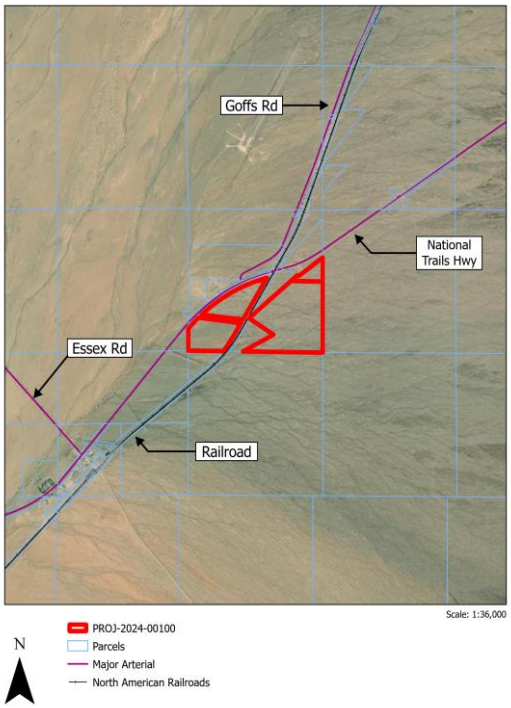
LAND USE SERVICES DEPARTMENT
PLANNING COMMISSION STAFF REPORT

HEARING DATE: February 19, 2026 **AGENDA ITEM # 4**

Project Description

APN:	0655-151-01; 0655-162-01
Applicant:	SB County Department of Public Works
Community:	Essex
Project No:	PROJ-2024-00100
Location	Thirty-five miles west of Needles, CA. South of I-40 between National Trails Hwy, and the BNSF Railroad at Goffs Road.
Staff:	Derek Newland
Rep:	Ayida Smith
Proposal:	Conditional Use Permit and Reclamation Plan for a 47-acre mining site consisting of two pits (22-acre North Pit and 25-acre South Pit) on a 245-acre site for 100 years to provide general fill material for various San Bernardino County Department of Public Works sites for annual maintenance and/or emergencies.



29 Public Hearing Notices Sent on: February 3, 2026

Report Prepared By: Derek Newland, Planner II

SITE INFORMATION:
Parcel Size: Approximately 245.06-acres
Total Mining: 47 acres
Vegetation: Scattered desert native vegetation

TABLE 1 – SITE AND SURROUNDING LAND USES AND ZONING:

AREA	EXISTING LAND USE	LAND USE CATEGORY	LAND USE ZONING DISTRICT
SITE	Vacant Property	Open Space (OS)	Resource Conservation (RC)
North	Vacant Properties	Open Space (OS)	Resource Conservation (RC)
South	Vacant Properties	Open Space (OS)	Resource Conservation (RC)

AREA	EXISTING LAND USE	LAND USE CATEGORY	LAND USE ZONING DISTRICT
East	Vacant Properties	Open Space (OS	Resource Conservation (RC)
West	Vacant Properties	Open Space (OS	Resource Conservation (RC)

	Agency	Comments
City Sphere of Influence:	Essex	N/A
Water Service:	Caltrans Essex Maintenance Station by Water Truck	N/A
Sewer Service:	Portable Toilets	N/A

STAFF RECOMMENDATION: That the Planning Commission **ADOPT** the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; **ADOPT** the Findings in support of the Conditional Use Permit and Reclamation Plan; **APPROVE** the Conditional Use Permit and Reclamation Plan, subject to the Conditions of Approval; and **DIRECT** Staff to file a Notice of Determination in accordance with California Environmental Quality Act[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.

FIGURE 1 REGIONAL LOCATION MAP

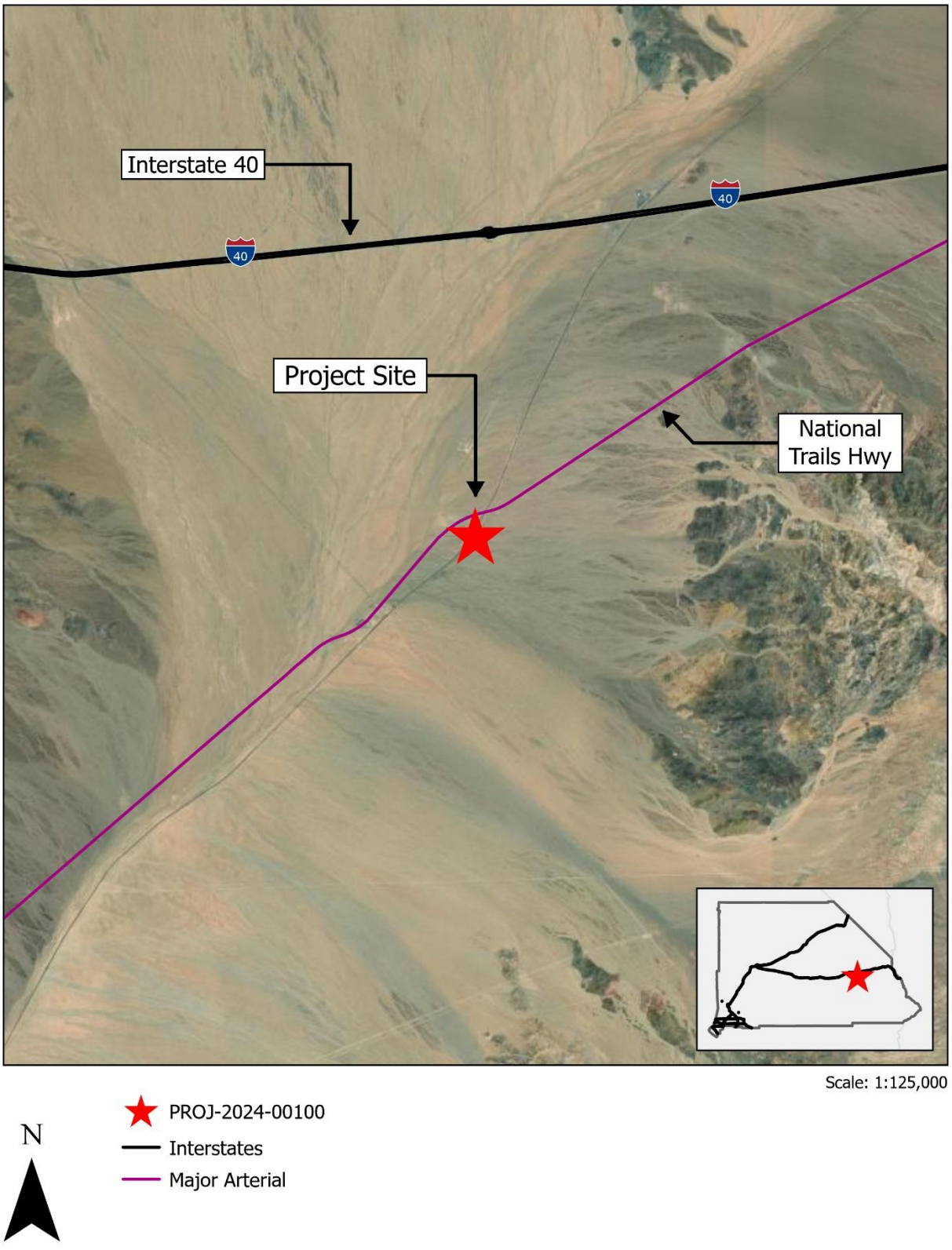
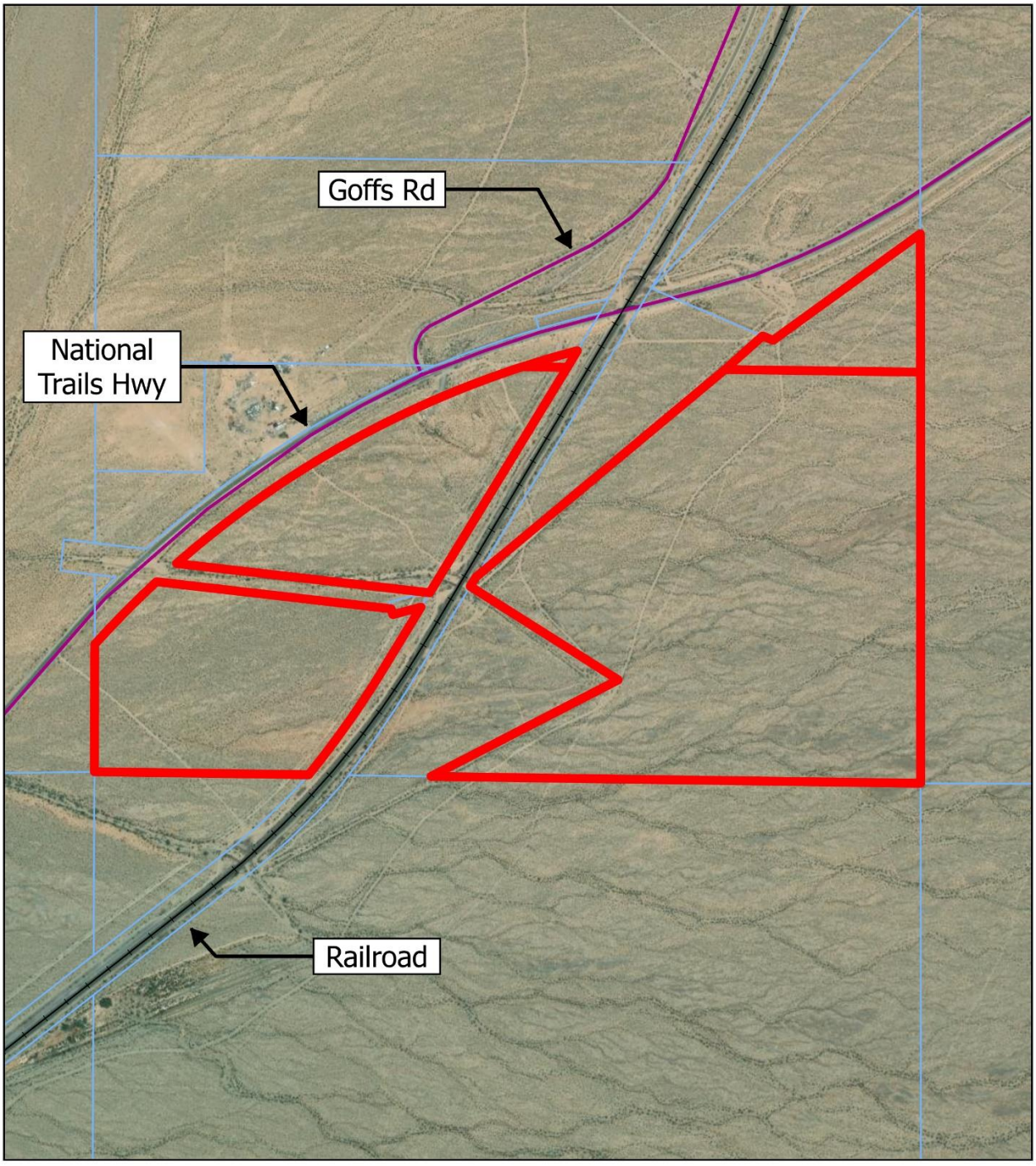


FIGURE 2 – VICINITY MAP



Scale: 1:12,000

N

PROJ-2024-00100
Parcels
Major Arterial
North American Railroads

FIGURE 3 – LAND USE CATEGORIES
OPEN SPACE (OS)

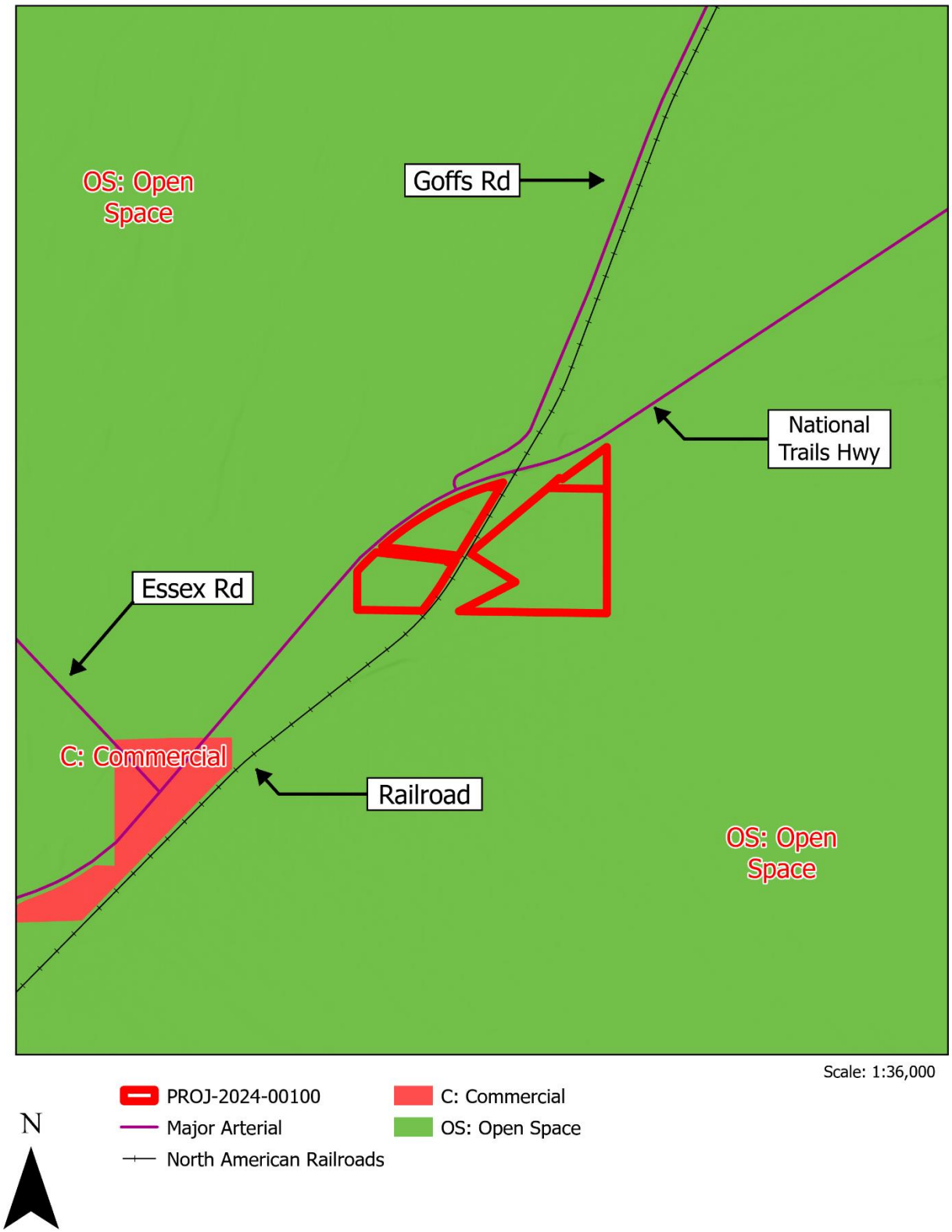


FIGURE 4 – LAND USE ZONING DISTRICT
RESOURCE CONSERVATION (RC)

