources of surface disturbance include residential, commercial, and industrial development projects and associated roads/highways (such as the proposed project); military training; and off-highway vehicle use (USFWS 2011, Tuma et al. 2016).

These sources of mortality must be substantially reduced or eliminated if the tortoise is to survive in the near future. The indirect impacts from the proposed project to the tortoise should be described, analyzed, and mitigated in the Initial Study/Mitigated Negative Declaration.

Please revise the Initial Study/Draft Mitigated Negative Declaration to add and require these effective mitigation measures to address the direct, indirect, and cumulative impacts to the tortoise from all phases of the proposed project and require monitoring to ensure that the mitigation is effective.

Page 31, Mitigation Measure BIO-2 (burrowing owl): “A pre-construction survey is required to be conducted per CDFW protocol to determine if any burrowing owls have moved on to the site since the May 2024 survey. As per CDFW Staff Report (2012) on Burrowing Owl Mitigation protocol, the most effective method of completing a pre-construction survey (take avoidance survey) should be performed no less than 14 days prior to ground disturbance, followed by a final preconstruction survey within 24 hours of breaking ground. If burrowing owls are observed, consultation with CDFW is required to determine if avoidance and minimization measures can be implemented to avoid any direct or indirect impacts to burrowing owl, or if an ITP will need to be prepared and approved by the CDFW.”

Because the burrowing owl is a recently designated candidate species under CESA, the County should require the project proponent to coordinate with CDFW to determine whether CDFW has modified the survey requirements for the owl because of its elevated legal status.

Page 31, Mitigation Measure BIO-4: “Temporary exclusion fencing will be installed around the rail loop disturbance area and a pre-construction clearance survey will be conducted that is supervised by an authorized biologist - any desert tortoises found in this fenced area shall be translocated a short distance, not more than 300 meters, outside of the fenced area to a site with

cover (i.e., at the mouth of a burrow or under a shrub). Fence installation must be overseen by an authorized biologist or desert tortoise monitor. This provision may be modified based on the Translocation Plan which shall be developed as part of the CDFW Incidental Take Permit (ITP) process.”

Note that an ITP from USFWS would also be required and that ITPs from CDFW and USFWS must be issued prior to any surface disturbance, conducting clearance surveys for the tortoise, or translocating a tortoise.

We question why temporary exclusion fencing rather than permanent fencing is required. Permanent fencing is required along the haul road north of the rail loop and the rail line south of the rail loop.

Page 32, Mitigation Measure BIO-5: “Permanent exclusion fencing with appropriately spaced shade structures shall be installed along both sides of the haul road followed by a pre-construction clearance survey within the haul road area by an authorized biologist. Fence installation must be overseen by an authorized biologist or desert tortoise monitor. Any tortoises found during the pre-construction clearance survey shall be translocated a short distance (i.e., not more than 300 meters) to either side of the fenced area to a site with cover (i.e., at the mouth of a burrow or under a shrub) or consistent with the Translocation Plan.”

The County should require that any tortoise exclusion fencing will be maintained by the landowner for the life of the project. Otherwise lack of maintenance may result in tortoises moving onto a road and result in take of tortoise on the roadway from a vehicle strike or other human activity because of improved access to tortoises/tortoise habitat.

A Translocation Plan should be required prior to moving a tortoise even if it is a short distance. This is because a myriad of factors (e.g., air temperature, time of day, season of year, physiological water balance of the tortoise, availability of cover, etc.) are crucial to the survival of a tortoise that is moved to a new location (USFWS 2020b). Please revise this mitigation measure to say, “Any tortoises found during the pre-construction clearance survey shall be translocated a short distance (i.e., not more than 300 meters) consistent with the Translocation Plan approved by USFWS and CDFW.”

Page 32, Mitigation Measure BIO-6: “The project shall submit the names and statements of qualifications of all proposed authorized biologists to the BLM for review and approval by USFWS at least 30 calendar days prior to initiation of any ground-disturbing activities and pre-activity surveys.”

Please add that CDFW should also receive for approval the names and statements of qualifications of all proposed authorized biologists.

Page 32, Mitigation Measure BIO-7: “The Applicant shall install at least two culverts in the ‘straight section’ of the rail extension that runs from the main BNSF rail line to the rail loop. Culverts shall be at least 36 inches diameter (per the Desert Renewable Energy Conservation Plan)”

and

Mitigation Measure BIO-8: “The Applicant shall include two tortoise escape channels on the rail lines allowing escape to the west side of the project. The placement and design of these escape channels must be approved by BLM. USFWS can provide schematics.”

For BIO-7, we suggest coordinating with the USFWS’s Desert Tortoise Recovery Office for the latest information on the design and placement of the required culverts that tortoises use (e.g., diameter of opening, length, bottom material, ingress and egress access, etc.) and monitoring requirements. As with the permanent tortoise exclusion fencing, the County should require the project proponent or their successor to regularly maintain the culverts. When the rail line on BLM land is no longer used, the project proponent should be required to remove the rail line and associated structures and return the area to pre-project conditions.

For BIO-8, please explain the reason for requiring tortoise escape channels on the rail lines allowing escape only to the west side of the proposed project.

The installation and maintenance of permanent tortoise exclusion fencing around the rail line loop is not mentioned in the Initial Study/Draft Mitigated Negative Declaration. Please explain why this measure is not required when the rail line to the south of the rail line loop will have permanent tortoise exclusion fencing along it.

Page 32, Mitigation Measure BIO-9: “The Applicant shall promptly remove and dispose of any roadkill found along the haul route or rail loop during operation to minimize subsidies for desert tortoise predators (i.e., common raven, coyotes, etc.).”

This mitigation measure should also be implemented during the construction phase of the proposed project.

Page 32, Mitigation Measure BIO-10: “All personnel working at the project will attend a Worker Environmental Awareness Program conducted by an authorized biologist (or desert tortoise monitor with approval by an authorized biologist) prior to the commencement of construction activities and each calendar year until the end of construction. This program will include at a minimum information on desert tortoise biology and identification and the protective measures required by the BLM of any personnel working at the project.”

Please add that “. . . the protective measures required by the BLM **and required in the ITPs issued by USFWS and CDFW** of any personnel working at the project.”

Page 33, Mitigation Measure BIO-11: “In the event a desert tortoise is found injured at the project, the project is responsible for notifying BLM and the USFWS immediately so that they can determine if further action is required and provide guidance on veterinary care. Written follow-up notification and a brief report will be submitted via email to the BLM within two calendar days of the incident. All veterinary care costs shall be the responsibility of the Applicant.”

Please modify this language to clarify who is responsible for implementing this mitigation measure. We recommend that this mitigation measure be revised to say, “In the event a desert tortoise is found injured at the project **or uninjured at the project**, the **project proponent** is responsible for notifying **immediately** BLM, CDFW, and the USFWS **including the Desert Tortoise Recovery Office immediately** so that they can determine if further action is required and provide guidance on veterinary care **if the tortoise is injured**. Written follow-up notification and a brief report will be submitted via email to the BLM, CDFW, and USFWS **including the DTRO** within two calendar days of the incident. All veterinary care costs shall be the responsibility of the Applicant.”

Page 33, Mitigation Measure BIO-12: “In the event a desert tortoise is found dead at the project, the project is responsible for securing the carcass (i.e., putting a tarp over it) and notifying BLM and the USFWS within 24 hours so that they can determine if further action is required. Written follow-up notification and a brief report will be submitted via email to the BLM within two calendar days of the incident.”

Please add CDFW and the DTRO to the entities that would be notified within 24 hours, and clarify that the project proponent, not the project, is responsible for securing the carcass. In addition, the typical protocol is to require photographs of the dead tortoise before it is moved and the area where the tortoise was found to document the conditions/cause of mortality and implement appropriate actions to avoid future mortalities. Please include these modifications in this mitigation measure.

Page 33, Mitigation Measure BIO-13: Ballast size for the base of rail lines shall be sized large enough to deter passage of desert tortoises. Size of this ballast will be discussed with the Applicant, BLM and USFWS. Please add CDFW and DTRO to the entities that would be included in this discussion.

Page 33, Mitigation Measure BIO-16: “If a desert tortoise is found under vehicle, equipment, or within construction materials, an authorized biologist will be contacted to capture and translocate the animal a short distance (not more than 300 meters) to a site with cover (i.e., at the mouth of a burrow or under a shrub).”

Please clarify in this mitigation measure that before it can be implemented, the project proponent must first obtain an ITP from CDFW and USFWS. This mitigation measure, when implemented, is a form of take under FESA and CESA. Therefore, the project proponent must have ITPs for the tortoise to legally take a tortoise.

Pages 31 -33: A standard mitigation measure for the tortoise that we did not find in the Initial Study/Draft Mitigated Negative Declaration is for workers at the proposed project to not bring firearms to the project area. Please add this requirement.

We found no requirement in this section of the Initial Study/Mitigated Negative Declaration for the project proponent to implement the CDFW required MGS trapping surveys. Please add this as a requirement to the Initial Study/Draft Mitigated Negative Declaration. This is a requirement by CDFW for projects that occur in the known range of the State-threatened MGS. Also, please add that if MGS presence is found after implementing fully the CDFW survey protocol, the project

proponent will obtain an ITP from CDFW prior to implementing any ground disturbance and will implement all terms and conditions of the ITP. For more information on CDFW's requirement, please see our earlier comments under "Page 5, Methodologies, Mohave Ground Squirrel" and "Page 11, Results, Federal and State Listed Species, Mohave Ground Squirrel."