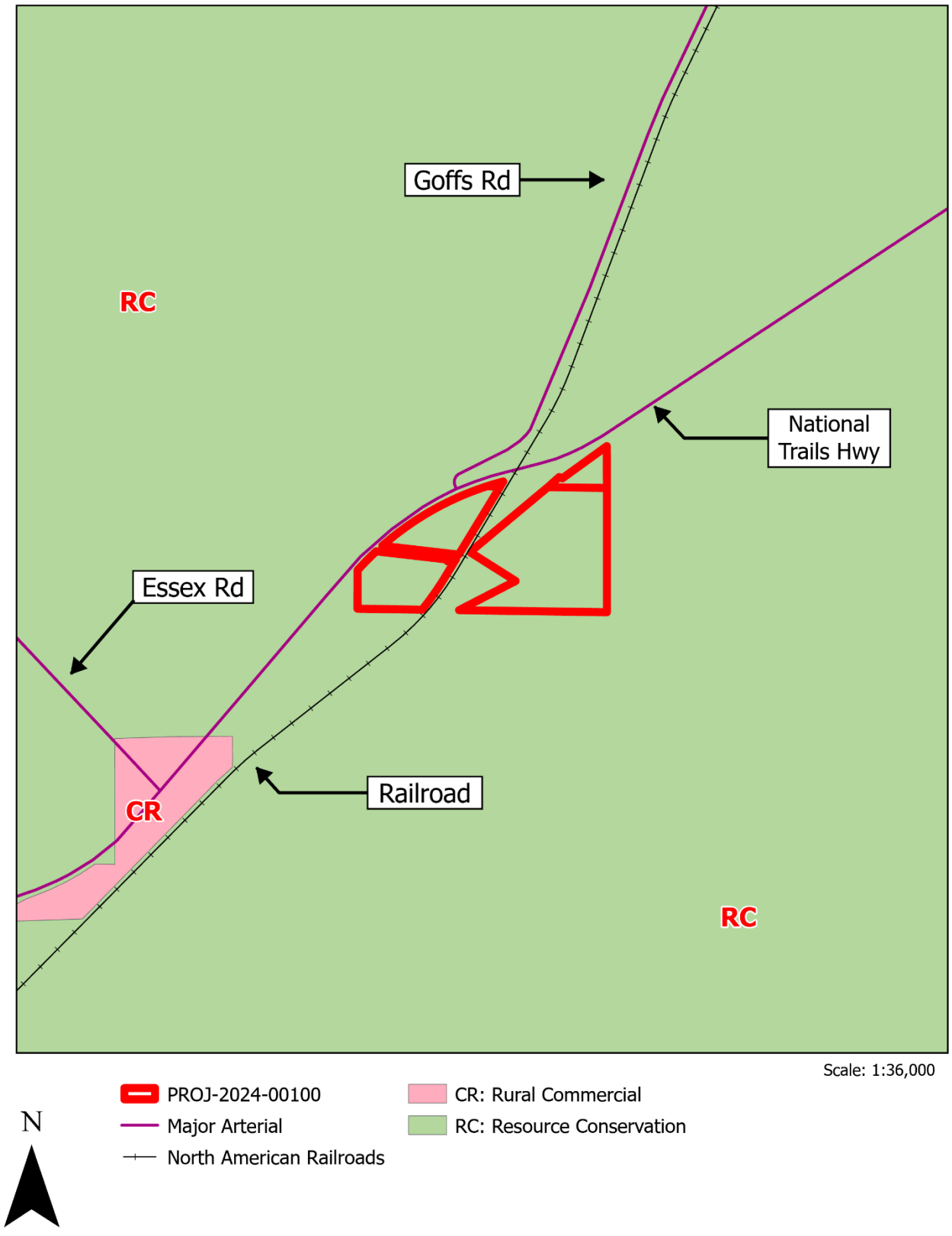
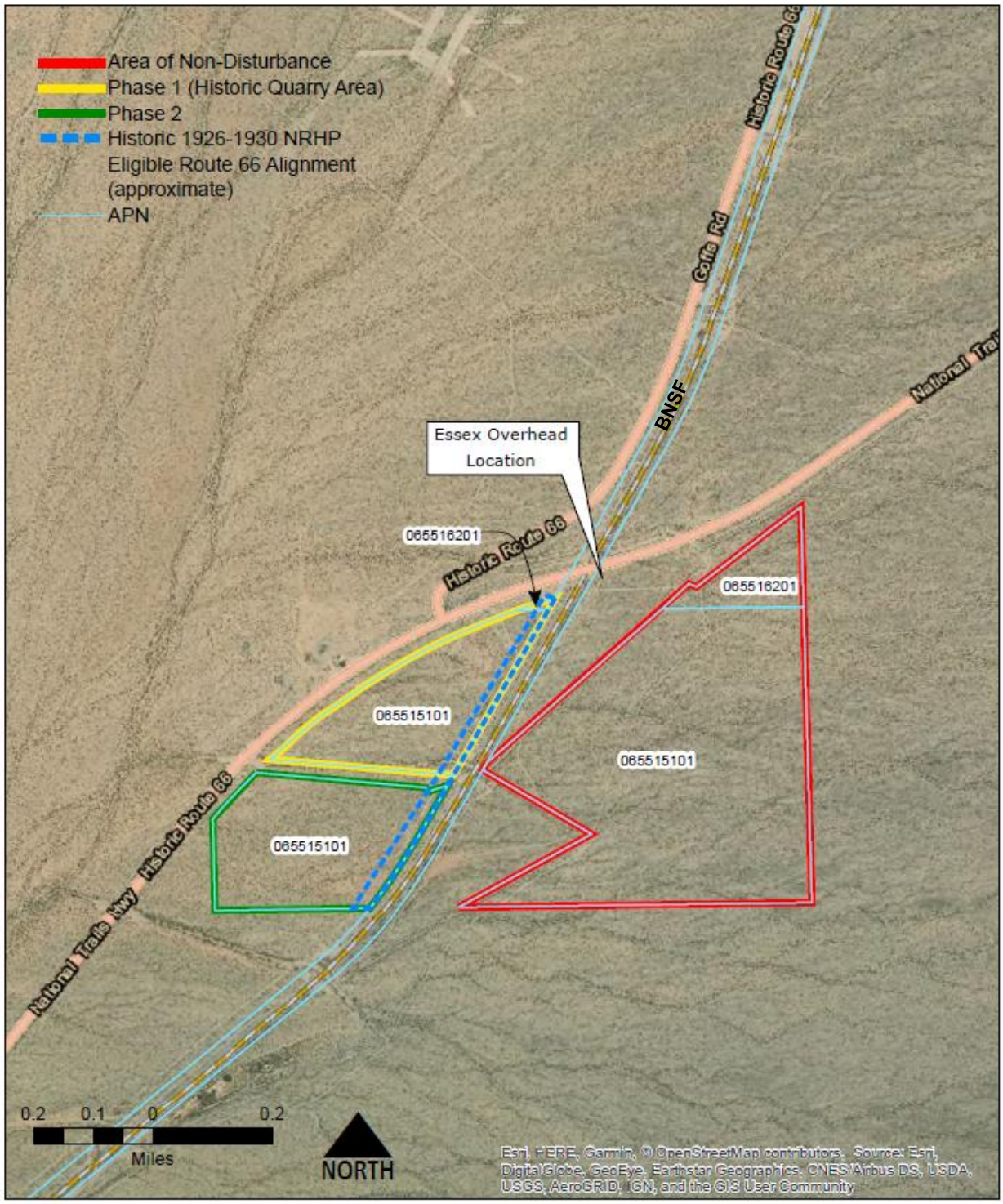


FIGURE 5 – ESSEX OVERHEAD Pit LAYOUT



SAN BERNARDINO COUNTY

PROPOSED ESSEX OVERHEAD QUARRY

FIGURE 6 -- ESSEX OVERHEAD PIT MINE PLAN MAP

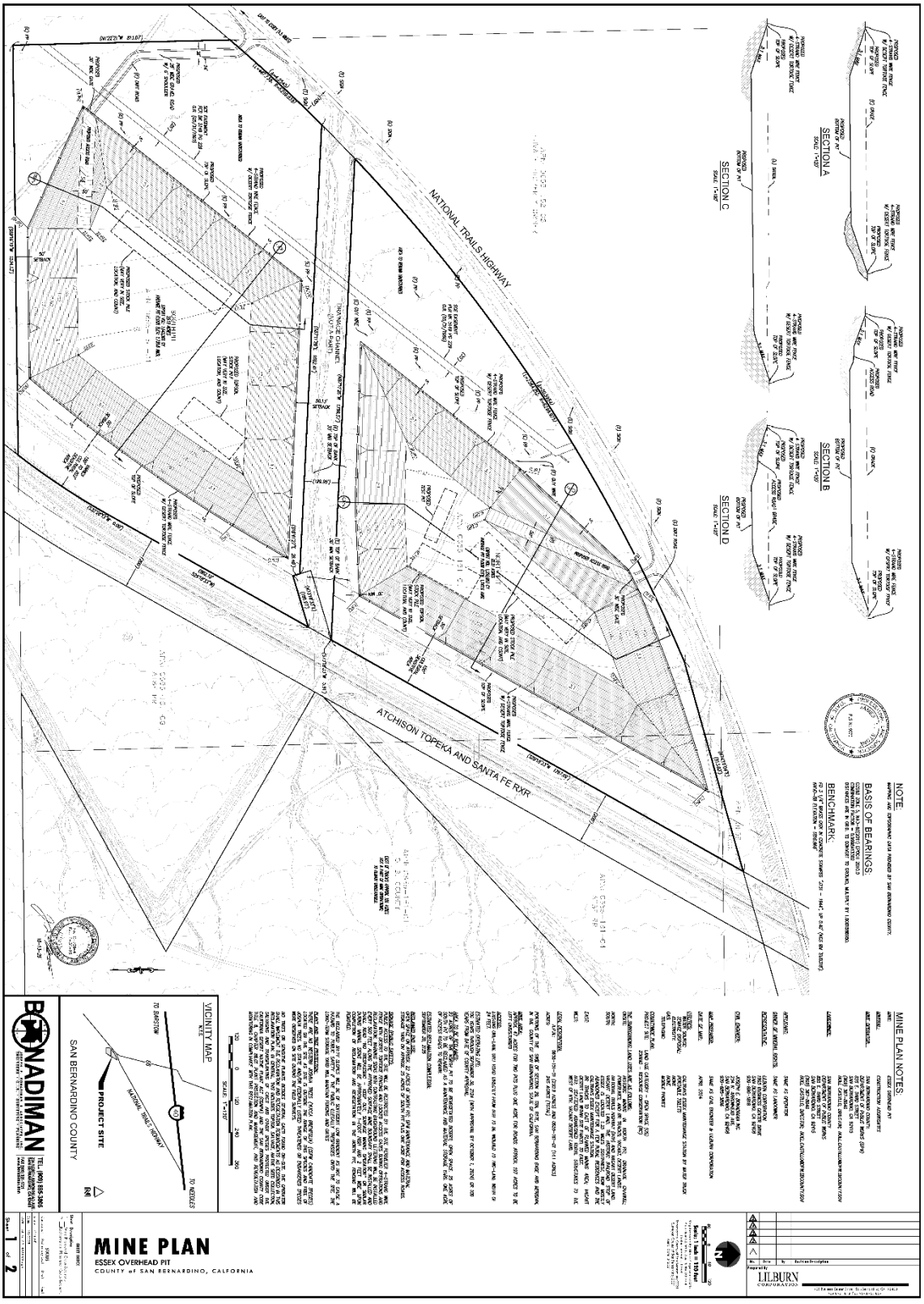
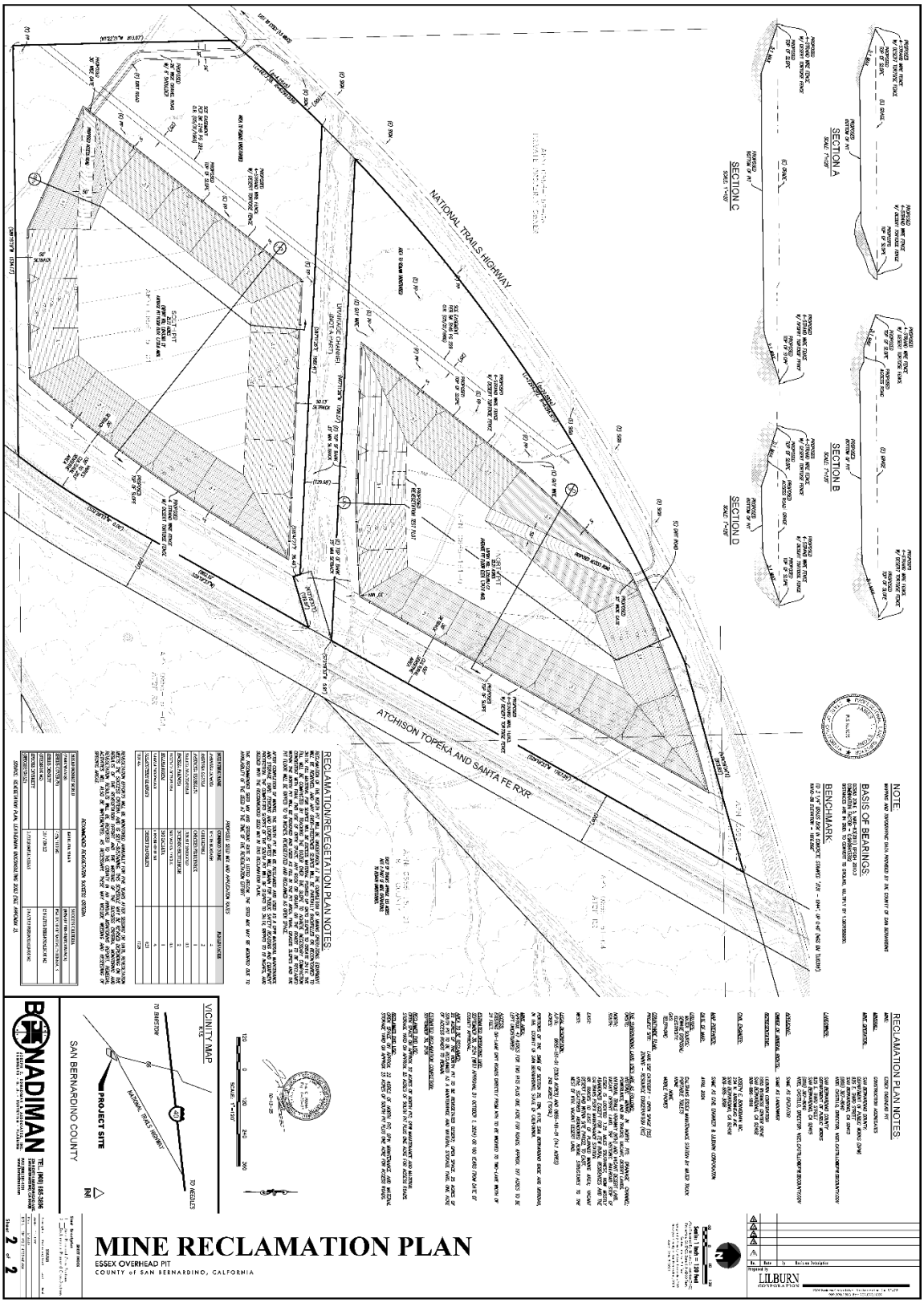


FIGURE 7 - ESSEX OVERHEAD PIT RECLAMATION PLAN MAP



PROJECT DESCRIPTION

Project

The San Bernadino County Department of Public Works (DPW) requests a Conditional Use Permit and approval of a Mining and Reclamation Plan (hereafter referred to as the "Project") to mine the Essex Overhead Pit (CA Mine ID No. 91-36-0191) to provide aggregate for construction, repair and maintenance of local and regional roads, shoulders, and bridge crossings. The Project area consists of two parcels, Assessor's Parcel Numbers 0655-151-01 (230.9 acres) and 0655-162-01 (14.16 acres) for a total of 245.06 acres (Project site).