After reviewing this Initial Study/Draft Mitigated Negative Declaration and other recent Initial Studies for proposed projects in the desert portion of San Bernardino County, our conclusion is that the County does not require a project proponent to comply with the survey methodologies for listed and special status species that have been developed by USFWS and CDFW prior to preparing a draft CEQA document. The County requires general surveys of the project area but appears to have no minimum requirements for when or how these visual surveys or site visits are conducted. Yet these arbitrary surveys are used by the County to make its CEQA determinations on what mitigation, if any, will be required for proposed projects.

In addition, the "mitigation" that is then recommended by the County may include that the project proponent conduct the CDFW and USFWS surveys for the listed/special status species. As previously reported to the County in our comment letters (e.g., Kramer Junction Travel Stop, Cactus Club Hotel, Kramer, Tentative Tract Map 20577, Landers Hotel), the implementation of these survey methods is **not** mitigation; it is data collection to determine whether the subject listed/special status species likely uses the project area, would be impacted directly or indirectly from the implementation of the proposed project, and the extent and duration of the impacts. Once the results from implementation of surveys for the species are known along with literature searches of occurrences and data bases with similar information (e.g., California Natural Diversity Database, USFWS's IPaC [Information for Planning and Consulting] etc.), then the County can use this information along with information from the scientific literature and reports to determine the direct, indirect, and cumulative impacts of the proposed action to the identified species and its habitat.

Page 36, IV. Biological Resources, Question f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?

"The Project Site is not located within an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan. Therefore, no impacts are identified or anticipated, and no mitigation measures are required."

The County should contact the USFWS to determine whether they have adopted a General Conservation Plan for the tortoise, which is a regional habitat conservation plan (HCP). If they have, the response to paragraph f would need to be changed to reflect the existence of this regional HCP.

Under the FESA, its implementing regulations, and the USFWS's HCP Handbook that further explains the status and regulations, issuance of an ITP requires minimizing and mitigating the **impacts of the taking** [emphasis added] to the maximum extent practicable, not the numerical count of tortoises to be taken. Under California Fish and Game Code for issuing an ITP for species listed under CESA, the requirement is to fully mitigate the impacts. Thus, the mitigation for an ITP usually requires that the loss and degradation of habitat on non-federal lands be fully mitigated. We did not see this requirement in the mitigation listed in the Initial Study/Draft Mitigated

Negative Declaration. We hope this was an inadvertent oversight by the County and that in the final CEQA document, the County will require that any compensation required in an ITP for destroyed or degraded habitats for species protected under FESA or CESA will also be required by the County in its final CEQA document.

Pages 71-73, XXI. Mandatory Findings of Significance: In the section on “Mandatory Findings of Significance,” two of the three questions under the CEQA Handbook are applicable to the tortoise. They are:

Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

and

Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects?)

To assist the County in answering these two questions regarding the impacts to the tortoise from the construction, operations, and maintenance of the proposed project, we are attaching “Appendix A – Demographic Status and Trend of the Mojave Desert Tortoise including Tortoises in the Western Mojave Recovery Unit.” Note that the proposed project is in the Western Mojave Recovery Unit, the tortoise populations in this Unit are below the density needed for population viability (Allison and McLuckie 2018), and the density of tortoises continues to decline in the Western Mojave Recovery Unit (USFWS 2025). The adult tortoise population declined by about 50 percent and the number of juvenile tortoises decline by 91 percent between 2004 and 2014 (Allison and McLuckie 2018), and this downward trend continues (USFWS 2025). Also note that the tortoise cannot achieve recovery, that is, be removed from the list of threatened species under FESA unless it achieves recovery in all five recovery units including the Western Mojave Recovery Unit (USFWS 2011). This includes having viable populations. We conclude that having populations below the density needed for population viability means these populations are below the level needed to be self-sustaining, and any additional impacts to these populations would exacerbate this declining trend and remain below the level of self-sustaining. Using the information in this Appendix, we conclude the answer to these two questions is “yes,” which means the impacts from the proposed project would be significant. Please include this information in the County’s analysis of the project in the CEQA document.

Because the County has prepared a draft Initial Study/Mitigated Negative Declaration, it contains mitigation and monitoring sections that are supposed to demonstrate that their implementation will reduce the level of impacts from the construction, use, and maintenance of the proposed project to less than significant. However, until the County (1) determines the use of the project area and surrounding area by tortoises; (2) determines the type and extent of the direct, indirect, and cumulative impacts to the tortoise/tortoise habitat from the construction, use and maintenance of the proposed project; and (3) analyzes these impacts to the tortoise, the County is unable to identify the appropriate mitigation and monitoring to offset these impacts. Consequently, the County is currently unable to determine whether a mitigated negative declaration or an environmental impact report is the appropriate CEQA document to prepare for the proposed project with respect to impacts to the tortoise.

The County should reassess all relevant biological data, require appropriate surveys for special status species including the tortoise, MGS, and burrowing owl, and use the results of these surveys along with the available literature on special status species to determine the types and extent of the direct, indirect and cumulative impacts to these species including the tortoise. Only then will the County have sufficient information to determine the appropriate and effective mitigation required to reduce the level of impacts to less than significant and determine whether a mitigated negative declaration or an environmental impact report is the appropriate CEQA document to prepare.

Regarding significant impacts and cumulative impacts, it appears that the County relied on the “professional opinion” of the biologist(s) who prepared the General Biological Resources Assessment that the proposed project will have no significant environment impact to the identified species. We remind the County that of the general biological reports/assessments we have reviewed recently, there is no scientific information provided in these reports to support these opinions and therefore no scientific information to support the County’s determinations in their CEQA documents. Thus, the County is not on “solid ground” should their CEQA decision be legally challenged.

We offer to assist the County to work toward a scientifically supported process that the County would implement to comply with the purpose and intent of CEQA in the development of initial studies and mitigated negative declarations with respect to the desert tortoise and other species protected under the FESA and CESA.

We appreciate this opportunity to provide the above comments and trust they will help protect tortoises during any resulting authorized activities. Herein, we reiterate that the Council wants to be identified as an Affected Interest for this and all other projects funded, authorized, or carried out by the County that may affect desert tortoises, and that any subsequent environmental documentation for this project is provided to us at the contact information listed above. Additionally, we ask that the County continue to notify the Council at eac@deserttortoise.org of any proposed projects that may affect the desert tortoise so we may comment on them to ensure the County fully considers and implements actions to conserve these tortoises as part of its directive to conserve biodiversity on lands it oversees in San Bernardino County.

Please respond in an email that you have received this comment letter so we can be sure our concerns have been registered with the appropriate personnel and office for this Project.

Respectfully,



Mari Quillman
Desert Tortoise Council, Chairperson

Attachment – Appendix A: Demographic Status and Trend of the Mojave Desert Tortoise including the Western Mojave Recovery Unit

Cc: Brian Croft, Assistant Field Supervisor, Palm Springs Fish and Wildlife Office, U.S. Fish and Wildlife Office, brian_croft@fws.gov
Peter Sanzenbacher, Mojave Desert Division Supervisor, peter_sanzenbacher@fws.gov
Heidi Calvert, Regional Manager, Region 6, Inland and Desert Region, California Department of Fish and Wildlife, Heidi.Calvert@wildlife.ca.gov
Steven Recinos, Environmental Scientist, Region 6, Inland Deserts Region, California Department of Fish and Wildlife, steven.recinos@wildlife.ca.gov

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Appendix A

Demographic Status and Trend of the Mojave Desert Tortoise including the Western Mojave Recovery Unit

Status of the Population of the Mojave Desert Tortoise: The Council provides the following information for resource and land management agencies so that these data may be included and analyzed in their project and land management documents and aid them in making management decisions that affect the Mojave desert tortoise (tortoise).

There are 17 populations of Mojave desert tortoise described below that occur in Critical Habitat Units (CHUs) and Tortoise Conservation Areas (TCAs); 14 are on lands managed by the BLM; 8 of these are in the California Desert Conservation Area (CDCA).

As the primary land management entity in the range of the Mojave desert tortoise, the Bureau of Land Management's (BLM's) implementation of a conservation strategy for the Mojave desert tortoise in the CDCA through implementation of its Resource Management Plan and Amendments through 2014 has resulted in the following changes in the status for the tortoise throughout its range and in California from 2004 to 2014 (**Table 1, Table 2**; USFWS 2015, Allison and McLuckie 2018). The Council believes these data show that BLM and others have failed to implement an effective conservation strategy for the Mojave desert tortoise as described in the recovery plan (both USFWS 1994a and 2011), and have contributed to tortoise declines in density and abundance between 2004 to 2014 (**Table 1, Table 2**; USFWS 2015, Allison and McLuckie 2018) with declines or no improvement in population density from 2015 to 2024 (**Table 3**; USFWS 2016, 2018, 2019, 2020, 2022a, 2022b, 2025).

Important points from these tables include the following:

Change in Status for the Mojave Desert Tortoise Range-wide

- Ten of 17 populations of the Mojave desert tortoise declined from 2004 to 2014.
- Eleven of 17 populations of the Mojave desert tortoise are below the population viability threshold. These 11 populations represent 89.7 percent of the range-wide habitat in CHUs/TCAs.

Change in Status for the Western Mojave Recovery Unit – California

- This recovery unit had a 51 percent decline in tortoise density from 2004 to 2014.
- Tortoise populations in all three TCAs in this recovery unit have densities that are below viability.

Change in Status for the Superior-Cronese Tortoise Population in the Western Mojave Recovery Unit.

- The population in this recovery unit experienced declines in densities of 61 percent from 2004 to 2014. In addition, there was a 51 percent decline in tortoise abundance.
- This population has densities less than needed for population viability (USFWS 1994a).

Table 1. Summary of 10-year trend data for the 5 Recovery Units and 17 CHUs/TCAs for Mojave desert tortoise. The table includes the area of each Recovery Unit and CHU/TCA, percent of total habitat for each Recovery Unit and CHU/TCA, density (number of breeding adults/km² and standard errors = SE), and the percent change in population density between 2004 and 2014. Populations below the viable level of 3.9 breeding individuals/km² (10 breeding individuals per mi²) (assumes a 1:1 sex ratio) or showing a decline from 2004 to 2014 are in red.

Recovery Unit: Designated Critical Habitat Unit ¹ /Tortoise Conservation Area	Surveyed area (km ²)	% of total habitat area in Recovery Unit & CHU/TCA	2014 density/km ² (SE)	% 10-year change (2004–2014)
Western Mojave, CA	6,294	24.51	2.8 (1.0)	–50.7 decline
Fremont-Kramer	2,347	9.14	2.6 (1.0)	–50.6 decline
Ord-Rodman	852	3.32	3.6 (1.4)	–56.5 decline
Superior-Cronese	3,094	12.05	2.4 (0.9)	–61.5 decline
Colorado Desert, CA	11,663	45.42	4.0 (1.4)	–36.25 decline
Chocolate Mtn AGR, CA	713	2.78	7.2 (2.8)	–29.77 decline
Chuckwalla, CA	2,818	10.97	3.3 (1.3)	–37.43 decline
Chemehuevi, CA	3,763	14.65	2.8 (1.1)	–64.70 decline
Fenner, CA	1,782	6.94	4.8 (1.9)	–52.86 decline
Joshua Tree, CA	1,152	4.49	3.7 (1.5)	+178.62 increase
Pinto Mtn, CA	508	1.98	2.4 (1.0)	–60.30 decline
Piute Valley, NV	927	3.61	5.3 (2.1)	+162.36 increase
Northeastern Mojave	4,160	16.2	4.5 (1.9)	+325.62 increase
Beaver Dam Slope, NV, UT, AZ	750	2.92	6.2 (2.4)	+370.33 increase
Coyote Spring, NV	960	3.74	4.0 (1.6)	+ 265.06 increase
Gold Butte, NV & AZ	1,607	6.26	2.7 (1.0)	+ 384.37 increase
Mormon Mesa, NV	844	3.29	6.4 (2.5)	+ 217.80 increase
Eastern Mojave, NV & CA	3,446	13.42	1.9 (0.7)	–67.26 decline
El Dorado Valley, NV	999	3.89	1.5 (0.6)	–61.14 decline
Ivanpah Valley, CA	2,447	9.53	2.3 (0.9)	–56.05 decline
Upper Virgin River	115	0.45	15.3 (6.0)	–26.57 decline
Red Cliffs Desert	115	0.45	15.3 (6.0)	–26.57 decline
Range-wide Area of CHUs - TCAs/Range-wide Change in Population Status	25,678	100.00		–32.18 decline

¹ U.S. Fish and Wildlife Service. 1994b. Endangered and threatened wildlife and plants; determination of critical habitat for the Mojave population of the desert tortoise. Federal Register 55(26):5820–5866. Washington, D.C.

Table 2. Estimated change in abundance of adult Mojave desert tortoises in each recovery unit between 2004 and 2014 (Allison and McLuckie 2018). Decreases in abundance are in red.

Recovery Unit	Modeled Habitat (km ²)	2004 Abundance	2014 Abundance	Change in Abundance	Percent Change in Abundance
Western Mojave	23,139	131,540	64,871	–66,668	–51%
Colorado Desert	18,024	103,675	66,097	–37,578	–36%
Northeastern Mojave	10,664	12,610	46,701	34,091	270%
Eastern Mojave	16,061	75,342	24,664	–50,679	–67%
Upper Virgin River	613	13,226	10,010	–3,216	–24%
Total	68,501	336,393	212,343	–124,050	–37%

Table 3. Summary of data for Agassiz’s desert tortoise, *Gopherus agassizii* (=Mojave desert tortoise) from 2004 to 2024 for the 5 Recovery Units and 17 Critical Habitat Units (CHUs)/Tortoise Conservation Areas (TCAs). The table includes the area of each Recovery Unit and CHU/TCA, percent of total habitat for each Recovery Unit and CHU/TCA, density (number of breeding adults/km² and standard errors = SE), and percent change in population density between 2004-2014 (USFWS 2015). Populations below the viable level of 3.9 breeding individuals/km² (10 breeding individuals per mi²) (assumes a 1:1 sex ratio) (USFWS 1994a, 2015) or showing a decline from 2004 to 2014 are in **red**.

Recovery Unit: Designated CHU/TCA &	% of total habitat area in Recovery Unit & CHU/TCA	2004 density / km ²	2014 density/ km ² (SE)	% 10-year change (2004– 2014)	2015 density / km ²	2016 density / km ²	2017 density / km ²	2018 density / km ²	2019 density / km ²	2020 density / km ²	2021 density / km ²	2024 density /km ²
Western Mojave, CA	24.51		2.8 (1.0)	–50.7 decline								
Fremont-Kramer	9.14		2.6 (1.0)	–50.6 decline	4.5	No data	4.1	No data	2.7	1.7	No data	1.8
Ord-Rodman	3.32		3.6 (1.4)	–56.5 decline	No data	No data	3.9	2.5/3.4*	2.1/2.5*	No data	1.9/2.5*	2.7
Superior-Cronese	12.05		2.4 (0.9)	–61.5 decline	2.6	3.6	1.7	No data	1.9	No data	No data	No data
Colorado Desert, CA	45.42		4.0 (1.4)	–36.25 decline								
Chocolate Mtn AGR, CA	2.78		7.2 (2.8)	–29.77 decline	10.3	8.5	9.4	7.6	7.0	7.1	3.9	7.4
Chuckwalla, CA	10.97		3.3 (1.3)	–37.43 decline	No data	No data	4.3	No data	1.8	4.6	2.6	No data
Chemehuevi, CA	14.65		2.8 (1.1)	–64.70 decline	No data	1.7	No data	2.9	No data	4.0	No data	No data
Fenner, CA	6.94		4.8 (1.9)	–52.86 decline	No data	5.5	No data	6.0	2.8	No data	5.3	No data
Joshua Tree, CA	4.49		3.7 (1.5)	+178.62 increase	No data	2.6	3.6	No data	3.1	3.9	No data	No data
Pinto Mtn, CA	1.98		2.4 (1.0)	–60.30 decline	No data	2.1	2.3	No data	1.7	2.9	No data	No data

Piute Valley, NV	3.61		5.3 (2.1)	+162.36 increase	No data	4.0	5.9	No data	No data	No data	3.9	4.0
Northeastern Mojave AZ, NV, & UT	16.2		4.5 (1.9)	+325.62 increase								
Beaver Dam Slope, NV, UT, & AZ	2.92		6.2 (2.4)	+370.33 increase	No data	5.6	1.3	5.1	2.0	No data	No data	1.7
Coyote Spring, NV	3.74		4.0 (1.6)	+ 265.06 increase	No data	4.2	No data	No data	3.2	No data	No data	2.7
Gold Butte, NV & AZ	6.26		2.7 (1.0)	+ 384.37 increase	No data	No data	1.9	2.3	No data	No data	2.4	No data
Mormon Mesa, NV	3.29		6.4 (2.5)	+ 217.80 increase	No data	2.1	No data	3.6	No data	5.2	5.2	No data
Eastern Mojave, NV & CA	13.42		1.9 (0.7)	-67.26 decline								
El Dorado Valley, NV	3.89		1.5 (0.6)	-61.14 decline	No data	2.7	5.6	No data	2.3	No data	No data	
Ivanpah Valley, CA	9.53		2.3 (0.9)	-56.05 decline	1.9	No data	No data	3.7	2.6	No data	1.8	
Upper Virgin River, UT & AZ	0.45		15.3 (6.0)	-26.57 decline								
Red Cliffs Desert**	0.45	29.1 (21.4- 39.6)**	15.3 (6.0)	-26.57 decline	15.0	No data	19.1	No data	17.2	No data	No data	17.5†
Rangewide Area of CHUs - TCAs/Rangewide Change in Population Status	100.00			-32.18 decline								

*This density includes the adult tortoises translocated from the expansion of the MCAGCC, that is resident adult tortoises and translocated adult tortoises.

**Methodology for collecting density data initiated in 1999.

†Results from 2023

Change in Status for the Mojave Desert Tortoise in California

- Eight of 10 populations of the Mojave desert tortoise in California declined from 29 to 64 percent from 2004 to 2014 with implementation of tortoise conservation measures in the Bureau of Land Management's Northern and Eastern Colorado Desert (NECO), Northern and Eastern Mojave Desert (NEMO), and Western Mojave Desert (WEMO) Plans.
- Eight of 10 populations of the Mojave desert tortoise in California are below the viability threshold for density. These eight populations represent 87.45 percent of the habitat in California that is in CHU/TCAs.
- The two viable populations of the Mojave desert tortoise in California are declining. If their rates of decline from 2004 to 2014 continue, these two populations will no longer be viable by about 2030.

Change in Status for the Mojave Desert Tortoise on BLM Land in California

- Eight of eight populations of Mojave desert tortoise on lands managed by the BLM in California declined from 2004 to 2014.
- Seven of eight populations of Mojave desert tortoise on lands managed by the BLM in California are no longer viable.