Location

The Project site is located on vacant County owned land south of the intersection of Goffs Road and Route 66 - National Trails Highway (NTH). Regionally the site is approximately 1.3 miles northeast of Essex in the eastern Mojave Desert.

Zoning

The Project is zoned as Resource Conservation (RC) and is encompassed by similarly zoned parcels as noted in Figure 4 (Zoning Map). Parcels surrounding and adjacent to the site are vacant and undeveloped property and consist of mostly government land under the jurisdiction of the Bureau of Land Management (BLM). No residential dwellings, schools, hospitals, or public facilities are situated by the site. The nearest residential dwelling is located approximately (2) miles south of the site in the Town of Essex and a dilapidated structure exists across NTH from the Project site.

Mining Operations

The Essex Overhead Pit mining operation consists of three (3) components, two of which are located on the west side of the Burlington Northern Santa Fe (BNSF) railroad tracks, and one which is located on the east side as shown in Figure 5. The average pit depth will be 60 feet. Mining operations will commence in 2026 for a period of 100 years until 2126. At the conclusion of mining activities, all mining equipment will be removed from the site, and all debris will be disposed of at a permitted facility.

West of BNSF railroad: Two pits totaling 47 acres will be mined for aggregate. Mining Operation will begin with the North Pit (Phase I) and once aggregate operations and or the depth is reached, mining operations will continue with the South Pit (Phase II).

East of BNSF Railroad: The acreage on the east side of the rail line will remain undisturbed and will not be reclaimed.

The Project proposes annual average mining extraction of up to 10,000 cubic yards (cy) or 15,000 tons. However, depending on need the annual amounts may vary up to 50,000 tons or more, depending on scheduled road maintenance and repair and emergency repairs. Materials may also be made available for other regional government infrastructure improvement and repair.

Ore Processing

The mined material will be loaded directly into trucks for transport to DPW construction sites. No permanent crushing or screening plant facilities are planned on-site. As needed, a portable crusher/screen plant will be utilized on-site for excavated material. Excavated material may be stockpiled onsite for use as needed. When a crusher/screen plant is used onsite, it will be powered by a portable generator. The use of a temporary crusher/screen plant and generator will be permitted through the Mojave Desert Air Quality Management District (MDAQMD) as required. No blasting is proposed and as such, no explosives will be used or stored on site.

Access and Transport

Approximately 2 to 5 street-legal 25-ton trucks, or 4 to 10 smaller 15-ton dump trucks, may access the site per average day. The Project is not anticipated to create any new safety or operational concerns. The Project did not warrant the preparation of a Transportation Impact Study (TIS) with Level of Service (LOS) analysis based on the County-established screening criteria. LOS impacts are presumed to be negligible given that the maximum number of trips is 4 to 10 truck trips per day.

Dust Mitigation

To minimize dust, a water truck will be utilized as needed during excavations and loading of haul trucks. In addition, the mine operator shall spray water on working mine areas and access roads regularly. Spraying frequency will increase as needed during windy conditions. Water used for dust control will be obtained from the Caltrans Essex Maintenance Station located approximately 1.5 miles southwest via a water truck. Dust from utilizing unpaved haul roads and access roads will be controlled with water and/or covered with road base material as needed. Approximately 4,000 gallons of water a day may be used for dust suppression activities. The Project will be required to obtain an approved Dust Control Plan from MDAQMD.

RECLAMATION AND REVEGETATION

Following completion of mining, the South Pit will be used as a DPW material maintenance and storage yard. The North Pit will be reclaimed as revegetated open space. Approximately 197 acres of surrounding undisturbed land will remain as open space.

Reclamation will include removal of all equipment, final grading, surface de-compaction, and reuse of rock or gravel from reclaimed roads as pit fill. Disturbed areas will be reclaimed and revegetated within one year of mining completion. Revegetation will utilize salvaged soils placed in randomly distributed soil islands and seeded with a native, certified weed-free seed mix. Quick-growing species will be included for short-term erosion control. Revegetation success will be monitored annually for up to five years or until success criteria are met, whichever occurs first.

Fencing and gates surrounding the North Pit will be removed once revegetation success criteria are achieved. Fencing and gates will remain around the South Pit to restrict unauthorized access. Unauthorized roads will be permanently closed at the property boundary.

Division of Mine Reclamation

On December 23, 2024, the County Mining Division transmitted and notified the Division of Mine Reclamation (DMR) of the Essex Overhead Pit mining application submittal on June 18, 2024. Prior to DMR submittal, on October 3, 2024, the County Mining Division accepted DPW's Essex Overhead Pit application as complete pursuant to Surface Mining and Reclamation Act located in Public Resources Code (SMARA) section 2772.1. On February 21, 2025, DMR notified County Mining staff that they received a complete Reclamation Plan. On January 12, 2026, a response to comment and 30-day to approve letter was provided to DMR.

PROJECT ANALYSIS

Section 82.03.040 of the Development Code allows Natural Resources Development (Mining) in the Resource Conservation (RC) Zoning District subject to approval of a Conditional Use Permit. The requirement for a Conditional Use Permit, a Reclamation Plan and Financial Assurance plan are outlined in Development Code Chapter 88.03 (Surface Mining and Land Reclamation).
The Project Reclamation Plan and Conditional Use Permit together with the provisions for its design

and improvement are consistent with the Policy Plan, including, but not limited to, goal NR-6 (Mineral Resources). The Project as designed is consistent with Land Use Element goals as further set forth in the Findings:

Conditional Use Permit

- **Countywide Plan Goal NR-6 Mineral Resources**:
  County Mineral resource zones that allow extraction industries to continue supporting the regional and national economy while minimizing negative impacts on the public and natural environment.

- **Policy NR-6.2 Mining operations and Reclamation**
  We require and monitor mineral extraction activities to ensure that the operation and reclamation of mined lands is consistent with the State Surface Mining and Reclamation Act of 1975 (SMARA).

- **Policy NR-6.3 Conservation of Construction Aggregate**
  We encourage the continued operation of existing mining facilities and streamline the permitting of new mining facilities (consistent with the Policy Plan and other local, state, and federal regulations) to establish aggregate resources that are sufficient to satisfy 50 years of county demand.

  Goal LU 1 Fiscally Sustainable Growth.
  An arrangement of land uses that balances the lifestyle of existing residents, the needs of future generations, opportunities for commercial and industrial development, and the value of the natural environment.

  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.

Reclamation Plan

- **SMARA Reclamation Plan Provisions**
  The Project's Reclamation Plan complies with SMARA (Public Resources Code Sections 2772-2773) and any other applicable provisions. The Reclamation Plan was reviewed, and conditioned, for compliance with SMARA.

- **Site Reclamation**
  The Reclamation Plan, as conditioned, along with annual mine inspections pursuant to SMARA will ensure reclamation of the mined lands return to a usable condition (Open Space Habitat) that is readily adaptable for alternative land uses, which with regard to this Project, is open space.

- **Mine Permitting**
  Mine permitting and reclamation is regulated by Chapter 88.03 of the County's Development Code, which incorporates SMARA. Upon approval of the Conditional Use Permit and Reclamation Plan including the financial assurances are sufficient under Public Resources Code Section 2770(d), the Department will provide a copy to the California Division of Mine Reclamation (DMR) within 30 days for DMR approval.

Project Benefits
The County recognizes that the extraction of minerals is essential to the continued well-being of the County, its residents, and societal needs in general. The following benefits illustrate how the Project meets the Countywide Mining objectives:

1. Provides long-term term source for material;

2. Provides construction aggregate materials for infrastructure repair and maintenance;

3. Supplies fill for local and regional area roads, shoulders and wash crossings;

4. Meets the State's and County's SMARA reclamation requirements;

5. Minimizes impacts on wildlife through implementation of wildlife protection measures especially for protection of desert tortoise; and

6. Reclaim a portion of the site the site for open space; and

7. Provides subsequent use as a DPW material maintenance and storage yard.

The Project supports the DPW Mission Statement included in the Countywide Plan: "To enhance the quality of life for our communities by developing and maintaining public infrastructure and providing a variety of municipal services that complements our natural resources and environment".

California Environmental Quality Act Compliance

In compliance with the California Environmental Quality Act (CEQA), an Initial Study (IS) attached as Exhibit A was completed and routed to the State Clearinghouse for circulation (SCH# 2025050552) and posted on the County's environmental website for review. 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 May 13, 2025, and concluded on June 11, 2025. The IS concluded that the Project will not have a significant adverse impact on the environment with the implementation of specific mitigation measures for Biological Resources. These mitigation measures have been incorporated in the Project's Conditions of Approval as the Project's Mitigation Monitoring and Reporting Program (MMRP) attached as (Exhibit B).

Planning staff received two letters, one from the California Department of Fish and Wildlife (CDFW) dated June 11, 2025, attached as Exhibit G, and one from the California State Department of Toxic Substance Control (DTSC) dated June 2, 2025, attached as Exhibit I.

CDFW Comment Letter
The comment letter from CDFW addressed the Mohave Desert Tortoise, American Badger, nesting birds (including Burrowing Owl) and ephemeral streams. All comments were addressed in a response letter attached as Exhibit H. In response to CDFW's comments, Mitigation Measures BIO-1, -3, -4, and -5 have been modified with recommended language from CDFW. The modified mitigation measures have been determined to be equivalent or more effective in reducing the significant effect of the Project as previously identified in the IS. The updated mitigation measures have been included as conditions of the Project. Therefore, recirculation of the IS/MND is not warranted and findings for the substitution of mitigation measures have been included pursuant to Cal. Code Regs. Tit. 14, Section 15074.1.

DTSC Comment Letter
The comment letter from the DTSC raised no CEQA challenges to the IS/MND. DTSC provided comments and recommendations in the letter. All comments are addressed by the Project's conditions of approval.
Tribal Comments
In accordance with AB-52, the County issued various tribes with a Notice of Opportunity to Consult with the County Mining Division on December 20, 2024, for the proposed Project. The Department received no comments from the tribal organizations.

PUBLIC COMMENTS:

On October 8, 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 of the Code. 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 in support of the Conditional Use Permit and Reclamation Plan (Exhibit C);

3) **APPROVE** the Conditional Use Permit and Reclamation Plan for a47-acre mining site consisting of two pits (22-acre North Pit and 25-acre South Pit) on a 245-acre site for 100 years to provide general fill material for various County Department of Public Works sites for annual maintenance and/or emergencies, subject to the Conditions of Approval; 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:	Mitigated Negative Declaration, link: https://lus.sbcounty.gov/planning-home/environmental/desert-region/
EXHIBIT B:	Mitigation Monitoring and Reporting Program
EXHIBIT C:	Conditional Use Permit PROJ-2024-00100 Findings
EXHIBIT D:	Reclamation Plan Findings
EXHIBIT E:	Conditions of Approval PROJ-2024-00100
EXHIBIT F:	Essex Overhead Pit Mine and Reclamation Plans
EXHIBIT G:	CDFW Comment letter, June 11, 2024
EXHIBIT H:	Response to CDFW Comment Letter
EXHIBIT I:	California Department of Toxic State Substances letter dated June 2, 2025
EXHIBIT J:	Essex Overhead Pit Reclamation Plan Map
EXHIBIT K	Essex Overhead Pit Mine Plan Map

EXHIBIT A

EXHIBIT A

Mitigated Negative Declaration

https://lus.sbcounty.gov/planning-home/environmental/desert-region/

EXHIBIT B

Mitigation Monitoring and Reporting Program
Initial Study/Mitigated Negative Declaration
San Bernardino County, Department of Public Works
Essex Overhead Quarry Borrow Pit
Mine Reclamation Plan

Project No: PROJ-2024-00100

Prepared by:

County of San Bernardino, Land Use Services Department
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, California 92415-0182
Contact: Derek Newland, Planner II

FEBRUARY 2026

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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 the proposed Essex Overhead Quarry Borrow Pit Mine Reclamation Plan (County Project No. PROJ-2024-00100). 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 biological, cultural resources, geology, and Tribal Cultural Resources (TCR).

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 Measures	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
Biological Resources				
BIO-1 Nesting Birds *To ensure compliance with the MBTA and the California Fish and Game Code, to the extent feasible, there shall be no vegetation cutting, removal, clearing, and/or grading allowed during the nesting season (February 15 – August 15). Regardless of the time of year, a nesting bird survey shall be conducted by a qualified biologist within three days prior to disturbance. If nesting birds are not detected, no further action is necessary. If an active nest is detected and the qualified biologist determines that work activities may impact nesting, an appropriate buffer zone will be established around the nest. The buffer shall be established using highly visible construction fencing or flagging, and construction personnel shall be instructed on the sensitivity of nest areas. The size of the buffer may vary depending on site features, the sensitivity of the species, and the type of construction activity, but will be designed to prevent disruption of nesting activity. The nests and associated buffer zones shall be avoided until the nesting cycle is complete or it is determined by the qualified biologist that the nest has failed. The Project site will need to be re-surveyed if there is a lapse in construction for more than 3 days.*	Prior to New Land Disturbance	Project applicant	San Bernardino County	
BIO-2 Special Status Plants *No specials status plants were observed during focused surveys; however, annual plants with potential to occur may not have germinated or otherwise been detected. After project completion final revegetation of slopes will be by seeding or hydro-seeding with available native species. To mitigate potential impacts, the*	Prior to mining new areas	Project applicant	San Bernardino County	

Mitigation Measures	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
County shall separate native topsoil, which contains native seed bank, so it can be saved and set aside during the initial clearing stages and redistributed over areas to be revegetated at the end of operation. Details regarding topsoil salvage shall be outlined in a Revegetation Plan to be prepared by the County to meet Surface Mining and Reclamation Act (SMARA) performance guidelines for re-vegetation. *Living cacti and other species protected under the CDNPA could be impacted during quarry development and operation if they occur within the quarry development footprint. If individuals cannot be avoided, removal will comply with the CDNPA and the San Bernardino County Code.*				
BIO-3 Desert Tortoise *The following mitigation measures are recommended to avoid potential impacts to desert tortoise. If at any time during the process desert tortoises are observed on the Project Site, the County shall not initiate construction and shall instead contact the USFWS and CDFW to develop an avoidance strategy and/or seek authorization for incidental take of desert tortoise.* *Worker Environmental Awareness Program* *Prior to any construction activities or site development at the quarry, the County will implement a Worker Environmental Awareness Program (WEAP) to educate on-site workers about sensitive environmental issues associated with the Project. The program will be administered to all on-site personnel, including the County's personnel, contractors, and all subcontractors, on the first day of work prior to commencing work on the site. The WEAP will emphasis the protected species that have potential to occur on or near the*	Prior to new land disturbance	Project applicant	San Bernardino County	

Mitigation Measures	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
Project Site, including the Mojave desert tortoise, burrowing owl, nesting birds, and desert kit fox, among other plant and wildlife species. The program will include the following elements: *- A presentation, developed by or in consultation with a qualified biologist, discussing the sensitive biological resources with potential to occur on-site, and explaining the reasons for protecting these resources and penalties for non-compliance.* *- Contact information for the project biological monitor, and instructions to contact the monitor with any questions regarding the WEAP information.* *- An acknowledgement form, to be signed by each worker indicating that they received WEAP training and will abide by the site rules protecting biological resources.* *Mojave Desert Tortoise Exclusion Fencing and Monitoring* *Prior to initiation of construction activities in each project Phase, a desert tortoise pre-construction surveys for Mojave desert tortoise be conducted prior to construction in accordance with the USFWS 2019 Mojave desert tortoise survey methodology to avoid direct and indirect impacts to Mojave desert tortoise (USFWS 2019). If Mojave desert tortoise is found to be present, individuals should be fully avoided. If full avoidance is infeasible, the Project shall obtain an CESA Incidental Take Permit (ITP) and mitigate impacts to Mojave desert tortoise through the purchase of credits from a mitigation/conservation bank, and/or land acquisition and perpetual management and conservation thereof. A desert tortoise exclusion fence shall be installed around the perimeter of*				