Change in Status for Mojave Desert Tortoise Populations in California that Are Moving toward Meeting Recovery Criteria

- The only population of Mojave desert tortoise in California that did not decline is on land managed by the National Park Service, which increased 178 percent from 2004 to 2014.

Important points to note from the data from 2015 to 2024 in Table 3 are:

Change in Status for the Mojave Desert Tortoise in the Western Mojave Recovery Unit:

- The density of tortoises continues to decline in the Western Mojave Recovery Unit
- The density of tortoises from 2015 to 2024 continues to fall below the density needed for population viability.

Change in Status for the Mojave Desert Tortoise in the Colorado Desert Recovery Unit:

- Many of the populations in this recovery unit have densities that are near the threshold for population viability.

Change in Status for the Mojave Desert Tortoise in the Northeastern Mojave Recovery Unit:

- Two of the three population with densities greater than needed for population viability declined to level below the minimum viability threshold.
- Three of the four populations in this recovery unit have densities below the minimum density needed for population viability.

Change in Status for the Mojave Desert Tortoise in the Eastern Mojave Recovery Unit:

- Both populations in this recovery unit have densities below the minimum density needed for population viability.

Change in Status for the Mojave Desert Tortoise in the Upper Virgin River Recovery Unit:

- The one population in this recovery unit is small and appears to have stable densities.

The Endangered Mojave Desert Tortoise: The Council believes that the Mojave desert tortoise meets the definition of an endangered species. In the FESA, Congress defined an “endangered species” as “any species which is in danger of extinction throughout all or a significant portion of its range...” In the California Endangered Species Act (CESA), the California legislature defined an “endangered species” as a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant, which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes (California Fish and Game Code § 2062). Because most of the populations of the Mojave desert tortoise were non-viable in 2014, most are declining, and the threats to the Mojave desert tortoise are numerous and have not been substantially reduced throughout the species’ range, the Council believes the Mojave desert tortoise should be designated as an endangered species by the USFWS and California Fish and Game Commission. Despite claims by USFWS (Averill-Murray and Field 2023) that a large number of individuals of a listed species and an increasing population trend in part of the range of the species prohibits it from meeting the definitions of endangered, we are reminded that the tenants of conservation biology include numerous factors when determining population viability. The number of individuals present is one of a myriad of factors (e.g., species distribution and density, survival strategy, sex ratio, recruitment, genetics, threats including climate change, etc.) used to determine population viability. In addition, a review of all the available data does not show an increasing population trend (please see Tables 1 and 3).

Literature Cited in Appendix on Status and Trend of the Mojave Desert Tortoise

Allison L.J. and A.M. McLuckie. 2018. Population trends in Mojave desert tortoises (*Gopherus agassizii*). *Herpetological Conservation and Biology*. 2018 Aug 1. 13(2):433–452. http://www.herpconbio.org/Volume_13/Issue_2/Allison_McLuckie_2018.pdf

or

<https://www.fws.gov/media/allison-and-mcluckie2018mojave-desert-tortoise-population-trends>

[USFWS] U.S. Fish and Wildlife Service. 1994a. Desert tortoise (Mojave population) Recovery Plan. U.S. Fish and Wildlife Service, Region 1, Portland, Oregon. 73 pages plus appendices. https://ecos.fws.gov/docs/recovery_plan/940628.pdf

[USFWS] U.S. Fish and Wildlife Service. 1994b. Endangered and threatened wildlife and plants; determination of critical habitat for the Mojave population of the desert tortoise. Federal Register 55(26):5820-5866. Washington, D.C.

[USFWS] U.S. Fish and Wildlife Service. 2011. Revised Recovery Plan for the Mojave Population of the Desert Tortoise (*Gopherus agassizii*). U.S. Fish and Wildlife Service, California and Nevada Region, Sacramento, California. <https://www.fws.gov/sites/default/files/documents/USFWS.2011.RRP%20for%20the%20Mojave%20Desert%20Tortoise.pdf>

- [USFWS] U.S. Fish and Wildlife Service. 2015. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2013 and 2014 Annual Reports. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2015%20report.%20Rangewide%20monitoring%20report%202013-14.pdf>
- [USFWS] U.S. Fish and Wildlife Service. 2016. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2015 and 2016 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2016%20report.%20Rangewide%20monitoring%20report%202015-16.pdf>
- [USFWS] U.S. Fish and Wildlife Service. 2018. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2017 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2018%20report.%20Rangewide%20monitoring%20report%202017.pdf>
- [USFWS] U.S. Fish and Wildlife Service. 2019. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2018 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2019%20report.%20Rangewide%20monitoring%20report%202018.pdf>
- [USFWS] U.S. Fish and Wildlife Service. 2020. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2019 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. 42 pages. https://www.fws.gov/sites/default/files/documents/2019_Rangewide%20Mojave%20Desert%20Tortoise%20Monitoring.pdf
- [USFWS] U.S. Fish and Wildlife Service. 2022a. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2020 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2022%20report.%20Rangewide%20monitoring%20report%202020.pdf>
- [USFWS] U.S. Fish and Wildlife Service. 2022b. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2021 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2022%20report.%20Rangewide%20monitoring%20report%202021.pdf>
- [USFWS] U.S. Fish and Wildlife Service. 2025. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2024 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Las Vegas, Nevada. <https://www.fws.gov/sites/default/files/documents/2025-08/2024-range-wide-mojave-desert-tortoise-monitoring-report.pdf>



Mohave Ground Squirrel Conservation Council
P.O. Box 1660
Wrightwood, CA 92397
Email: ed.larue@mgsconservation.org

Via email only

October 24, 2025

Attn: Derek Newland
County of San Bernardino
Land Use Services Department, Planning Division
385 N. Arrowhead Ave 1st Floor
San Bernardino, CA 92415-0187
derek.newland@lus.sbcounty.gov

RE: LCM Railroad (Project No.: PROJ-2024-00080; Assessor Parcel Number(s): 0496-011-07)

Dear Mr. Newland,

The Mohave Ground Squirrel Conservation Council (MGSCC) is a nonprofit organization established to assure the perpetual survival of viable populations of Mohave Ground Squirrels (MGS) throughout their historical range and any future expansion areas. The MGS, for the purposes of the MGSCC, means the mammal species known scientifically as *Xerospermophilus mohavensis*. Among our objectives pertinent to this letter is to support and to advocate for such legislative, policy, and conservation measures as will contribute to ensuring the continued survival of viable MGS populations, the connectivity of these populations, and the maintenance of their habitats in a natural condition.

On December 13, 2023¹, the MGSCC joined Defenders of Wildlife, Desert Tortoise Preserve Committee, Inc., and Dr. Philip Leitner in a petition to have the U.S. Fish and Wildlife Service (USFWS) federally list the Mohave ground squirrel (MGS) as threatened and to designate critical habitat. On January 17, 2025, the USFWS published a 90-day finding in the Federal Register². In that document, the USFWS determined that the petition to list the MGS under the Federal Endangered Species Act (FESA) presented substantial scientific and commercial information indicating that listing the MGS as an endangered or threatened species may be warranted, pending a 12-month status review. If the USFWS's 12-month finding is that the listing is warranted, then the species becomes a candidate for listing. With the issuance of this 90-day finding, the USFWS's next step is to conduct a status review of the MGS and publish a 12-month finding. That 12-month finding will declare that listing is warranted, not warranted, or warranted but precluded.

Although the MGSCC has asked the County's to include us on your list of Affected Interests for projects that may affect the MGS, we were not contacted to provide comments on the Initial Study and Mitigated Negative Declaration for the LCM Railroad (Project No.: PROJ-2024-00080; APN 0496-011-07) (County 2025) (Initial Study/Mitigated Negative Declaration); rather, we were informed by a third party.

¹ <https://www.dropbox.com/scl/fi/7h890e4r25ljpyyhwq5c/Defenders-et-al.-MGS-Listing-Petition-12-13-23-FINAL.pdf?rlkey=f7ln6at8apxcovi8qgr5g2qk&dl=0>

² <https://www.dropbox.com/scl/fi/iq0yvvn5zd9mz5s7yn77wr/USFWS-finding-on-1-17-2025.pdf?rlkey=9arr6vzkq9td2ss9dggjln5nr&dl=0>

We also note on the County's environmental projects website, that the MGSCC was not contacted by the County to be able to provide comments for the expansion of the nearby Lynx Cat Mine, which is a connected action with the LCM Railroad. According to the website, the Notice of Intent was released on 4/25/2025 with a due date for comments on 5/25/2025. Although the MGSCC has repeatedly asked the County to include us on its list of Affected Interests for projects that may affect the MGS, we were not alerted to this project, which has a certain likelihood of impacting MGS and their habitats. Since the LCM Railroad project is directly connected to the Lynx Cat Mountain Quarry Expansion Project, it does not constitute an independent project under the California Environmental Quality Act (CEQA) but rather represents project segmentation or "piecemealing" as described by CEQA case law.

In the Draft Initial Study/Mitigated Negative Declaration (Draft IS/MND), we found the following project description: "LCM Development, LLC (LCMD; Applicant or project proponent), who operates the nearby Lynx Cat Mountain Quarry (Quarry), is requesting approval of a Conditional Use Permit (CUP) from the County to construct a railway track loop and loading facility for aggregate materials. The track alignment would consist of two parallel separate single standard rail tracks approximately 8,758 feet in length (outer loop) converging as a 'Y' into a single track across public lands managed by the Bureau of Land Management (BLM). The 'Y' rail line will extend south approximately 1,500 linear feet long and 100 feet in width to tie into the Burlington Northern Santa Fe (BNSF) mainline.

"The proposed project also includes the realignment of an approximately 4,000-foot section of the unpaved County-maintained Santa Fe Road and the construction of a private unpaved haul road extending from the Lynx Cat Mine Road southwest to the rail loadout facility. The relocated Santa Fe Road will be approximately 4,500 feet in length, 60 feet wide, and adjacent to the outer rail track loop. It would be 300 feet north of its present alignment. In addition, a private unpaved haul road will be constructed and will be entirely within the applicant's private land. It will be approximately 4,750 feet long and 40 feet wide including shoulders (approximately 6.5 acres).

"A 60 ft. wide X 60 ft. long concrete rail crossing capable of supporting the 65-ton rock trucks delivering the aggregate from the quarry to the facility will be constructed across both Santa Fe Road and the rail loop track. Haul trucks would deliver aggregates from the Quarry located about 3 miles north of the proposed project to the proposed rail loading facility, where it would be stored in stockpiles inside the rail loop, loaded by 2 - 3 loaders into hopper rail cars with 100 to 110-ton capacities (typical), and then transported by rail to various projects in the high desert and across the southwest region. The proposed project is located about 3 miles west of Hinkley and 1.5 miles north of State Route 58 (Figures 1, 2, and 3). The proposed facility is to be constructed on a 131-acre portion of a 640-acre property owned by LCMD. The entire facility and rail loop would be constructed on the privately owned property. The 640-acre property has BLM-managed land on the north, east, and south sides of the proposed project."

Comments on the Proposed Project

General Biological Resources Assessment

The following comments are for the General Biological Resources Assessment, Rail Loop Project Hinkley, San Bernardino County, California, prepared by RCA Associates, Inc. (2024) (herein, "consultant"). On page 5, the statement is made, "An [1] evaluation for suitable habitat of the Mohave ground squirrel was performed as per CDFW protocol including [2] evaluation of local populations and [3] an assessment of connectivity with habitats in the surrounding area which might

support populations of the Mohave ground squirrel. Surveys yielded [4] poor Mohave ground squirrel habitat quality of the project area, [5] no recent sightings of Mohave Ground Squirrel in this general area in the past 10 years, and the low population levels. Due to these survey results, [6] it is the opinion of RCA Associates, Inc. that the likelihood of a Mohave ground squirrel occurring on the proposed project site is extremely low.”

There are numerous problems associated with the above conclusions, which correspond to the parenthetical numbers inserted in the paragraph (e.g., [1]).

1. Contrary to the consultant’s statement, there is no CDFW protocol for evaluating MGS habitat like there was in the early 1990s when Cumulative Habitat Impact Evaluation Forms (CHIEF) were required. Rather, there is a trapping survey protocol (CDFW 2023) that requires a formal trapping study following visual surveys of the subject property. The visual survey is only a preliminary part of the formal trapping survey, which must be performed for CDFW to determine that MGS are absent if none is caught. Presence or absence of MGS cannot be determined by visual surveys (Leither and LaRue 2014). RCA may not be aware that CDFW’s 2003 trapping protocol, which is listed in their literature section on page 16, was revised and updated in 2023.

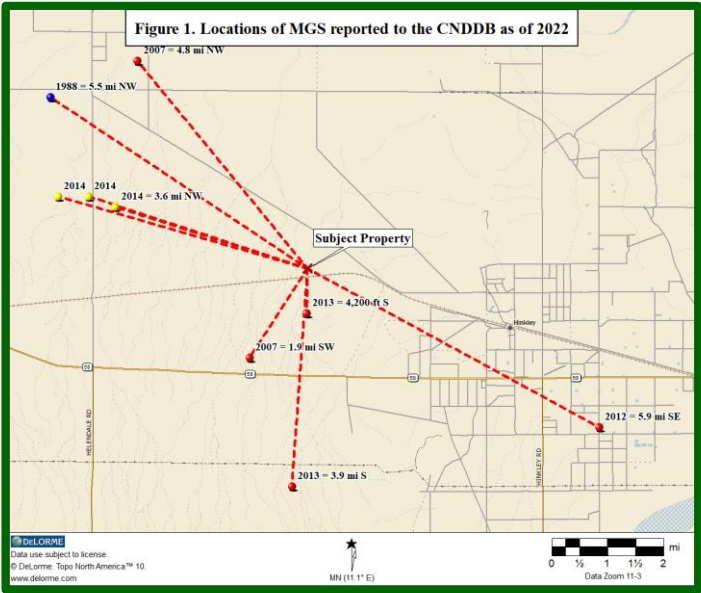
2. Although RCA Associates, Inc. (2024) states that an “...evaluation of local populations” was performed, aside from searching the California Natural Diversity Data Base (CNDDB), no part of the report constitutes a scientifically defensible evaluation of local populations by qualified biologists. In our professional estimation (most of us are also biological consultants), there is no evaluation of local populations in the report (see point 5 below). We believe that the information given below will help the County to evaluate the actual likelihood of MGS occurrence, which we judge to be very high.

3. We do not interpret anything in the consultant’s report to constitute “an assessment of connectivity with habitats in the surrounding area.” As given below in point 6 and stated in the consultant’s report, the site shows no evidence of human disturbance and it is surrounded by undeveloped lands. The subject property is located within the Mohave Ground Squirrel Conservation Area (MGS Conservation Area), which was initially designated by the BLM in 2006 in the West Mojave Plan (BLM 2006) and retained in the Desert Renewable Energy Conservation Plan (DRECP; BLM 2016), which is neither acknowledged in the consultant’s report (RCA Associates, Inc. 2024) nor the County’s Draft IS/MND. Given the prevalence of MGS on all sides of the subject property (see point 5, below), the data support the opposite conclusion; namely, that the subject property does provide for “...connectivity with habitats in the surrounding area” and is very likely to “...support populations of the Mohave ground squirrel.”

4. Given the information presented in RCA Associates, Inc. (2024) and herein, particularly in point 6, below, we judge that habitats are suitable and we question the consultant’s unfounded and unsubstantiated conclusion that habitats are “poor.”

5. RCA Associates, Inc. (2024) states on pages 5, 8, and 11 that there have been no sightings of MGS in the last 10 years, presenting this as supporting information that there is a low likelihood of MGS occurrence on the subject property. Ten years is an arbitrary number; CDFW does not use any such number as a basis for determining the likelihood of MGS occurrence on a given site. Perhaps it is a typographical error because “CNDDB 2024” is referenced on page 7 and elsewhere, but on page 16 of the consultant’s report, the literature section lists “CNDDB 2014” as the reference.

In any case, the 2022 CNDDDB reveals that MGS have been reported between 4,200 feet south and 5.9 miles southeast of the subject property, as shown in Figure 1 below. Given that 10 years is an arbitrary number, it is important to show that MGS have been reported throughout the region.



Although we appreciate that RCA Associates, Inc. did consult the CNDDDB, those data, alone, are not all that are available to determine the nearest locations of MGS, including more recent occurrences. Dr Philip Leitner has shown presence/absence MGS surveys throughout the range in two studies, which report MGS occurrences between 2008 and 2012 (Leitner 2015) and between 2013 and 2020 (Leitner 2021). Leitner (2015) reveals that MGS have been reported at four camera stations within a mile± of the subject property between 2008 and 2012, as shown below in Figure 2.

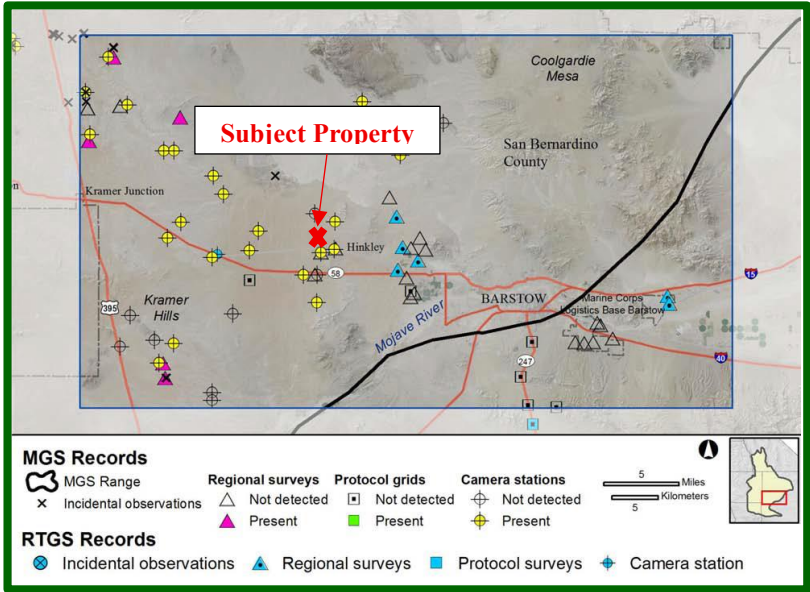


Figure 2. Location of the subject property relative to MGS occurrences between 2008 and 2012.

Perhaps even more compelling are the number of MGS sightings at both cameras and live traps in the immediate area of the subject property between 2013 and 2020 (Leitner 2021), as shown below in Figure 3, where there are five detections within approximately a mile.