Mitigation Measures	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
the active quarry pit and staging area to exclude desert tortoise from entering the facility throughout the operation of the Phase. If at any time during the process desert tortoises are observed on the Project Site, the County shall not initiate construction and shall instead contact the USFWS and CDFW to develop an avoidance strategy and/or seek authorization for incidental take of desert tortoise under the federal and state Endangered Species Acts. *If desert tortoise are not found during the preconstruction survey a exclusion fence shall be installed in accordance with the specifications set forth in Chapter 8 of the USFWS' Desert Tortoise Field Manual (USFWS 2009), and installation of the fence shall be monitored by a biologist familiar with the installation of tortoise exclusion fencing. Following the installation of the exclusion fencing and prior to construction-related ground clearing and/or grading, the County shall retain a qualified biologist to conduct clearance surveys for the Mojave desert tortoise within the fenced area. Surveys shall follow the current guidelines for conducting clearance surveys used by the USFWS. The surveys shall consist of conducting two consecutive surveys by walking five-meter-wide parallel belt transects in a north-south and then east-west direction to obtain 100 percent coverage of the survey area. Again, if any sign indicating the presence of Mojave desert tortoise is detected, the County shall not proceed with ground clearing. If Mohave desert tortoise is found, work will cease, and the County shall contact USFWS and CDFW to seek authorization for incidental take of desert tortoise under the federal and state Endangered Species Acts.*				

Mitigation Measures	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
BIO-4 Burrowing Owl *Burrowing owls could move onto the site prior to Project development, therefore prior to any new ground disturbance, pre-construction breeding season surveys for burrowing owl should be completed according to the Staff Report on Burrowing Owl Mitigation (CDFW 2012 or most recent version) by a qualified biologist. One survey will be conducted within 14 days of planned construction and a second survey conducted within 24 hours of grading. The surveys shall include 100 percent coverage and include a minimum 500-meter buffer in adjacent habitat. Burrowing owls may recolonize a site after only a few days. Time lapses between Project activities will trigger subsequent take avoidance surveys.* *If burrowing owl, active burrowing owl burrows, or sign thereof are found and there is potential for take, the County shall submit an incidental take permit application and the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be reviewed and approved by CDFW for comment prior to commencing Project activities.*	Prior to new land disturbance	Project applicant	San Bernardino County	
BIO-5 Desert Kit Fox and American Badger *To avoid impacts to desert kit fox and American badger that*	Prior to new land disturbance	Project applicant	San Bernardino County	

Mitigation Measures	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
could move onto the Project Site prior to quarry construction, the County shall retain a qualified biologist to conduct preconstruction surveys within 14 days of new ground disturbance. The survey shall be focused on detecting any desert kit fox and American badger individuals or dens within the disturbance footprint, including all the dens reported in the Biological Resource Assessment. Each den shall be classified as inactive, potentially active, or definitely active based on field observations. *Active and potentially active dens in areas that would be impacted by mining activities shall be monitored by a qualified biologist for three consecutive nights using a tracking medium (such as diatomaceous earth or fire clay) and/or motion camera stations at the entrance. If no tracks are observed in the tracking medium or no photos of the target species are captured after three nights, the den shall be excavated and backfilled by hand to prevent reuse. If tracks are observed, the den shall be classified as active, and a management plan will be developed in consultation with CDFW to identify measures for avoidance, exclusion, and/or passive relocation.*				

Mitigation Measures	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
BIO-6 Jurisdictional Waters *Based on Jurisdictional Delineation assessment, impact to potential jurisdictional waters is minimal. However, the following BMP measures are recommended to address any potential impacts:* *• Drainage from the development areas includes runoff of water, soil, as well as inorganic and organic matter. NRAI recommends standard water quality measures required for all projects be implemented for this Project. Project design shall incorporate measures, including measures required through the National Pollutant Discharge Elimination System (NPDES) requirements, to ensure that all measures shall be put in place to avoid discharge of untreated surface runoff from developed and paved areas. Stormwater systems shall be designed to prevent the release of toxins, chemicals, petroleum products, exotic plant materials or other elements that might degrade or harm biological resources or ecosystem processes in adjacent areas.* *• Operation of motor vehicles near adjacent undeveloped lands may introduce undesirable petroleum products and solvents into the natural environment. All activity involving hazardous substances should be conducted in accordance with applicable local, State, and Federal safety standards.*	Prior to new land disturbance within Jurisdictional waters.	Project applicant	San Bernardino County	
Cultural Resources				
CR-1: *If cultural/historical/archaeological resources are encountered during ground-disturbing activities, work in the immediate area shall cease and an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for archaeology (National Park Service [NPS] 1983)*	During grading and operations for life of mine	Project applicant	County of San Bernardino	

Mitigation Measures	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
shall be contacted immediately to evaluate the find(s). If the discovery proves to be significant under CEQA, additional work such as data recovery excavation may be warranted and will be reported to the County. *Should prehistoric or historic archaeological resources be encountered during construction, the evaluation of any such resource should proceed in accordance with all appropriate federal, state, and local guidelines. Specifically, all work must be halted in the immediate vicinity of the cultural resource found until a qualified archaeologist can assess the significance of the resource. In accordance with the requirements of CEQA, recordation and evaluation of the resource(s) would be required.*				
CR-2: *No quarrying activity shall take place within 15 feet of the abandoned portion of NTH. Additionally, no vehicles shall drive directly on the NTH alignment as this could damage the original 1926 historic oil macadam pavement.*	During operations for life of mine	Project applicant	County of San Bernardino	
CR-3: *Exclusionary fencing shall be installed along the portion of the abandoned portion of NTH within the western segment of APN 0655-162-01 prior to project implementation. This fencing should also be extended to exclude this portion of NTH from the larger Project Area (including in APN 0655-151-01) during fence installation, to ensure that the entire road segment and its remnant oil macadam surface, within the overall Project Area, is not impacted during the life of the Project's implementation.*	During grading and operations for life of mine	Project applicant	County of San Bernardino	
CR-4: *If human remains of any kind are found during construction, the requirements of CEQA Guidelines § 15064.5(e) and AB 2641 shall be followed. According to these requirements, all construction activities must cease immediately, and the San*	During grading and operations for life of mine	Project applicant	County of San Bernardino	

Mitigation Measures	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
Bernardino County Coroner and a qualified archaeologist must be notified. The coroner will examine the remains and determine the next appropriate action based on his or her findings. If the coroner determines the remains to be of Native American origin, he or she will notify the NAHC. The NAHC will then identify the most likely descendants (MLD) to be consulted regarding treatment and/or reburial of the remains. If an MLD cannot be identified, or the MLD fails to make a recommendation regarding the treatment of the remains within 48 hours after gaining access to the remains, the property owner shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance. *All discovered human remains shall be treated with respect and dignity. California state law (California Health & Safety Code 7050.5) and federal law and regulations ([Archaeological Resources Protection Act (ARPA) 16 USC 470 & 43 CFR 7], [Native American Graves Protection & Repatriation Act (NAGPRA) 25 USC 3001 & 43 CFR 10] and [Public Lands, Interior 43 CFR 8365.1-7]) require a defined protocol if human remains are discovered in the State of California regardless of if the remains are modern or archaeological.* *The San Bernardino County Coroner's Office must be contacted in accordance with state law within 24 hours of the discovery of human remains, and all work should be halted until a clearance is given by that office and any other involved agencies. The Coroner's Office may be contacted at the Coroner's*				

Mitigation Measures	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
Division, County of San Bernardino, 175 S. Lena Road, San Bernardino, CA. Tel: (909) 387-2978.				
Geology				
GEO-1: *There is unknown potential for locating significant paleontological resources during work at depth within the Project Area. Because of this potential, any excavation beyond 15 feet in depth should be monitored by a qualified paleontologist, as outlined in the recommended Paleontological Resource Impact Mitigation Plan (PRIMP) for the project included in Appendix E.*	During grading and operations for life of mine	Project applicant	County of San Bernardino	
Tribal Cultural Resources				
TCR-1**:** *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 CUL-4 and State Health and Safety Code §7050.5 and that code shall be enforced for the duration of the project.*	During grading and operations for life of mine	Project applicant	County of San Bernardino	
TCR-2: *Only the NAHC Designated MLD Tribal representative shall make all future decisions regarding the treatment of human remains of Native American origin within the response times outlined below. The MLD shall determine the disposition and treatment of Native American human remains and any associated grave goods following Native American Graves Protection and Repatriation Act (NAGPRA) protocols, and what constitutes "appropriate dignity" as that term is used in the applicable statutes and in the Tribe's customs and traditions.* *The MLD or his/her designee shall complete an inspection and provide written recommendations to the DPW and the landowner (if*	During grading and operations for life of mine	Project applicant	County of San Bernardino	

Mitigation Measures	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
different than the DPW) within fortyeight (48) hours of being granted access to the site. If the descendant does not make recommendations within 48 hours, the landowner shall re-inter the remains in a secure area of the property where there will be no further disturbance. Should the landowner not accept the descendant's recommendations, either the owner or the MLD may request mediation by NAHC. According to the California Health and Safety Code, six (6) or more human burials at one (1) location constitute a cemetery (Section 8100), and willful disturbance of human remains in a cemetery is a felony (Section 7052).				
TCR-3: *Any and all archaeological/cultural documents as related to documented tribal cultural resources created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be disseminated to appropriate consulting Tribe(s) in the form of an un-redacted report (containing DPR forms). The Lead Agency and/or applicant shall, in good faith, consult with the appropriate Tribe(s) until construction completion of the project and completion of any measures imposed to protect resources*	During grading and operations for life of mine	Project applicant	County of San Bernardino	

EXHIBIT C

FINDINGS: CONDITIONAL USE PERMIT

A Conditional Use Permit together with a Reclamation Plan to mine the Essex Overhead Pit, a 47-acre mining site consisting of two pits (22-acre North Pit and 25-acre South Pit) on a 245-acre site for 100 years to provide general fill material for various San Bernardino County Department of Public Works (DPW) sites for annual maintenance and/or emergencies (Project).

The conditional use permit findings, in accordance with Section 85.06.040 of the San Bernardino County (County) Development Code, 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, LOADING AREAS, OPEN SPACES, SETBACKS, WALLS AND FENCES, YARDS, AND OTHER REQUIRED FEATURES PERTAINING TO THE APPLICATION**.

   Section 82.03.040 of the County Development Code provides for Natural Resources Development extraction (Mining) in the Resource Conservation (RC) Zoning District subject to approval of a Conditional Use Permit (CUP); in accordance with Development Code Chapter 88.03 Surface Mining and Land Reclamation (SMARA). DWP is requesting a CUP for its proposed Essex Pit mining operation consisting of three (3) components, two situated on the west side of the Burlington Northern Santa Fe (BNSF) railroad tracks, and one on the east side. The mining project is consistent with SMARA and Development Code Chapter 88.02 and has undergone review from the California State Department of Conservation Division of Mine Reclamation (DMR) and the County Mining Division, Land Development, and DPW personnel. The Project maps, studies, mitigation measures and conditions of approval incorporate revisions and updates County staff have required.

   The site has been verified to contain inferred resources such as aggregate sand and gravel materials believed to be acceptable for commercial use. To maximize the site's mining resource potential and material supply, the Essex Overhead quarry operation will be undertaken over a period of up to 100 years beginning in 2026 and extending until 2124 with an estimated 10,000 cubic yards (cy) or 15,000 tons annually excavated on an intermittent basis over the course of the life of the mine, although annual amounts may vary from zero to up to 50,000 tons or more depending on scheduled road maintenance and repair or for emergency mining repairs. The excavated material (raw or processed), including road demolition, soils and recycled material, may be stockpiled onsite for use as needed for road maintenance and repair.

   The project's reclamation plans are required to ensure the restoration of disturbed land and resources to a condition compatible with and blending into the surrounding environment, and that financial assurances are in place and adjusted annually to account for new disturbed lands and inflation, unless exempted to ensure the mining site upon cessation of mining is reclaimed in accordance with the approved reclamation plan. Pursuant to County and DMR scrutiny, the Project conforms to all the requirements of the Development Code for the proposed use and incorporates the necessary conditions to safeguard the public health, safety and welfare, including biological, hydrology, and reclamation conditioning to ensure the site is reclaimed in accordance with the adopted reclamation plan.

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**.

The Project site design incorporates appropriate street, haul roads, and highway characteristics to serve the proposed use. The mining site contains multiple access roads to the mining pits and pit access will be from National Trails Highways (NTH). The NTH provides a 200-foot right-of-way (ROW) and is aligned along the west and north sides of the mining site. Setbacks from this ROW are 50 feet on the northwest and the setbacks increase towards the southwest along the ROW. Street-legal 25-ton trucks, approximately 2 to 5 trucks, may access the site per an average day when operational or 4 to 10 truck trips with smaller 15-ton dump trucks. The proposed Project is forecast to generate fewer than 100 peak hour trips and is located more than 300 feet from the nearest intersection of two streets designated as Collector or higher on the County's General Plan circulation system. The current access and ROW provide sufficient service entry to satisfy the operational Level of Service (LOS) concerns. The Project did not warrant the preparation of a transportation impact study (TIS) with LOS analysis based on the County-established screening criteria and LOS impacts may be presumed to be negligible as only 4 to 10 truck trips are projected.

3. **THE PROPOSED USE WILL NOT HAVE A SUBSTANTIAL ADVERSE EFFECT ON ABUTTING PROPERTY OR THE ALLOWED USE OF THE ABUTTING PROPERTY, WHICH MEANS THE USE WILL NOT GENERATE EXCESSIVE NOISE, TRAFFIC, VIBRATION, LIGHTING, OR OTHER DISTURBANCE. IN ADDITION, THE USE WILL NOT SUBSTANTIALLY INTERFERE WITH THE PRESNT OR FUTURE ABILITY TO USE SOLAR ENERGY SYSTEMS.**

   The proposed Project improvements have been designed to incorporate the necessary mitigation and improvements to comply with the County's SMARA Ordinance and recommendations by the DMR and, therefore, will not have a substantial adverse effect on abutting property or the allowed use of the abutting property, including but not limited to 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 Project has been routed for County Department Review and the DMR. The mining plans have been revised in accordance with County Department and DMR comments to accommodate this requirement; moreover, the Project incorporates each departments' Conditions of Approval.

4. **THE PROPOSED USE AND MANNER OF DEVELOPMENT ARE CONSISTENT WITH THE GOALS, MAPS, POLICIES, AND STANDARDS OF THE POLICY PLAN AND ANY APPLICABLE COMMUNITY OR SPECIFIC PLAN.**

   The proposed site plan together with the provisions for the Project's phasing plan and reclamation are consistent with the Policy Plan and Resource Conservation (RC) Land Use designation. Moreover, by extension, the Essex Overhead mine supports DPW Mission Statement included in the Countywide Plan: "*To enhance the quality of life for our communities by developing and maintaining public infrastructure and providing a variety of municipal services that complements our natural resources and environment".* Areas of DPW responsibility include roads, traffic, flood control, storm water quality, water conservation, solid waste services, and county surveyor functions.