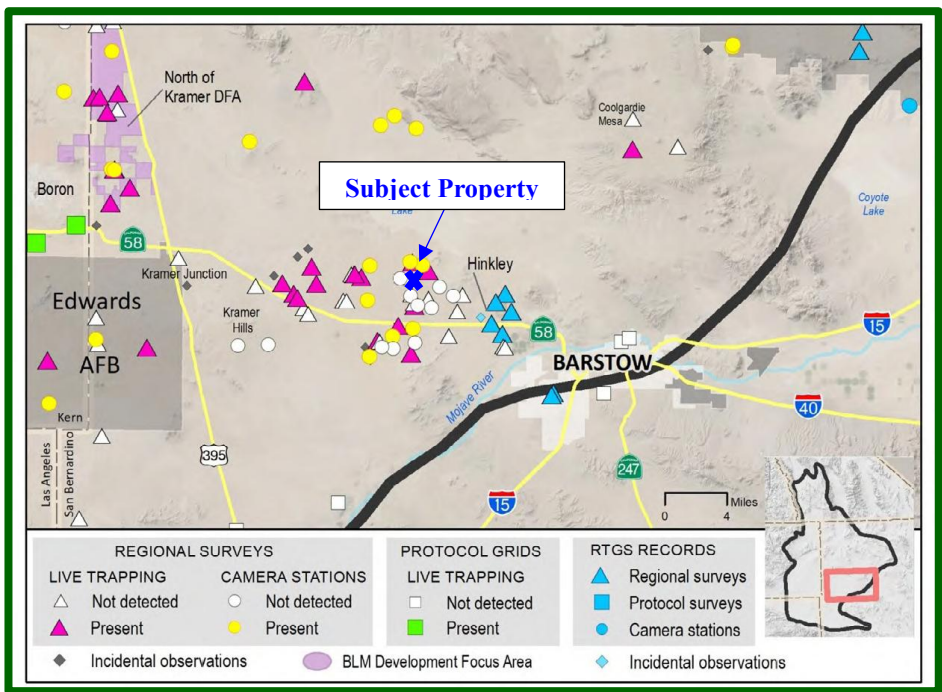


Figure 3. Location of the subject property relative to MGS occurrences between 2013 and 2020.

RCA Associates, Inc. (2024) refers to “low [MGS] population levels” as if that is something that can be ascertained. Although the MGSCC is currently conducting studies in the vicinity of Red Mountain that may eventually allow us to develop methodologies to determine population levels following future regional studies, there is no scientific basis for the consultant to be able to refer to “population levels,” much less “low” levels. Given this information, the consultant’s conclusion that “[MGS] Most likely will not occur due to low occurrence and observation levels [sic] in the area over the last 10 years” as cited in Table 4-2 on page 8 is invalid and unsupported by scientific data.

6. In accordance with point 1 above, although there is no formal CDFW protocol for evaluating suitable MGS habitats, it is standard practice for professional biologists with MGS memoranda of understanding (MOU) to provide an informed opinion about the potential for MGS occurrence, generally based on (a) the site being located within the range of the species, (b) native habitat with a relatively diverse shrub component, and (c) whether or not the site is surrounded by development and therefore isolated from potentially occupied habitats. The site is located a bit east of the center of MGS habitat, but definitely within range.

The following statement is given on page 8 (RCA Associates, Inc. 2024): “The site shows no signs of past human disturbance and consists of native vegetation occurring throughout the site.” Although the consultant did not perform a disturbance analysis of the site, which is typical of biological reports, that there are no signs of human disturbance and the site supports native vegetation are both indicators that the site comprises suitable MGS habitats. Table 1 in Appendix A, which lists the plants observed onsite and in adjacent areas, includes eight perennial shrub species, which is a moderate number of native plants and representative of a typical, diverse shrub layer in the region.

Figures 1, 2, and 7 in Appendix A of the consultant's report show that the site is surrounded by open, undeveloped land, so the subject property is not isolated from adjacent suitable habitats, and as stated on page 8, is not degraded by human disturbances. The photographs shown in Appendix A of the consultant's report depict suitable if not ideal habitats for the MGS, which is based on the professional opinions of the MGSCC Board, four of which have MGS MOUs with decades of trapping experience extending into the 1990s.

The following photographs (Exhibits 1 and 2) were taken by biologist, Greg Winton, in 2020 near Boron. These photographs show adult MGS sitting in areas that are totally devoid of any shrubs. If MGS can be found in such barren habitats, they certainly may occur on the subject property, which is densely vegetated in comparison.



Exhibits 1 and 2. Photographs of MGS in disturbed habitats near Boron, CA.

Finally, it is our understanding that the County only accepts conclusions about the likely occurrence of MGS from consultants who have an MGS MOU issued by the CDFW. To our knowledge, none of the three biologists working on this project, and presumably writing the biological assessment, possesses an MGS MOU.

On page 11, the consultant makes the following statements: "There are no recent observations of Mohave ground squirrels within the area or zone of influence within the last 10 years. The most recent sighting occurrence of the species is occurrence 491 which happened a mile and a half to the south in the Twelve Guage Lake USGS Quadrangle. It is the opinion of RCA Associates, Inc. that the habitat is not prime Mohave ground squirrel habitat and is very unlikely to support populations of the species based on the following criteria:

1. No recent documented observations in the general region.
2. No connectivity with critical habitat which may support the species.
3. Project site not having crucial habitat for survival."

With regards to record 491, the consultant may be referring to the MGS occurrence from 2007, which was 1.9 miles south of the subject property, but they fail to note that there was an occurrence in 2013 that was located only 4,200 feet south. Since they do not reference Leitner's 2015 and 2021 studies, the County now knows that there are multiple MGS occurrences within a mile of the site and some of these are within the last 10 years.

For the reasons given herein, we can discount the first criterion listed above and renounce the arbitrary timeframe of “within the last 10 years.” In criteria 2 and 3, the consultant loosely or inappropriately uses the terms “critical habitat” and “crucial habitat” without acknowledging that the subject property is found within the MGS Conservation Area, which was designated to support the species and ensure its survival (BLM 2006, CDFW 2019). Although MGSCC and others have petitioned the USFWS to designate critical habitat for the MGS, no such designation has occurred to date, so referring to “connectivity with critical habitat” is confusing. However, the implication is that the subject property does not provide for connectivity with essential habitats to support the species, when in fact the site is located within the MGS Conservation Area, which is intended to conserve and recover the species (CDFW 2019). Although there is no technical term referring to “crucial habitat,” the MGS Conservation Area was designated to promote the survival of the species, which may informally be referred to as “crucial.”

The following statement is made in the consultant’s report on page 13, “No Mohave ground squirrel or Mohave tui chub were observed on site and are not expected to occur on site or in the immediate surrounding area due to a lack of critical habitat for their existence.” MGS are rarely observed and only occasionally detected by vocalizations, but as given above, aside from trapping or remote camera work with appropriate methodologies, there is little chance to detect MGS during the kind of surveys performed by the consultant (Leitner and LaRue 2014). Claiming they are absent “...due to a lack of critical habitat for their existence” is not only nonsensical, it does not represent current management, which requires live trapping surveys (CDFW 2023).

The consultant’s report is negligent in Section 7.0, Conclusions and Recommendations, in not recommending MGS protocol trapping surveys be performed or securing an incidental take permit (ITP). The proponent has two options to ensure that the site is developed without the potential of violating both the California Endangered Species Act (CESA) and CEQA. They may either trap the site for MGS as specified by CDFW (2023) or they may assume presence and acquire an ITP, keeping in mind that the site is located within the MGS Conservation Area, which typically means that impacts would be mitigated at a 5:1 ratio, pending CDFW’s determination.

We strongly recommend that the site be live-trapped and that tissue be collected from any captured MGS to determine whether any of them have hybridized with round-tailed ground squirrels (*Xerospermophilus tereticaudis*). In 2014 at a site located 3.6 miles northwest (see Figure 1 herein), an adult female MGS and four juveniles were captured by eight live traps placed in the vicinity of an incidental observation. When the tissue was analyzed, the female and three of the juveniles were determined to be MGS and the fourth juvenile was a hybrid. Given the proximity of the proposed project to this location, it is important to determine whether any squirrels captured are MGS or hybrids.

Draft Initial Study and Draft Mitigated Negative Declaration

Because the Draft IS/MND relies on the consultant’s report, the problems documented above are perpetuated in the Draft IS/MND and should be corrected in the Final IS/MND. For example, the verbiage taken from page 11 of RCA Associates, Inc. (2024) that is given verbatim on the previous page of this letter also appears on pages 28 and 29 of the Draft IS/MND.

But more importantly, based on the flawed “evaluation” and faulty information, on page 71, the County draws the following conclusion: “The Project Site does not contain ... Mojave ground

squirrel and Proposed Project would not require an ITP for these species.” As given above, in the absence of a true evaluation, which requires a protocol trapping survey (CDFW 2023), the County would be remiss in not requiring an ITP for this project, which is more than likely to affect individual MGS and undoubtedly would result in the permanent loss of MGS habitats from within the designated MGS Conservation Area. The Final IS/MND should be revised to reflect this reality.

These are the only two places in the Draft IS/MND where MGS is mentioned; there are no biological mitigation measures for MGS on pages 30 through 34 where measures are given for the desert tortoise and other special status species. As such, the Draft IS/MND is deficient and the text should be revised accordingly in the Final IS/MND. For example, most of the measures identified for desert tortoises on page 30 would also apply to MGS protection, and should be identified as such in the Final IS/MND.

Although our focus is necessarily on impacts to the MGS, we would like to point out that the mitigation measures for desert tortoise are also problematic. The consultant’s surveys found a desert tortoise onsite and various other tortoise burrows, yet the County is not requiring an ITP for the tortoise. Rather, the Draft IS/MND states on page 30 that “A pre-construction clearance survey be conducted thirty (30) days prior to ground disturbing activities in undeveloped areas to confirm the absence of desert tortoise within the boundaries of the survey area” and “If desert tortoise are [sic] found on-site during the pre-construction clearance survey, coordination will be required with the USFWS and CDFW to determine if avoidance and minimization measures can be implemented to avoid any direct or indirect impacts to desert tortoise, or if an ITP will need to be prepared, and approved by the USFWS and CDFW.”