   In accordance with DPW Mission Statement, the Project also specifically implements the following Policy Plan Goals and Policies.

   Goal NR-6 Mineral Resources:
   Mineral resource zones that allow extraction industries to continue supporting the regional and national economy while minimizing negative impacts on the public and natural environment.

   The project is located in the Resource Conservation Zoning District which allows for mining

and is intended to provide aggregate material for Public Works construction, repair and maintenance of local and regional public roads, shoulders, and bridge crossings in support of continued safe travel and transport of people and goods along County roads. The project has been environmentally assessed and mitigated to reduce environmental impacts.

Policy NR-6.2 Mining operations and reclamation:
We require and monitor mineral extraction activities to ensure that the operation and reclamation of mined lands is consistent with the State Surface Mining and Reclamation Act of 1975 (SMARA).

The proposed project is consistent with County policy requiring that mineral extraction activities be regulated and monitored to ensure that the operation and reclamation of mined lands complies with the California Surface Mining and Reclamation Act of 1975 (SMARA).

Supporting Analysis:
The project is subject to the requirements of the California Surface Mining and Reclamation Act of 1975 (SMARA) and applicable State regulations. In accordance with SMARA, the applicant has prepared a Mining Permit and Reclamation Plan for review and approval by the County, acting as the Lead Agency.
The approved Reclamation Plan establishes performance standards for grading, slope stabilization, revegetation, drainage control, and post-mining land use, consistent with SMARA and State Mining and Geology Board regulations. The Plan ensures that mined lands will be restored to a usable condition that is compatible with surrounding land uses and consistent with the approved end use.
Prior to commencement of operations, the operator will provide financial assurances in a form and amount determined adequate by the County to guarantee implementation of reclamation measures. The amount of financial assurance will be reviewed annually and adjusted as necessary to reflect the current cost of reclamation.
Pursuant to SMARA, the project will be subject to at least annual inspections by the County to verify compliance with the approved Mining Permit and Reclamation Plan. Inspection reports will be filed with the State Department of Conservation as required. The County retains enforcement authority to require corrective action or suspend operations if the project is found to be out of compliance.
Through approval of the Mining Permit and Reclamation Plan, establishment of financial assurances, and ongoing inspection and enforcement authority, the project ensures that mineral extraction and site reclamation will occur in full compliance with SMARA.
Accordingly, the required findings can be made.

Policy NR-6.3 Conservation of construction of aggregate:
We encourage the continued operation of existing mining facilities and streamline the permitting of new mining facilities (consistent with the Policy Plan and other local, state, and federal regulations) to establish aggregate resources that are sufficient to satisfy 50 years of county demand.

The proposed project is consistent with Policy NR-6.3, which encourages the continued operation of existing mining facilities and the streamlined permitting of new mining facilities to ensure aggregate resources sufficient to meet at least 50 years of County demand.

Supporting Analysis:
The project involves the continued operation and long-term management of a County-owned aggregate mining facility operated by the Department of Public Works (DPW). The mine supplies aggregate materials used for the construction, repair, and maintenance of County roads, shoulders, and bridge crossings, which are essential components of public infrastructure.

Policy NR-6.3 prioritizes the conservation and availability of aggregate resources to ensure a stable, long-term supply sufficient to meet projected County demand for at least 50 years. The proposed project directly advances this policy objective by:

- *Maintaining and securing continued access to a locally available aggregate source.*
- *Reducing reliance on imported materials from outside the County, thereby minimizing transportation costs, traffic impacts, and greenhouse gas emissions.*
- *Supporting the County's ability to maintain critical public infrastructure in a cost-effective and timely manner; and*
- *Establishing a long-term operational horizon (100-year life of mine), which exceeds the 50-year demand threshold identified in the policy.*

Because the project ensures continued availability of locally sourced aggregate materials for public infrastructure over a planning horizon that substantially exceeds 50 years, it supports and implements the intent of Policy NR-6.3.
Accordingly, the required findings can be made.

Goal LU 1 Fiscally Sustainable Growth. An arrangement of land uses that balances the lifestyle of existing residents, the needs of future generations, opportunities for commercial and industrial development, and the value of the natural environment.

The proposed project is a County-owned and operated aggregate mining facility managed by the Department of Public Works (DPW). The facility provides locally sourced aggregate materials necessary for the construction, repair, and maintenance of public roads, shoulders, and bridge crossings serving both local and regional transportation networks.
The project advances Goal LU 1 in the following ways:

- ***Fiscal Sustainability:** By maintaining a County-controlled source of aggregate materials, the project reduces reliance on imported materials, stabilizes infrastructure costs, and protects the County from supply chain volatility. This supports long-term fiscal responsibility in maintaining public infrastructure.*
- ***Support for Existing Residents:** Reliable maintenance of roads and bridges preserves public safety, access to services, and quality of life for existing communities.*
- ***Support for Future Generations:** The long-term operational horizon ensures a stable supply of materials necessary for infrastructure serving future growth and development.*
- ***Support for Commercial and Industrial Development:** Adequate infrastructure capacity is foundational to economic development. By ensuring aggregate availability for roadway improvements and capital projects, the mine supports regional commerce and mobility.*
- ***Environmental Stewardship:** The project is subject to SMARA-compliant reclamation requirements and environmental mitigation measures, ensuring that natural resource extraction is balanced with long-term land restoration and environmental protection.*
-

By securing essential infrastructure materials while incorporating environmental safeguards and long-term reclamation planning, the project reflects a balanced land use arrangement consistent with Goal LU 1.
Accordingly, the required findings can be made.

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 aggregate mining operation supports fiscally sustainable growth by ensuring the availability of locally sourced construction materials necessary to maintain and expand public infrastructure within the unincorporated County and region.

The project supports Policy LU-1.1 because it:

- *Provides essential materials for roadway and bridge infrastructure that serve existing communities and future development.*
- *Enhance fiscal sustainability by reducing material transportation costs and improving supply reliability for County capital improvement projects;*
- *Supports the regional economy by enabling infrastructure improvements necessary for residential, commercial, agricultural, and industrial development.*
- *Is a public agency operation designed to serve community and regional needs rather than speculative private development.*

While the project is not residential in nature, it supports growth in the unincorporated County by ensuring that adequate infrastructure is available to accommodate development consistent with the General Plan.
Therefore, the project is consistent with Policy LU-1.1.

5. **THERE IS SUPPORTING INFRASTRUCTURE, EXISTING OR AVAILABLE, CONSISTENT WITH THE INTENSITY OF DEVELOPMENT, TO ACCOMMODATE THE PROPOSED DEVELOPMENT WITHOUT SIGNIFICANTLY LOWERING SERVICE LEVELS**.

As previously mentioned, the Project site design incorporates appropriate street, haul roads, and highway characteristics to serve the proposed use. The mining site contains multiple access roads to the mining pits and pit access will be from the NTH. The NTH provides a 200-foot right-of-way (ROW) and is aligned along the west and north sides of the mining site. Setbacks from this ROW are 50 feet on the northwest and the setbacks increase towards the southwest along the ROW. Street-legal 25-ton trucks, approximately 2 to 5 trucks, may access the site per an average day when operational or 4 to 10 truck trips with smaller 15-ton dump trucks. The Project is forecast to generate fewer than 100 peak hour trips and is located more than 300 feet from the nearest intersection of two streets designated as Collector or higher on the County's General Plan circulation system. The current access and ROW provide sufficient service entry to satisfy the operational Level of Service (LOS) concerns. The Project did not warrant the preparation of a transportation impact study (TIS) with LOS analysis based on the County-established screening criteria and LOS impacts may be presumed to be negligible as only 4 to 10 truck trips are projected.

6. **THE LAWFUL CONDITIONS STATED IN THE APPROVAL ARE DEEMED REASONABLE AND NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE.**

The conditions of approval include measures to mitigate biological impacts, air quality impacts, cultural resources impacts, greenhouse gas impacts, hydrology and water impacts, including mining site reclamation and revegetation, while enforcing performance standards and are deemed reasonable and necessary to protect the overall public health, safety, and general welfare as determined by the County's environmental analysis of the Project.

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 design of the Project site has and continues to explore the potential for the use of solar energy systems and passive or natural heating and cooling opportunities, through the orientation and design with adequate building setbacks. Although solar was not proposed, there are opportunities to install solar and battery power in the future.

8. 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 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) will be adopted, and a Notice of Determination (NOD) will be filed. The MND represents the independent judgment and analysis of the County acting as lead agency for the Project.

As part of the public review process for the MND a comment letter was received from California Department of Fish and Wildlife (CDFW) dated June 11, 2025. CDFW's comments were addressed in a response letter attached as Exhibit I to the Project's Staff Report. In response to CDFW's comments, Mitigation Measures BIO-1, -3, -4, and -5 have been modified with recommended language from CDFW. The modified mitigation measures have been determined to be equivalent or more effective in reducing the significant effect of the Project as previously identified in the IS. The updated mitigation measures have been included as conditions of the Project. Therefore, the review authority finds that recirculation of the MND is not warranted.

EXHIBIT D

Essex Overhead Mining and Reclamation Plan
Project No. PROJ-2024-00100
Pit Mine No. 36-0191
Reclamation Plan No 2025M-01

Findings: Reclamation Plan

Reclamation Plan No. 2025M-01 to mine the Essex Overhead Pit, a 47-acre mining site for 100 years consisting of two pits, a 22-acre (North Pit) phase 1 and 25-acre (South Pit) phase 2 to provide general fill material for various San Bernardino County (County) Department Public Works (DPW) sites. The 2024 Essex Pit mining operation consists of three (3) components, two situated on the west side of the Burlington Northern Santa Fe (BNSF) railroad tracks, and one on the east side. The east side component east side of the rail line will remain undisturbed and will not be reclaimed in accordance with the approved Reclamation plan. The mining project will be mined in phases within the proposed parameters as noted below:

- Both Phase One, 22.21 acres North Pit and Phase Two, 25.13 acres South Pit are situated within the same parcel containing a total mining excavation area of forty-seven (47) acres.
- Average Depth of both mining pits of 60 feet.
- Extend Mining Operations for a period of 100 years until 2124.

In addition the findings required for a Conditional Use Permit in Development Code Chapter 85.06, the Conditional Use Permit for surface mining operations must comply with the provisions of the Surface Mining and Land Reclamation Act, Public Resources Code §§ 2710 *et seq.*) (SMARA). Pursuant to Development Code Section 88.03.060(k)(1) and (2), the following findings must be made in the affirmative in order to approve the Project's Reclamation Plan:

1. **The Reclamation Plan complies with the California Surface Mining and Reclamation Act (SMARA) (Public Code Sections 2772-2773) and any other applicable provisions.**

   The Reclamation Plan was reviewed, and conditioned, for compliance with SMARA. It has also been reviewed and accepted by the California Department of Conservation Division of Mine Reclamation (DMR). On December 23, 2024, the county Mining Division transmitted and notified the DMR of the Essex Overhead Pit and Reclamation Plan mining application submittal on June 18, 2024. Prior to DMR submittal, the County Mining Division on October 3, 2024, accepted DPW's Essex Overhead Pit application as complete pursuant to SMARA section 2772.1. On February 21, 2025, DMR notified Mining staff that DMR received a complete Reclamation Plan.

2. **The Reclamation Plan complies with applicable requirements of State regulations (Code of Regulations Sections 3500-3505 and 3700- 3713).**

   The Reclamation Plan was reviewed, and conditioned, for compliance with SMARA. It has also been reviewed and accepted by the California Department of Conservation Division of Mine Reclamation.

   Article 9, Section 3700 of SMARA (14 CCR § 3700) states the following:
   "Reclamation of mined lands shall be implemented in conformance with standards in this Article (Reclamation Standards). The standards shall apply to each surface mining operation to the extent that:
   - They are consistent with required mitigation identified in conformance with CEQA; and
   - They are consistent with the planned or actual subsequent use or uses of the mining site

   SMARA requires that reclaimed sites provide wildlife habitat "at least as good as that which existed before … mining," and that reclaimed sites must be "similar to naturally occurring habitats in the surrounding area." (14 CCR § 3703.) SMARA requires the operator to demonstrate that vegetation on reclaimed sites has been self-sustaining without irrigation, fertilization, or weeding for a minimum of two years prior to release of performance bond.

   Upon completion of mining activities, the site will consist of a DPW material maintenance and storage yard in the 25-acre South Pit and could be used for other uses at the discretion of the DPW. The reclaimed end use of the North Pit will be revegetated open space (22.21 acres), and the South Pit (25.13 acres) will be used for a long- term DPW material maintenance and storage yard. The remaining 197 acres around the perimeter of the pits and east of the railroad tracks of mostly undisturbed lands will remain as open space. The reclamation for the Essex Overhead Pit is to return the site to privately-owned vacant open space consistent with the Resource Conservation (RC) zoning district as follows

   - Complete removal of all crushing, processing, miscellaneous equipment, scale/scale house, and refuse.
   - Final grading of entire area for slope stability, safety, and erosion control.
   - Mitigation of any potential safety hazards.
   - Ripping compacted surface area and spreading of the salvaged topsoil and growth media across the bare and disturbed areas; and
   - Revegetation seeding with indigenous species followed by monitoring and remediation to meet revegetation success criteria.

3. **The Reclamation Plan and potential use of land reclaimed in compliance with the Reclamation Plan are consistent with the Development Code, General Plan and any applicable resource plan or element.**

The Reclamation Plan and potential end use of lands disturbed and reclaimed in compliance with the Plan, as conditioned, are consistent with the Development Code and County Wide Plan in that the Project's Revegetation Plan Report dated July 2023, has been revised and updated in accordance with the comments obtained from the Division of Mine Reclamation (DMR). On December 23, 2024, the county Mining Division transmitted and notified the California Division of Mine Reclamation (DMR) of the Essex Overhead Pit and Reclamation Plan mining application submittal on June 18, 2024. Prior to DMR submittal the County Mining Division on October 3, 2024, accepted DPW''s Essex Overhead Pit application as complete pursuant to SMARA 2772.1. On February 21, 2025, DMR notified Mining staff that DMR received a complete Reclamation Plan.

4. **The Reclamation Plan has been reviewed in compliance with the California Environmental Quality Act (CEQA) and the County's environmental review guidelines, and all significant adverse impacts from reclamation of the surface mining operations are mitigated below a level of significance or to the maximum extent feasible.**

   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) will be adopted, and a Notice of Determination (NOD) will be filed. The MND represents the independent judgment and analysis of the County acting as lead agency for the Project.

5. **The Project site and/or resources, such as water, will be reclaimed to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other open space resources, or suitable off-site development will compensate for related disturbance to resource values.**

   Affected lands will be reclaimed to a condition compatible with, and blending with, the surrounding natural environment, topography, and other open space resources as identified in the Reclamation Plan. Financial Assurances and annual mine inspections pursuant to SMARA will take place to ensure this occurs. A Jurisdictional Report was prepared by Lilburn Corporation dated May 2024 to delineate any potential waters, including wetlands, that may occur within the Project. Jurisdictional delineations are performed on a property in order to delineate which waters are Waters of the U.S. and are therefore subject to Clean Water Act (CWA 404). This connection may be direct through a tributary system or indirectly through a nexus identified U.S. Army Corps of Engineers (USACE) Corps regulations. Section 404 of the Clean Water Act (CWA) regulates the

discharge of dredged and fill material into waters of the United States, including wetlands. 404 requires permits for most activities involving the placement of fill material into these waters. The Jurisdictional study concluded though the original project design had a potential indirect impact to the north side of the levee channel, near the southeast corner of the northern open pit, as the plan has been revised this indirect impact no longer exists concluding that there are no direct impacts to potential jurisdictional waters. Based on this assessment, the indirect impact to potential jurisdictional waters is minimal. The study Recommended that Best Management Practices (BMP) measures be implanted which will be cited and incorporated into the Project's COA MMRP program.