These recommendations do not reflect current management, which is that an ITP would be required if any evidence of living tortoises is found onsite, including scats, burrows, tracks, egg shells, etc. There have been incidences where the presence of a tortoise carcass has triggered the need for an ITP. As written, the implication is that the site may be developed if scats, burrows, and other signs are found onsite so long as tortoises are not observed, which would be in violation of both CESA and CEQA if the site is developed without an ITP. In fact, one of the functions of the presence/absence tortoise survey performed by RCA Associates, Inc. in May 2024 was to determine if tortoise sign and/or animals are present, and if so, to inform the County and proponent that an ITP is required because those signs occur.

With regards to badger, the consultant makes the following statement in Table 4-2 on page 7, which is unsubstantiated and incomprehensible: “Minimal suitable habitat, likely not to occur given the due to food being scarce.” Given that badgers depredate small mammals, particularly rodents, is the consultant saying there are no rodents? In any case, the consultant concludes on page 12 that MGS “...have a nominal chance to occur on site...” and the “... site shows very little suitable habitat ... they are most likely not to occur on site.” That being said, the two “Class 3 [tortoise] burrows” depicted in Figure 10 are actually badger digs, and evidence that badgers have recently foraged on the subject property. The Final IS/MND should be revised to show that badgers may forage on the site and possibly den there, and that the proponent should take necessary precautions to avoid affecting them.

We appreciate this opportunity to provide comments on this project and trust they will help protect MGS during any resulting authorized activities. Herein, we reiterate that the Mohave Ground Squirrel Conservation Council wants to be identified as an Affected Interest for this and all other projects funded, authorized, or carried out by the County of San Bernardino that may affect the species, and that any subsequent environmental documentation for this project is provided to us at the contact information listed above. Additionally, we ask that you respond in an email that you have received this comment letter so we can be sure our concerns have been registered with the appropriate personnel and office for this project.

Respectfully,



Donald R. Mitchell
Co-Chairperson
Mohave Ground Squirrel Conservation Council

Cc: Brian Croft, Assistant Field Supervisor, Palm Springs Fish and Wildlife Office, U.S. Fish and Wildlife Office, brian_croft@fws.gov
Peter Sanzenbacher, Mojave Desert Division Supervisor, peter_sanzenbacher@fws.gov
Heidi Calvert, Regional Manager, Region 6, Inland and Desert Region, California Department of Fish and Wildlife, Heidi.Calvert@wildlife.ca.gov
Steven Recinos, Environmental Scientist, Region 6, Inland Deserts Region, California Department of Fish and Wildlife, steven.recinos@wildlife.ca.gov
Marc Stamer, Field Manager, Barstow Field Office, Bureau of Land Management, mstamer@blm.gov, BLM_CA_Web_BA@blm.gov
Annelise Hill, Environmental Review, U.S. Environmental Protection Agency, hill.annelise@epa.gov

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- RCA Associates, Inc. 2024. General Biological Resources Assessment Rail Loop Project, Hinkley, San Bernardino County, California. June 24, 2024.

EXHIBIT H

Applicant Response to Comments

November 6, 2025

Mr. Derek Newland, Planner
San Bernardino County Land Use Services
385 N. Arrowhead Ave., 1st Floor
San Bernardino, CA 92415-0182

Re: Responses to CDFW Comment Letter on Aggregate Loading Facility and Rail Loop Project - IS/MND SCH#2025090950

Dear Mr. Newland:

The County received a comment letter from the California Department of Fish and Wildlife (CDFW) dated October 21, 2025 regarding the Aggregate Loading Facility and Rail Loop Project Initial Study/Mitigated Negative (IS/MND) SCH#2025090950. The letter provided two comments addressing potential biological impacts mainly editing an existing mitigation measure and recommending adding a new mitigation measure to conduct pre-construction surveys for the badger and kit fox as discussed below. In addition, CDFW noted and “appreciates that the Project Proponent has applied for a CESA incidental take permit (ITP) for Mohave ground squirrel (*Xeromorphophilus mohavensis*) and desert tortoise (*Gopherus agassizii*).”

CDFW edited the MM with equal or more effective measures and recommended adding one mitigation measure as MM BIO-21. It is recommended that the County include these revised more effective measures as stated by the CDFW into conditions of approval and into the Final IS/MND in the staff report for the Planning Commission hearing.

Comment 1: Nesting Birds

***CDFW Issue #1:** CDFW appreciates that the MND included a mitigation measure for pre-construction surveys for nesting birds (i.e., BIO-3). However, BIO-3 only requires a pre-construction survey for nesting birds if construction occurs between February 1 to September 15, which is the general nesting bird season. CDFW recommends that disturbance to occupied nests of non-migratory birds, migratory birds, and raptors within the Project site and surrounding area be avoided any time birds are nesting onsite. This is in consideration that studies have shown that migratory bird species arrive earlier in the season partially in response to higher temperatures influenced by climate change (Usui et. al. 2016). In addition, in response to warming, birds have been reported to breed earlier and CDFW staff have observed that climate change conditions may result in nesting bird season occurring earlier and later in the year than historical nesting season dates.*

Response to Comment #1:

The issue was addressed in the IS/MND and biology reports and mitigation was listed. Existing MM BIO-3 was edited by CDFW to state nesting surveys required any time of year prior to

disturbing soil or vegetation. The revision also highlighted the need for a qualified biologist. CDFW did not provide any new or site specific information on occurrence or potential impact to nesting birds.

This CDFW recommendation to edit MM BIO-3 to include (regardless of the time of year) shall be accepted by the County. Upon acceptance of CDFW-revised MM BIO-3 below, the proposed project will not significantly impact nesting birds.

Deletions are ~~lined out~~ and additions are underlined.

Revised Mitigation Measure BIO-3 (nesting birds) per CDFW Comment

~~If construction occurs between February 1st and September 15th, a~~ A pre-construction clearance survey for nesting birds shall be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction. The ~~wildlife~~ qualified biologist conducting the clearance survey should document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur. If an active avian nest is discovered during the pre-construction clearance survey, construction activities ~~should~~ shall stay outside of a no-disturbance buffer. The size of the no-disturbance buffer will be determined by the wildlife qualified biologist based on on-site conditions and the species nesting (a minimum 250-foot buffer shall be marked around songbird nests. Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed on the sensitivity of nest areas. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur.

Comment 2: American Badger (*Taxidea taxus*) and Desert Kit Fox (*Vulpes macrotis*)

***CDFW Issue #2:** Due to their similar life history, desert kit fox and American badger are hereby addressed together. Desert kit fox and American badger are special status species and according to the California Natural Diversity Database (CNDDDB), the Project is within predicted habitat for American badger (CDFW Species of Special Concern), and desert kit fox (fur bearing mammal) is found within four miles of the Project site. However, the MND did not consider desert kit fox in its analysis and stated that American badger has a nominal chance of occurring on-site due to a lack of food, but American badger are opportunistic predators and primarily eat small mammals such as Mohave ground squirrel, which are likely present on-site.*

Response to Comment #2:

According to the CDFW comment letter, the Project Site is within predicted habitat for American badger; and desert kit fox (both CDFW Species of Special Concern) is found within four miles of the Project Site. The BRA accessed the CNDDDB for the Twelve Gauge Lake and Hinkley quadrangles and no records of occurrence for kit fox were found. CDFW did not provide any site specific information on occurrence or potential impact to this species.

The BRA conducted thorough protocol burrow surveys for desert tortoise, MGS, and burrowing owl and did not find any sign or evidence of use by American badger and kit fox. Therefore, the BRA concluded that there were no impacts to these two species and no mitigation was required.

To avoid potential impacts to desert kit fox and American badger that could move onto the Project Site prior to rail line construction, CDFW recommended the inclusion of a mitigation measure to conduct pre-construction surveys for these two species. Therefore, Mitigation Measure BIO-21 below is included to address potential impacts to American Badger and Desert Kit Fox.

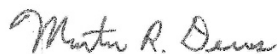
Mitigation Measure BIO-21 per CDFW Comment Letter

No more than 30 days prior to the beginning of ground disturbance and/or Project activities, a qualified biologist shall conduct a survey to determine if potential desert kit fox or American badger burrows are present in the Project site. If potential burrows are located, they shall be monitored by the qualified biologist. If the burrow is determined to be active, the qualified biologist shall verify there are suitable burrows outside of the Project site prior to undertaking passive relocation actions. If no suitable burrows are located, artificial burrows shall be created at least fourteen days prior to passive relocation. The qualified biologist shall block the entrance of the active burrow with soil, sticks, and debris for 3-5 days to discourage the use of the burrow prior to Project activities. The entrance shall be blocked to an incrementally greater degree over the 3-5-day period. After the qualified biologist has determined there are no active burrows, the burrows shall be hand excavated to prevent re-use. No disturbance of active dens shall take place when juvenile desert kit fox and juvenile American badgers may be present and dependent on parental care. The qualified biologist shall determine appropriate buffers and maintain connectivity to adjacent habitat should natal burrows be present.

Upon County review of this response letter, the CDFW recommendations discussed above, in addition to any other County edits, will be incorporated into a Final IS/MND for your review and use.

If you have any questions, please call or email Marty Derus (marty@lilburncorp.com) or Frank Amendola (frank@lilburncorp.com).