6. **The Reclamation Plan will reclaim the minded lands to a usable condition which is readily adaptable for alternative land uses consistent with the General Plan and applicable resource plan.**

   The Reclamation Plan, as conditioned, along with annual mine inspections pursuant to SMARA will ensure reclamation of the mined lands return to a usable condition (Open Space Habitat) that is readily adaptable for alternative land uses, which with regard to this Project, is open space.

7. **The County has responded to comments and recommendations raised by the Division of Mine Reclamation (DMR), a division of the State Department of Conservation, in its review of the Projects Reclamation Plan.**

   On December 23, 2024, the county Mining Division transmitted and notified the California Division of Mine Reclamation (DMR) of the Essex Overhead Pit and Reclamation Plan mining application submittal on June 18, 2024. Prior to DMR submittal the County Mining Division on October 3, 2024, accepted DPW''s Essex Overhead Pit application as complete pursuant to SMARA 2772.1. On February 21, 2025, DMR notified Mining staff that DMR received a complete Reclamation Plan.

EXHIBIT E

CONDITIONAL USE PERMIT
SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC WORKS
ESSEX OVERHEAD BORROW PIT
CA MINE ID# 36-0191
MINING/RECLAMATION PLAN 2025M-01

GENERAL REQUIREMENTS/INFORMATIONAL
Conditions of Operation and Procedures

LAND USE SERVICES – Planning (909) 387-8311

1. Project Description. Conditional Use Permit PROJ-2024-00100 and Reclamation Plan No. 2025M-01 to mine a 47 acre mining site Essex Overhead Pit for 100 years consisting of two pits, a 22-acre (North Pit) phase 1 and 25-acre (South Pit) phase 2 to provide general fill material for various County Department of Public Works (DPW) sites for annual maintenance and/or emergencies.

2. Location. The Essex Overhead Borrow Pit is located on vacant County owned lands southwest of the intersection of Route 66 (National Trails Highway) and the Essex Overpass of the Burlington Northern and Santa Fe railroad tracks, approximately 1.3 miles northeast of Essex in the eastern Mojave Desert.

3. Effective Dates. The Essex Overhead Pit Conditional Use Permit and Reclamation Plan approval shall be effective 10 days from the time of approval until December 31, 2126. At the conclusion of all mining activities, the site will be reclaimed to vacant open space and wildlife habitat.

4. Reclamation Plan Recordation. Pursuant to Public Resources Code Section 2772.7, Planning will prepare a “Notice of Reclamation Plan Approval” on a form to be approved by the County Recorder’s Office. The operator shall be responsible for review costs and recording fees.

5. Revisions/Amendments. Any substantial deviation or increase in the developed area of the site from that shown on the final approved Mining and Reclamation Plan will require submission of an additional application for review and approval. If Mining and Reclamation Plan procedures change from those outlined in the approved Reclamation Plan the applicant/operator shall file an amendment and secure approval before such changes can be made effective.

6. 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.

7. SMARA and State Regulations. The provisions of the California Surface Mining and Reclamation Act of 1975 ("SMARA", Public Resources Code Section 2710 et seq.), Public Resources Code Section 2207, and the regulations implementing SMARA ("State Regulations", California Code of Regulations Section 3500 et seq.) are made a part of the Reclamation Plan. In the event that the State amends SMARA to the extent it adds to or conflicts with the Conditions of Approval, State law shall prevail.

8. The Essex Overhead Borrow Pit Mining/Reclamation Plan 2025M-01 under Project No. proj-2024-00100 shall be effective for 100 years until December 31, 2126, with an estimated reclamation in five (5) years upon mining completion on December 31, 2131. After the mining activities have been completed, the site will be reclaimed to vacant open space habitat managed by the legal owners.

9. 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.

10. The approved Mining/Reclamation Plan. Shall be bound in a 3-ring notebook and shall incorporate the approved mining plans, Biological Resources Assessment study for APN 0655-151-01; 0655-162-01, dated October 3, 2023 and Essex Overhead Quarry Revegetation Plan, dated July 2023, and Natural Resources Assessment Jurisdictional Delineation Report dated May 20, 2024. The Approved Mining/Reclamation Plan 2025M-01 shall be kept at the site at all times during operations and be presented to the inspector upon request.

11. 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.

12. Interim Management Plan. The applicant shall implement measures to stabilize and secure the site during periods of inactivity as per the approved Reclamation Plan. An Interim Management Plan (IMP) as required by SMARA Section 2770(h)(1) shall be submitted to Planning for review and approval within 90 days of the mining operation becoming idle.

13. 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.

14. 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.

15. Annual Reporting. The applicant/operator shall submit a report summarizing the past year's Mining/Reclamation activity to the Department of Conservation, Office of Mine Reclamation and the Land Use Services Department each year. Mine site inspections will occur in conjunction with the annual report or at other times as appropriate.

16. 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.

17. 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-2024-00100

18. Amendment. If the Mine Plan under Conditional Use Permit PROJ-2024-00100 or Reclamation Plan 2025M-01 procedures change from those outlined in the approved Mine Plan and Reclamation Plan, the applicant/operator shall file an amendment and secure approval before such changes can be made effective.

19. Conditions. All conditions of this Mining and Reclamation Plan 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.

20. 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 require 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.

21. 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.

22. Project Account. The Job Costing System (JCS) account number is PROJ-2024-00100. 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.

23. 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 as approved in the Reclamation Plan. 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.

24. Fees. Prior to issuance of the approved Permits, all fees due under actual cost Job No. PROJ-2024-00100 shall be paid in full.

25. 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. 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 with experience in mine operations 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.

26. Deliveries. Transportation and delivery of materials should be conducted primarily during daylight hours only and restricted per BLM requirements if applicable.

27. Operation. Mining operation Mining operations will be conducted as needed intermittently primarily from 5:30 am till 8 pm (daylight hours only), up to 6 days per week: Monday through Saturday. Occasionally operations may be conducted on Sundays depending on possible emergency road repair, construction and maintenance needs. All refuse shall be disposed of into approved trash bins and removed by the operator or a commercial vendor. Portable toilets will be used on-site when in operation and serviced by the operator or by a commercial vendor. Bottled water will be provided for employees.

    To minimize dust generation, a water truck will be retained for use during excavations and loading of haul trucks. The mine operator shall spray water working mine areas and access roads onsite on a regular basis and more frequently as needed during windy conditions. Water used for dust control will be obtained from the Caltrans Essex Maintenance Station located approximately 1.5 miles southwest via a water truck. Un-surfaced haul road and access road will also have dust controlled with and/or covered with road base material as needed.

28. Blasting. No Blasting of rock material is required for extraction.

29. Fixed Structures Upon cessation of mining activities at the end of quarry operations, all fixed structures and mobile equipment not required for further revegetation activities will be removed from the site. This would include all loaders, dozers, crushing and screening plant equipment, conveyors. Batch plant structures and related improvements shall be completely removed from the subject site within 30 days of project cessation. Any further modifications and/or alterations to the batch plant as noted in the approved mining plan will require review by the Planning Division.

30. Agency Compliance. Applicant shall ascertain and comply with requirements of all Federal, State, County and Local Agencies as are applicable to the proposed use and the project area. They may include, but are not limited to: 1) State: Caltrans; Fire Marshall; South Coast Air Quality Management District; Santa Ana Regional Water Quality Control Board, California Highway Patrol, 2) County: Department of Public Health; Environmental Health Services Division; Local Enforcement Agency (LEA); Department of Land Use Services, Divisions of Building & Safety and Code Enforcement; Department of Public Works; Flood Control District; California Occupational Safety and Health Administration (Cal-OSHA)..

Definitions

31. Minerals. Include any naturally occurring chemical element or compound, or groups of elements and compounds, formed from organic and inorganic

processes. Clay, sand, gravel, rock, decomposed granite, salts, alumina, silica, alkali, topsoil or growth medium, organic humus and gems represent the aggregate of different minerals.

32. Aggregate Removal. The applicant shall not sell or otherwise move off the mine site any sand, gravel, or other produced minerals to a public agency unless the operator certifies, under penalty of perjury, that the mining operation is identified in the AB 3098 List published pursuant to PRC Section 2717(b).

33. Construction and Demolition (C&D). Materials left on site or produced in the process of site clearing activities, construction, renovation, or demolition of structures of all types to include roads and bridges shall be deemed as waste material. Waste materials include, but is not limited to concrete, asphalt, wood, metals, gypsum wallboard and brick. The Financial Assurance Cost Estimate shall include costs to remove C&D materials to an approved facility that is permitted to receive such materials.

34. Exploration or Prospecting. Includes the activities in search for minerals by geological, geophysical, geochemical, or other techniques, including, but not limited to, sampling, assaying, drilling, or any surface or underground works needed to determine the type, extent, or quantity of minerals present.

35. Project Design Features: Project Design Features (PDFs) are aspects of the proposed project that have been designed into the mining operations.

36. 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.

37. Ownership. The person(s) involved in the ownership of the property include all persons having interest in the ownership of the surface and subsurface property, including mineral rights. If the applicant/operator is not the recorded owner(s) of the property, must submit a signed statement by the property and mineral rights owner(s) authorizing the applicant to act on their behalf.

38. Operator. The Operator includes the applicant and any person who is engaged in surface mining operations, and others contracted to conduct operations on his or her behalf, except a person who is engaged in surface mining operations as an employee with wages as his or her sole involvement and compensation.

39. Operations. Surface mining operations include all, or any part of, the process involved in the mining of minerals on mined lands, borrow pitting, segregation and stockpiling of mined materials (and recovery of same).

40. Mined Lands. Include the surface, subsurface, and groundwater of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.

41. Produced Minerals. As defined in CCR Section 3501 includes all minerals sold, given, or otherwise moved off the site of the operation, as defined in the approved reclamation plan. Recycled products (e.g., broken concrete, bricks, asphaltic concrete, etc.) or stockpiles of mineral products that remain on the site are not produced minerals for purposes of CCR Section 3695(b).

42. 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.

43. 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.

44. 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

45. 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.

46. 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).

COUNTY FIRE – Community Safety (909) 386-8400

47. 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

48. Natural Drainage. The natural drainage courses traversing the site shall not be occupied or obstructed.

49. Tributary Drainage. Adequate provisions should be made to intercept and conduct the tributary off-site and on-site 100-year drainage flows around and through the site in a manner that will not adversely affect adjacent or downstream properties at the time the site is developed. The project site shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage areas, outlet points and outlet conditions.

50. Recreational Vehicle Requirements. Any RV stored within a 100-year floodplain for a natural watercourse shall be of a "temporary" nature. An RV is only considered temporary if it meets all of the following criteria:

i) built on a single chassis,
ii) ii) 400 square feet or less,
iii) iii) designed to be self-propelled or permanently towable by a light duty truck and,
iv) iv) designed for temporary uses like recreation, camping, travel, and seasonal. If a vehicle meets these criteria as a "temporary" RV and is onsite for fewer than 180 consecutive days or must be fully licensed and ready for highway use, then no floodproofing is required. Otherwise, the RV shall be floodproofed to meet the elevation, anchoring and erosion protection requirements of a manufactured home in a 100-year floodplain and adequate drainage paths shall be provided around the RV.

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

LAND USE SERVICES – Planning (909) 387-8311

51. Bureau of Land Management. Authorization for site access shall be provided from the U.S. Department of the Interior, Bureau of Land Management, Ridgecrest Office Field Office (BLM) prior to initiating new land disturbance activities affecting APN 0655-151-01; 0655-162-01.

52. Mine/Reclamation Documentation. Prior to authorizing a proposed expansion of the operations, the Mining/Reclamation Plan text and maps shall be revised to reflect the project as approved by the Planning Commission.

53. Project Boundary Verification. Prior to new ground disturbance, a Licensed Land Surveyor shall be employed to determine and permanently monument the property corners and limits of each road right-of-way and project boundaries. For each corner, GPS coordinates (or other similar technology) shall be provided in a format acceptable to the County. A final report shall be provided to Land Use Services/Minning Division.

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

54. 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.

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

55. 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.

56. Drainage Easements. Adequate San Bernardino County Drainage Easements (minimum fifteen [15] feet wide) shall be provided over the natural drainage courses, drainage facilities, and/or concentration of runoff from the site. The hydrologic/hydraulic calculations supporting the size of the easement(s) shall be submitted for review/approval by the Land Development Division prior to recording the easement. Proof of recordation shall be provided to the Land Development Division.

57. On-site Drainage Easement. On-site flows shall be directed within a drainage easement.
58. On Site Flows. On-site flows need to be directed to the nearest County maintained road or drainage facilities unless a drainage acceptance letter is secured from the adjacent property owners and provided to Land Development.

59. Joshua Trees. Any land disturbance shall be kept at least 40 feet away from any Joshua tree in order for the design to be acceptable. If the proposed land disturbance is within 40 feet of a Joshua tree, then the applicant will need to submit a survey by a licensed arborist to verify that the proposed design will not detrimentally affect the tree. For all applications, plot plans must show the location of all Joshua trees on a parcel. http://www.sbcounty.gov/Uploads/LUS/BandS/Handouts/IB-0016.pdf.

60. FEMA Flood Zone. The project is located within Flood Zone D according to FEMA Panel Number 06071C4925H 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.

61. 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.

62. 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 – Surveyor 909 387-7910

63. Corner Records Required Before Grading. 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.

64. 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 MINING OPERATION, THE FOLLOWING CONDITIONS SHALL BE MET

LAND USE SERVICES/BUILDING & SAFETY DIVISION (909) 387-8311

65. 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.

COUNTY FIRE – Community Safety (909) 386-8400

66. 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.

67. 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.

68. 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.

69. Access. The development shall have a minimum of _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 – Hazardous Material 384-8401

70. 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. Prior to occupancy, 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.

71. Petroleum Product Storage. Prior to occupancy, a business or facility handling an aggregate storage capacity of 1,320 gallons or more of petroleum in aboveground storage containers or tanks with a shell capacity equal to or greater than 55 gallons shall prepare and implement a Spill Prevention, Control, and Countermeasure (SPCC) Plan in accordance with 40 CFR 1 112.3 and CHSC25270.4.5(a). The SPCC plan shall be maintained on site. Contact the Office of the Fire Marshal, Hazardous Materials Section at (909) 386-8401 or visit https://sbcfire.org/apsa/ for more information.

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

72. 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.”

73. Existing Onsite Wastewater treatment (OWTS). Existing Onsite Wastewater Treatment System (OWTS) can be used if applicant provides an EHS approved certification that indicated the system functions properly, meets code, has the capacity required for the proposed project, and meets LAMP requirements. Submit an OWTS certification for EHS review and approval. OWTS certification must be completed by a state licensed contractor with license A, C-36, and C42 or other qualified professionals (i.e., Registered Civil Engineer (RCE.), Registered Environmental Health Specialist (REHS), Certified Engineering Geologist (C.E.G.), etc.) Applicable EHS review fee will be invoiced upon receipt of certification.

74. New Public Water System permit A Public Water System annual permit which meets Title 22, CCR requirements pertaining to the type of water system, shall be required. For information, contact EHS at: (800) 442-2283.

75. Existing wells. If wells are found on-site, evidence shall be provided that all wells are: (1) properly destroyed, by an approved C57 contractor and under permit from the County OR (2) constructed to EHS standards, properly sealed and certified as inactive OR (3) constructed to EHS standards and meet the quality standards for the proposed use of the water (industrial and/or domestic). Evidence, such as a well certification, shall be submitted to EHS for approval.

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

77. Water System Permit. A water system permit will be required and concurrently approved by the State Water Resources Control Board – Division of Drinking Water. Applicant shall submit preliminary technical report in accordance with California Health and Safety Code §116527(c) to EHS and the State Water Resources Control Board. Application must be approved prior to initiating construction of any water-related development. Source of water shall meet water quality and quantity standards. Test results, which show source meets water quality and quantity standards shall be submitted to the Division of Environmental Health Services (EHS). For information, contact the Water Section at (800) 442-2283 and SWRCB-DDW at (916) 449-5577.

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

78. 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.

ON-GOING OPERATIONAL CONDITIONS
General Requirements

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

79. Refuse Storage and Disposal. All refuse generated at the premises shall at all times be stored in approved containers and shall be placed in a manner so that visual or other impacts, and environmental public health nuisances are minimized and complies with the Development Code, Section 33.0830 et seq. For information, please call DEHS/Local Enforcement Agency (LEA) at: 909-387-4655.

80. 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 – 909 387-4374

81. 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.

82. Back Out Into Public Roadways - Project vehicles shall not back up into project site nor shall they back out into the public roadway.

LAND USE SERVICES – Planning (909) 387-8311

83. Certificate of Compliance (CofC): Applicant shall adhere to COA cited in CoC recorded with the County Register on 2/15/2013, vested rights No. VR2012-02 A;B;C with Attachments A, B and C.

84. Barriers/Signage. A barrier and signage per MSHA requirements shall be maintained around the mined slopes. The upper reach of the final reclaimed slopes shall be remediated to an inclination of 3:1(Horizontal: Vertical) or flatter.

85. Noise Operations. Noise level shall be maintained at or below County Standards, Development Code §83.01.080

86. Groundwater Use Compliance. Should groundwater become a source of project water, the operator shall abide by the terms of the Stipulated Judgment for the Mojave River Basin Adjudication and shall coordinate with Mojave Water Agency staff to ensure compliance.

87. Water Discharge. On-site groundwater may be impaired with undesirable chemical constituents; therefore, water use and discharges shall be in accordance to the water quality objectives and standards within the Lahontan Region outlined in Chapter 3 of the Basin Plan.

88. Stockpiling. On-site materials shall not be stockpiled adjacent to an active drainage unless adequate protective measures are implemented. Adequate measures shall consider the most adverse conditions the stockpile will likely experience.

89. Soil Contamination. In the event of any soil contamination on-site, the applicant/operator shall remove to a County approved disposal site, any soils that become chemically contaminated so as to preclude any chemical leaching into the local ground water supply over time.

90. Overburden. The removal of vegetation and overburden, if any, in advance of surface mining shall be kept to the minimum. The following practices shall be undertaken during the performance of surface mining operations:

A. Erosion control facilities such as retarding basins, ditches, streambank stabilization, and diking shall be constructed and maintained where necessary to control water erosion.
B. Erosion and Drainage. Grading and revegetation shall be designed to minimize erosion and to convey surface runoff to; natural drainage courses or interior basins designed for water storage.
C. Resoiling. When the reclamation plan calls for resoiling, course hard mine waste shall be leveled and covered with a layer of finer material or weathered waste. The use of soil conditioners, mulches, or imported topsoil shall be considered where revegetation is part of the reclamation plan and where such measures are necessary.

91. Mining Operation. The mining operation shall be conducted in a uniform manner, with exterior slopes and floors trimmed as the mining operation proceeds to facilitate implementing site reclamation. Excavations shall be conducted so as to leave them in a reasonably neat and trim manner. The final site shall be graded and revegetated as per the approved Reclamation Plan Plot Plan. Any changes to the approved plans shall require a Revision Application.

92. Slope monitoring. Slope monitoring shall be implemented to assure that unnecessary hazards are not created with the active or final reclaimed slopes. The monitoring shall include the following items:
A. Slope Stability Analysis: A qualified independent California Certified Professional Civil Engineer OR Engineering Geologist shall complete, on an annual basis or deemed necessary by County inspector, a stability assessment of new quarry development areas. The analysis shall identify and discuss significant structural features or indications of potential instability encountered.

B. Review of Slope Stability Considerations: Using the information from the investigation and monitoring, the assumptions and results of the stability analysis shall be evaluated for continued approved design applicability.

93. Recycling Material. Processing and/or stockpiling of recycled materials is not permitted on site.

94. Interim Management Plan. The applicant shall implement measures to stabilize and secure the site during periods of inactivity as per the approved Reclamation Plan. An Interim Management Plan (IMP) as required by SMARA, Section 2770(h) shall be submitted to Planning for review and approval within 90 days of the mining operation becoming idle.

95. Headlights. In consideration to recreational use in the vicinity of the project, daytime headlights shall be required at all times. Advisement to drivers and employees of this requirement shall be made on a weekly basis.

96. Reclamation. Reclamation shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operation.

97. Signage. Clearly legible signs denoting limits shall be posted along with fencing, berms, or rock barriers, as necessary, to protect against accidental entry to the site. Lettering shall be a minimum four (4) inches in height. As feasible, signs shall be placed every 300 feet around the perimeter of the project plan area where undisturbed ground adjoins the permit area. All signs shall be in place prior to the commencement of extraction activities.

98. Sign Maintenance. The applicant/operator should regularly review the adequacy of the signs. Care should be taken to ensure that signs do not become blocked by vegetation or become illegible from dirt or deterioration. As new phases are developed, additional signs may be needed. In evaluating the adequacy of signs, they should be considered from the viewpoint of a first-time visitor on the property, such as a vendor or a contractor. Pay special attention to any areas where public roads intersect project roads. Other drivers may not be familiar with the operation of mining equipment, the mine's traffic patterns, and equipment blind spots. Ensure that the traffic and warning signs that are provided in these areas are adequate.

99. Advertisement. Any advertising or identifying sign shall be constructed in compliance with the designated Official Land Use District for this site.

100. Company Identification. The applicant shall install Company identification signs on all company owned and operated haulage trucks used on public roads. The signs shall be located on both sides and the rear of each truck. The information contained on the sign shall include:

On the rear of the truck:	On the side of the truck:
A. How am I driving?	A. Company name.
B. Truck number.	B. Truck number.
C. Company phone number.	C. Company phone number.

The signing shall be printed in a minimum of 3" high lettering. The applicant shall have a person or an answering machine available during operating hours to answer the phone that corresponds to the phone number on the truck. The persons answering the phone number shall be instructed as to how to take the calls, how to affect a solution, and be responsible for returning a call to the complainant with results of investigation. The applicant shall keep a log of all calls received and shall include documentation of response and/or resolution of complaints. The log shall be made available to the County upon request.

101. Site Lighting. Non-portable plant equipment and structures are restricted to a maximum of 35 feet in height above natural grade level.

102. Plots. Test plots shall be indicated on the Mine Reclamation Plan and required to determine the suitability of growth media for revegetation purposes. Test plots shall be conducted simultaneously with mining to determine the most appropriate planting procedures to be followed to ensure successful implementation of the Re-vegetation Plan.

103. Re-vegetation Monitoring. Monitoring will continue annually for at least five (5) years after reclamation has been completed. Following the first two years of qualitative monitoring, quantitative monitoring will be conducted. Monitoring will utilize methods appropriate to the areas under study. Beginning with the adoption of the final revision of the Reclamation Plan that encompasses all the needed changes to be consistent with the final conditions of project approval, and continuing until reclamation is completed, the applicant/operator will submit to Planning annual monitoring reports. The reports will:

A. Describe re-vegetation actions undertaken in the reporting period;
B. Identify areas that have been disturbed;
C. Identify areas and acreage for which re-vegetation has been started;
D. Present results of investigations on species diversity and other measures of re-vegetation success in test and control or reference plots;
E. Describe successes and problems in the re-vegetation efforts for that year;
F. Describe steps taken to resolve problems or achieve re-vegetation success;
G. Describe disturbance and re-vegetation efforts planned for the next two years.

104. Revegetation Renewal. If re-vegetation is not successful, the applicant/operator shall undertake the following actions:

A. If, during the first two years of qualitative monitoring, revegetation is clearly not successful, the applicant/operator will re-evaluate the revegetation methods and will discuss changes to these methods with the County representatives. The applicant/operator will revise the Re-vegetation Plan, secure concurrence from Planning for the changes, and begin implementing the new measures.
B. If the test plots do not meet the specified success criteria of the control plots after three years, the applicant/operator will make an assessment of the re-vegetation methods to identify any deficiencies contributing to planting failures. Corrective action shall be incorporated in follow-up testing.
C. If after five years, the re-vegetated areas (as measured by the results of the test plots) have not achieved these success criteria, the applicant/operator will immediately begin to implement the measures identified in a contingency plan.

105. Financial Assurances Re-vegetation in arid areas is tenuous at best and, therefore, the applicant shall provide in the Financial Assurance Cost Estimate the costs to monitor and report on revegetation, incidental disturbance and

erosion control for a time period of five (5) years following the termination date of operation.

106. Pursuant to SMARA, Section 2772.7. Planning will prepare a "Notice of Reclamation Plan Approval" on a form to be approved by the County Recorder's Office. The operator shall pay any and all review and recording fees.

PRIOR TO FINAL CLOSURE
Following Conditions Shall Be Met

LAND USE SERVICES – Planning (909) 387-8311

107. Hazardous -5 Well Closure. Upon final reclamation, evidence shall be provided that all wells, exploration holes or test holes, as defined by DWR Bulletin 74-81 as revised in 1988 or the latest revision are destroyed in accordance with DEHS regulations and in such a manner that will no longer be a hazard to the health and safety of people and wildlife.

108. Tributary Drainage Flows. Upon final reclamation, provisions shall be implemented to intercept and conduct off site tributary drainage flows around or through the site to minimize erosion in a manner which will not adversely affect adjacent or downstream properties and shall be maintained five (5) years following the termination date of operation.

109. Equipment. At the time of termination of the operation for any reason, all equipment, structures and refuse associated with the operation shall be removed from the site, all hazards mitigated, and reclamation initiated within 90 days, as per the approved Reclamation Plan.

110. Access Roads. All access roads on site, which will not be retained for post-operation uses, shall be reclaimed at the conclusion of mining/hauling activities.

111. Site Re-Contour. The applicant/operator shall re-contour the site at the conclusion of operations (platforms, stockpiles, settling ponds, etc.). The site should resemble natural landforms where possible.

112. Reclamation Verification. Each area reclaimed shall be identified on a map and labeled for identification. The final map shall be provided to Planning for review and approval.

CONCLUSION OF CONDITIONS

Land Use Development Services Department
Planning Division
Affidavit - Applicant/Representative Accepting all the Conditions of Approval

I received, read, understand, and accept ALL the conditions of approval for Planning Project Case No. [Keywords] for [Comments]

APPLICANT/REPRESENTATIVE NAME (PLEASE PRINT)

APPLICANT/REPRESENTATIVE SIGNATURE

DATE

EXHIBIT F

MINE RECLAMATION PLAN
FOR THE
ESSEX OVERHEAD PIT

Prepared For:
San Bernardino County
Department of Public Works
825 E. Third Street
San Bernardino, CA 92415

Submitted To:
San Bernardino County
Land Use Services Department
385 North Arrowhead Avenue, 1st Floor
San Bernardino, California 92415

Prepared By:
Lilburn Corporation
1905 Business Center Drive
San Bernardino, California 92408

June 2024

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MINE RECLAMATION PLAN
FOR THE ESSEX OVERHEAD PIT

BACKGROUND

The San Bernardino County Department of Public Works (DPW) is submitting an application to the San Bernardino County Land Use Services Department (LUS) for a Mine Reclamation Plan (Plan) for the Essex Overhead Pit. The proposed mine is located on County owned lands to the southwest of the intersection of U.S. Highway 66 (Route 66 and/or National Trails Highway (NTH) and the Essex Overpass for the Burlington Northern & Santa Fe (BNSF) railroad tracks, approximately 1.3 miles northeast of Essex in the eastern Mojave Desert within San Bernardino County (see Figures 1 and 2).

The mine site consists of approximately 245 acres within the SW ¼ Sec. 29, Township 8 North, Range 17 E (T8N, R17E), San Bernardino Base Meridian (SBBM) within USGS Fenner, CA 7.5 Quadrangle. The entire proposed mine site is within portions of Assessor's Parcel Numbers (APNs) 0655-151-01 (230.9 acres) and 0655-162-01 (14.16 acres) and consists of three components, two on the west side of the BNSF railroad tracks, and one on the east side. Phase I (North Pit) and Phase II (South Pit) lie within one parcel (APN 0655-151-01) west of the tracks. The component on the east side of the rail line will remain undisturbed and this reclamation plan will not apply. A portion of the northwesterly property (identified as the North Pit) was developed as a quarry in 1930/1931 and is located on an approximate 42-acre portion of the site. The quarry was developed for the construction of Route 66 in the 1930s.

In the Mojave Desert, summer monsoons often wash away material from road shoulders, road abutments, and wing walls that are located at every bridge along the NTH. Locating sites to borrow materials used for road repairs are challenging due to public agency ownership and protected designations of surrounding lands as well as the expense of hauling materials over long distances from distant storage areas. Most of this area is public lands managed by the Bureau of Land Management (BLM) Needles field office. These areas including the NTH are mostly within the Mojave Trails National Monument established in 2016 and adjacent wilderness areas, limiting potential material sites. The few privately owned sites large enough for borrow activities and proximal to NTH were purchased by the County in 2019. These sites will reduce time, fuel usage, and trip distances from transporting material from more distant material sources.

The DPW desires to develop and utilize a long-term materials and storage site to provide construction aggregate materials for repair, maintenance, and fill in the local and regional area for roads, shoulders and bridge crossings, to facilitate stockpiling and recycling of removed materials, and to provide stockpiling of soils for reclamation activities. Through a collaborative effort with the BLM and development of a Corridor Management Plan, the DPW is the responsible agency for the long-term maintenance of the NTH. The BLM has agreed to coordinate efforts to support DPW's efforts to maintain NTH within the Mojave Trails National Monument while maintaining historic aspects and resources of the NTH. The historic NTH is used for site-seeing and recreation and by local users as a secondary transportation route. Materials quarried, processed and recycled at the site may also be made available for other regional government infrastructure improvement and repair projects.

To meet the objectives of developing and permitting the mine and materials storage site, the DPW has prepared this Mine Reclamation Plan that will allow for the long-term extraction of materials to provide for repair and maintenance activities and for use of the site for spoils material stockpiling and recycling. The site will provide aggregate materials to repair roads, bridges, wash crossings, and road shoulders for various roads, culverts, and other DPW sites for annual maintenance and/or emergency repair due mainly to storm events and possible seismic events.

1.0 MINE PLAN

DPW is submitting a Mine and Reclamation Plan application for the development and use of the Essex Overhead Pit. This application would annually provide up to 10,000 cubic yards (cy) or 15,000 tons of material for various roads, culverts, and other DPW sites for annual maintenance and/or emergency repair due mainly to storm events. The annual amounts may vary from zero to up to 50,000 tons or more depending on scheduled road maintenance and repair and emergency repairs caused by flooding or possibly earthquakes. The reclaimed end use of the North Pit will be revegetated open space (22.21 acres) and the South Pit (25.13 acres) will be used for a long-term DPW material maintenance and storage yard. Approximately 197 acres or 80% of the two parcels will not be disturbed.