Sincerely,



Martin Derus
President
Lilburn Corporation

November 6, 2025

Mr. Derek Newland, Planner
San Bernardino County Land Use Services
385 N. Arrowhead Ave., 1st Floor
San Bernardino, CA 92415-0182

Re: Responses to Desert Tortoise Council Comment Letter on Aggregate Loading Facility and Rail Loop Project - IS/MND SCH#2025090950

Dear Mr. Newland:

The County received a comment letter from the Desert Tortoise Council (Council) dated October 23, 2025 regarding the Aggregate Loading Facility and Rail Loop Project Initial Study/Mitigated Negative (IS/MND) SCH#2025090950 and thanks the Council for their comments and information. The letter includes recommendations intended to enhance protection of desert tortoise and its habitat.

The California Department of Fish and Wildlife (CDFW) has reviewed the IS/MND and related BRA and had no comments on the BRA's surveys and findings regarding desert tortoise and Mohave ground squirrel (MGS) (CDFW comment letter dated October 21, 2025). **CDFW acknowledged and "appreciates that the Project Proponent has applied for a CESA incidental take permit (ITP) for Mohave ground squirrel (*Xerospermophilus mohavensis*) and desert tortoise (*Gopherus agassizii*)."**

In addition, the Bureau of Land Management (BLM) issued a Decision Record (DR) authorizing the ROW on September 24, 2025. The BLM reviewed and conducted an Environmental Assessment (Categorical Exemption DOI-BLM-CA-D080-2025-0014) on the Right-of-Way (ROW) grant for the 7.7 acres of track alignment on public lands on the south side of the rail loop. Consultation with the USFWS was completed under the existing BLM Programmatic Biological Opinion (PBO) for Activities in the California Desert Conservation Area (FWS-KRN/SBD/INY/LNRIV-1780532-17F1029) issued by the U.S. Fish and Wildlife Service for desert tortoise.

The DR states that the project is not located in Desert Tortoise critical habitat but is located in suitable desert tortoise habitat based on the Biological Technical Report (BRA). Consistent with the Desert Renewable Energy Conservation Plan (DRECP), a 1:1 mitigation requirement is required to off-set impacts to desert tortoise. This requirement is nested within the mitigation requirement for impacts to the Superior-Cronese Area of Critical Environmental Concern (ACEC) which will be mitigated at a 3:1 ratio.

With the implementation of Stipulations (Appendix C: Stipulations in the Decision Record and incorporated in the IS/MND), impacts to this species are not considered significant. No other listed or proposed listed species were determined to be on the ROW site.

Mr. Derek Newland

November 6, 2025

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Rather than addressing each comment in detail, the County will rely on BLM/USFWS determinations in the DR (stipulations previously included in the IS/MND) and CDFW's review, findings, and recommendations or conditions in the ITP to be provided by the CDFW upon certification of CEQA. All BLM stipulations and mitigation off-sets and ITP conditions for MGS and desert tortoise will be incorporated into the County's conditions of approval.

If you have any questions, please call or email Marty Derus (marty@lilburncorp.com) or Frank Amendola (frank@lilburncorp.com).

Sincerely,



Martin Derus
President
Lilburn Corporation

November 6, 2025

Mr. Derek Newland, Planner
San Bernardino County Land Use Services
385 N. Arrowhead Ave., 1st Floor
San Bernardino, CA 92415-0182

Re: Responses to Mohave Ground Squirrel Conservation Council Comment Letter on
Aggregate Loading Facility and Rail Loop Project
IS/MND SCH#2025090950

Dear Mr. Newland:

The County received a comment letter from the Mohave Ground Squirrel Conservation Council (MGSCC) dated October 24, 2025 regarding the Aggregate Loading Facility and Rail Loop Project Initial Study/Mitigated Negative (IS/MND) SCH#2025090950. The letter disagreed with the General Biological Resources Assessment (BRA) and IS/MND's conclusion that the likelihood of Mohave Ground squirrel (MGS) occurring on the proposed project site is extremely low.

Please note that the California Department of Fish and Wildlife (CDFW) reviewed the IS/MND and related BRA and had no comments on the BRA's surveys and findings related to the MGS (CDFW comment letter dated October 21, 2025). **CDFW acknowledged and "appreciates that the Project Proponent has applied for a CESA incidental take permit (ITP) for Mohave ground squirrel (*Xerospermophilus mohavensis*) and desert tortoise (*Gopherus agassizii*)."** Rather than addressing each comment in detail, the County will rely on CDFW's review, findings, and recommendations or conditions in the ITP and all ITP conditions for MGS and desert tortoise will be incorporated into the County's conditions of approval.

The following reasons were listed in their comment letter and summarized below with responses:

Comment 1:

This comment states that "there is no CDFW protocol for evaluating MGS habitat like there was in the early 1990s. Rather, there is a trapping survey protocol (CDFW 2023) that requires a formal trapping study following visual surveys of the subject property."

RCA's evaluation for suitable habitat of the MGS was performed per CDFW protocol including evaluation of local populations and an assessment of connectivity with habitats in the surrounding area which might support populations of the Mohave ground squirrel. The CDFW made no comments to the IS/MND regarding the MGS nor the protocols for evaluating habitat and will be assessing potential MGS impacts through the ITP applied for by the Applicant.

Comment 2:

This comment argues that "no part of the report constitutes a scientifically defensible evaluation of local populations by qualified biologists and does not have evaluation of local populations."

RCA's evaluation for suitable habitat of the Mohave ground squirrel was performed as per CDFW protocol. RCA comprises qualified biologists. The CDFW made no comments to the IS/MND regarding the MGS nor the protocols for evaluating habitat and will be assessing potential MGS impacts through the ITP applied for by the Applicant.

Comment 3:

MSGCC asserts that, unlike the conclusion drawn in the BRA and IS/MND, the subject property does provide for "...connectivity with habitats in the surrounding area" and is very likely to "...support populations of the Mohave ground squirrel." The comment points out that "the subject property is located within the Mohave Ground Squirrel Conservation Area."

As stated in the BRA, surveys yielded poor Mohave ground squirrel habitat quality of the project area, no recent sightings of Mohave Ground Squirrel in this general area in the past 10 years, and the low population levels. In addition, there is no connectivity with critical habitat which may support the species.

The CDFW made no comments to the IS/MND regarding the MGS nor the protocols for evaluating habitat and will be assessing potential MGS impacts through the ITP applied for by the Applicant.

Comment 4:

MSGCC concludes that the "habitats are suitable and we question the consultant's unfounded and unsubstantiated conclusion that habitats are 'poor'".

RCA determined that the habitat is not prime Mohave ground squirrel habitat and is very unlikely to support populations of the species based on the following criteria: no recent documented observations in the general region, no connectivity with critical habitat which may support the species, and the Project site not having crucial habitat for survival. The CDFW made no comments to the IS/MND regarding the MGS nor the protocols for evaluating habitat and will be assessing potential MGS impacts through the ITP applied for by the Applicant.

Comment 5:

MSGCC argues that using no sighting for 10 years as a basis for low likelihood of MGS occurrence is arbitrary as CDFW does not use any such number as a basis for determining the likelihood of MGS occurrence on a given site. They cite studies documenting MGS sightings in the area.

RCA's evaluation for suitable habitat of the MGS was performed as per CDFW protocol including evaluation of local populations and an assessment of connectivity with habitats in the surrounding area which might support populations of the Mohave ground squirrel. The CDFW made no comments to the IS/MND regarding the MGS nor the protocols for evaluating habitat and will be assessing potential MGS impacts through the ITP applied for by the Applicant.

Comment 6:

This comment notes that RCA's observation of no signs of past human disturbance and presence of native vegetation occurring throughout the site are indicators that the site comprises suitable MGS habitats. In addition, MSGCC states: it is our understanding that the County only accepts

conclusions about the likely occurrence of MGS from consultants who have an MGS MOU issued by the CDFW. It also argues that RCA's three criteria for determining that the habitat is not prime MGS habitat is flawed and provides reasons for this. MGS recommends either trapping the site for MGS as specified by CDFW (2023) or they may assume presence and acquire an ITP.

As stated previously, The CDFW made no comments to the IS/MND regarding the MGS nor the protocols for evaluating habitat and will be assessing potential MGS impacts through the ITP applied for by the Applicant.

Comment on IS/MND:

MGSCC also disagrees with the conclusions in the IS/MND, which summarizes the findings of the BRA. MGSCC suggests that the IS/MND require mitigation measures for MGS, as it did for desert tortoise and other special status species. They argue that an ITP for desert tortoise should be prepared. Lastly, the Final IS/MND should be revised to show that badgers may forage on the site and possibly den there, and that the proponent should take necessary precautions to avoid affecting them.

The IS/MND has been reviewed by the CDFW and the agency has recommended revisions to or additional mitigation measures to reduce potential impacts to biological resources, namely nesting birds, desert kit fox, and American Badgers. All of the CDFW's recommended changes to the IS/MND shall be accepted by the County. CDFW also acknowledged and appreciated that the Project Proponent has applied for a CESA ITPs for Mohave ground squirrel and desert tortoise.

Upon County review of this response letter, the CDFW's review and requirements under the CESA ITP for desert tortoise and MGS and CDFW's recommendation for American Badger surveys will address MGSCC's concerns. The County will incorporate all ITP conditions for MGS and desert tortoise into the County's conditions of approval.

If you have any questions, please call or email Marty Derus (marty@lilburncorp.com) or Frank Amendola (frank@lilburncorp.com).

Sincerely,



Martin Derus
President
Lilburn Corporation