The proposed project site is located on County owned lands to the southwest of the intersection of Route 66 (NTH) and the Essex Overpass of the BNSF railroad tracks, approximately 1.3 miles northeast of Essex in the eastern Mojave Desert. The Essex Overhead Pit, consisting of two individual pits, will occupy approximately 47 acres of the western portion of the 230.9-acre APN 0655-151-01, west of the railroad tracks. Approximately 0.7 acres of APN 0655-162-01 (14.16 acres) located on the west side of the tracks will also be part of the pit area. The eastern portions of the two parcels (approximately 155 acres) located east of the railroad tracks will be conserved as open desert lands. This document will focus on the western portion of the property where mining and reclamation activities will take place.

Elevations of the mine pits range from approximately 1,725 feet above mean sea level (amsl) in the southwest corner to approximately 1,820 feet amsl in the northeast corner of the site; slightly increasing in elevation from the SW to NE.

The NTH with a 200-foot right-of-way (ROW) is aligned along the west and north sides of the site. Setbacks from this ROW are 50 feet on the northwest and the setbacks increase towards the southwest along the ROW. SCE has a 30-foot easement on the west side within the site parcel. The western edge of the pits will be setback 50 feet from the actual location of the power line. A 30-foot-wide drainage easement bisects the North and South Pits which will be avoided by operations with setbacks of 50 feet.

The BNSF 200-foot-wide ROW with active railroad tracks is aligned NNE to SSW along the east side of the planned pits. In addition, archaeological surveys determined that the original NTH alignment is located adjacent to and the immediate west of the railroad ROW. To avoid any potential impacts to historical resources and to avoid any impacts to the railroad ROW, a cultural resource setback of 200 feet is to be established on the west side of the railroad ROW on the east side of the pits.

The undisturbed portions of the project site are mainly vegetated with scattered creosote bush. The NTH, powerline, and railroad lines, the adjacent properties to the north, east, and south are vacant, undisturbed desert lands. Most of the areas to the west are also vacant desert lands except for a number of rural buildings located on private lands to the northwest across the NTH.

Landowner: San Bernardino County
825 E. Third Street
San Bernardino, CA 92415

Operator: San Bernardino County Department of Public Works
825 E. Third Street
San Bernardino, CA 92415
909-387-7910
Noel Castillo, Director; Noel.Castillo@dpw.sbcounty.gov

Representative: Lilburn Corporation
1905 Business Center Drive
San Bernardino, California 92408
909-890-1818
Frank Amendola; frank@lilburncorp.com

Countywide Plan: Land Use Category – Open Space (OS)
Zoning – Resource Conservation (RC)

APNs: portions of 0655-151-01 (230.9 acres) and 0655-162-01 (14.10 acres); SW¼ of Section 29, T8N, R17E, SBBM.

Parcel Size: Approx. 245 acres total on two parcels; no disturbances on east side of railroad tracks.

Mine Area: Approx. 47 acres for two pits plus one acre for roads. Approx. 197 acres to be left undisturbed

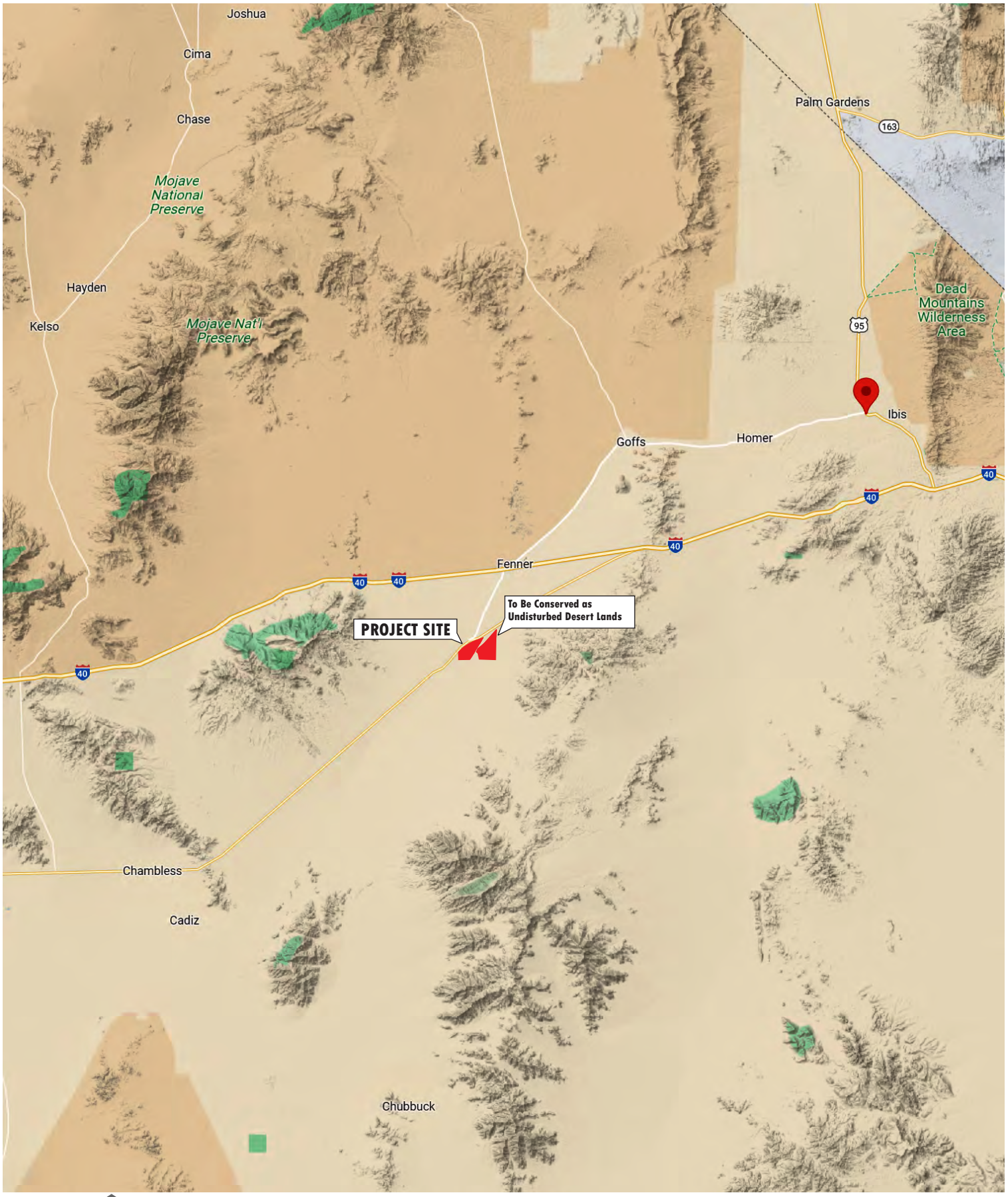
Estimate Operating Life: 100 years from County LUS approval.

Estimated Operations Termination Date: December 31, 2126 or 100 years from date of County LUS approval.

Area to be Reclaimed: 22 acres of the North Pit to be revegetated desert; open space. 25 acres of South Pit to be reclaimed as a maintenance and material storage yard. one acre of access roads to remain.

Estimated Reclamation Completion: December 31, 2131

Reclaimed End Use: Open space on approx. 22 acres of North Pit; DPW Maintenance and Material Storage Yard on approx. 25 acres of South Pit plus one acre for access roads.



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LILBURN CORPORATION

LEGEND

PROJECT BOUNDARY

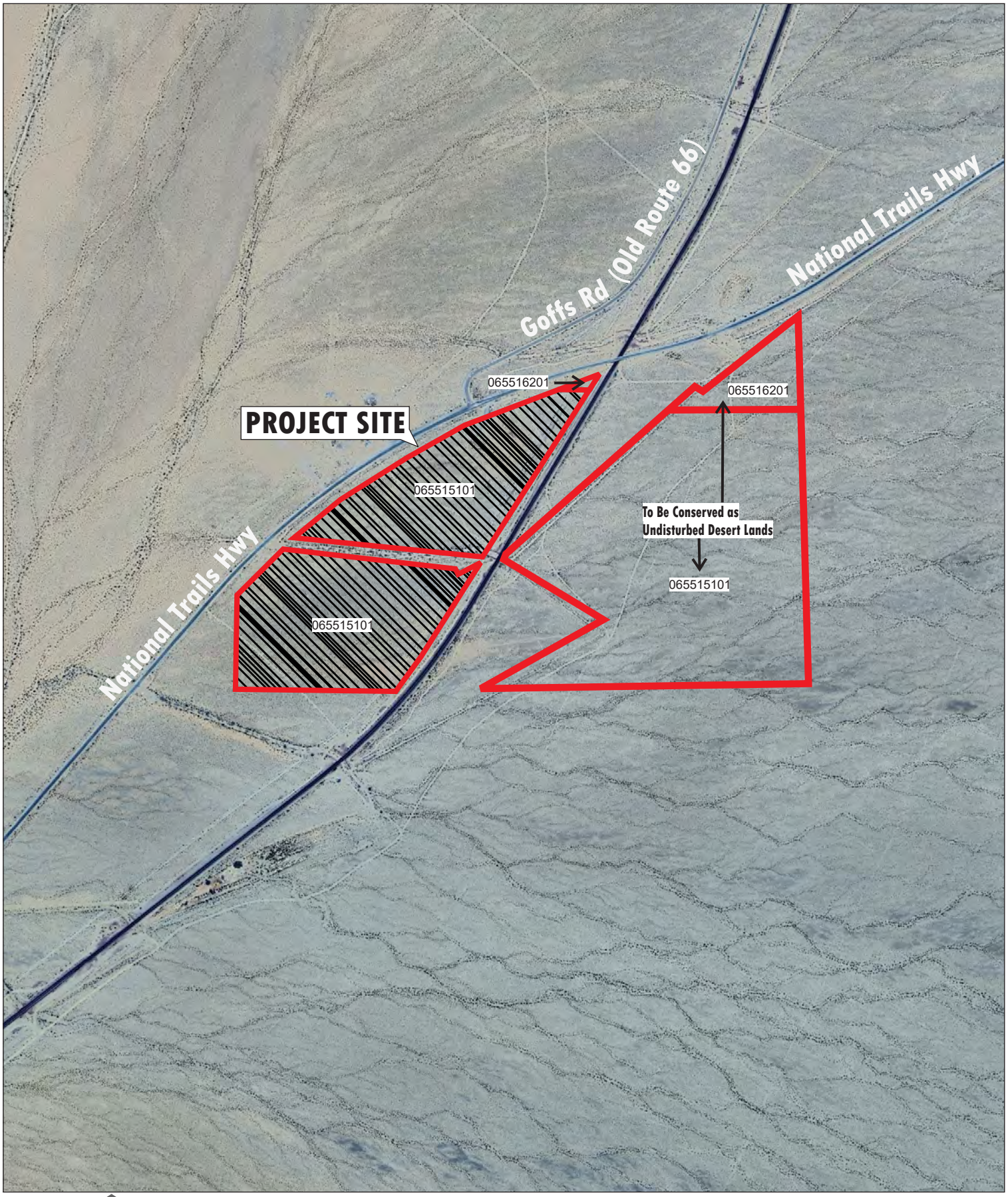
SAN BERNARDINO COUNTY

Department of Public Works

LOCATION MAP

Essex Overhead Pit
Mine Reclamation Plan
County of San Bernardino, California

FIGURE 1



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Feet

LILBURN CORPORATION

LEGEND

PROPERTY BOUNDARY

PROJECT SITE

SAN BERNARDINO COUNTY

Department of Public Works

VICINITY MAP

Essex Overhead Pit
Mine Reclamation Plan
County of San Bernardino, California

FIGURE 2

1.1 MINING OPERATIONS

Refer to Sheet 1 and Figure 3 for the Mine Plan/Mine Plan Cross Section.

Mining operations will be undertaken over a period of up to 100 years beginning in 2026 and extending until 2126. An estimated 10,000 cy or 15,000 tons annually would be excavated on an intermittent basis over the course of the life of mine. The annual amounts may vary from zero to up to 50,000 tons or more depending on scheduled road maintenance and repair and emergency repairs. The operational areas will be fenced as determined in the field with a combination of desert tortoise fencing and 4-strand wire according to the protocols in Chapter 8 of the Desert Tortoise Field Manual (USFWS 2009).

Phase I or North Pit

Mining will take place in two phases; Phase I will be approx. 22 acres and will be referred to as the North Pit; and Phase II, referred to as the South Pit (approx. 25 acres) will be utilized when Phase I is mined out. Mining of the North Pit will be conducted from approximately 1,795 feet amsl on the southwest rim to 1,820 feet amsl on the northeast rim with an average depth of 60 feet or an average floor elevation of 1,748 feet amsl. Mining will be conducted with a 3H:1V or 18° overall slope. The aggregate volume for the North Pit is estimated at 1.255 million cy or about 1.9 million tons based on 1.5 tons/cy. Material not suitable for fill or other construction needs is roughly estimated at 10% of the volume.

Setbacks of a minimum of 50 feet will be established along the north side of the pit adjacent to the NTH ROW; adjacent to the powerline and power poles along the west side of the pit; and along the south side of pit adjacent to the drainage easement; and a 200-foot setback will be established on the east side of the pit to avoid potential impacts to cultural resources and the railroad ROW.

Within the setbacks above, a combined desert tortoise exclusion fence with 4-strand wire fencing and 18 to 24 inches of above ground and 12 inches below ground of galvanized wire fence material (1-inch horizontal by 2-inch vertical) as approved by the U.S. Fish and Wildlife Service. Warning signs shall be placed on the outside boundary of the pits to warn the public of mining operations. Access into the mining area will be from the NTH with 36-foot-wide compacted gravel roads (24-foot-wide road surface and 6-foot shoulders on both sides) extending to the pits. The access road entrances will be protected by security gates. Once off the project site, the street-legal transport trucks will utilize NTH to construction sites.

Mining of the site is achieved with one loader, one excavator, and a dozer to break, move, and load material directly into single truck trailer or double truck trailers with capacity of up to approximately 10 to 25 cy (typical). A complete list of the typical equipment to be used on-site and for transport to various construction sites in the vicinity is included in Table 1. There will be no permanent crushing, screening, or conveying conducted on-site nor permanent buildings or a scale on-site. On occasion as needed, a portable crusher/screen plant will be utilized on-site to crush/screen excavated material and to recycle road materials removed from damaged road and drainage crossings (bridges, culverts). Excavated material (raw or processed) road demolition

material, recycled material, and soils may be stockpiled onsite for use as needed for maintenance and repair.

Phase II or South Pit

Mining of the South Pit will be conducted from approximately 1,780 feet amsl on the southwest rim to 1,800 feet amsl on the northeast rim with an average depth of 60 feet or an average floor elevation of 1,730 feet amsl. Mining will be conducted with a 3H:1V or 18° overall slope. The aggregate volume for the South Pit is estimated at 1.64 million cy or about 2.47 million tons based on 1.5 tons/cy. Waste is roughly estimated at 10% of the volume.

Setbacks of a minimum of 50 feet will be established along the north side of the pit adjacent to the drainage easement and adjacent to the powerline and power poles along the west side of the pit; and a 200-foot setback established on the east side of the pit to avoid potential impacts to cultural resources and the railroad ROW.

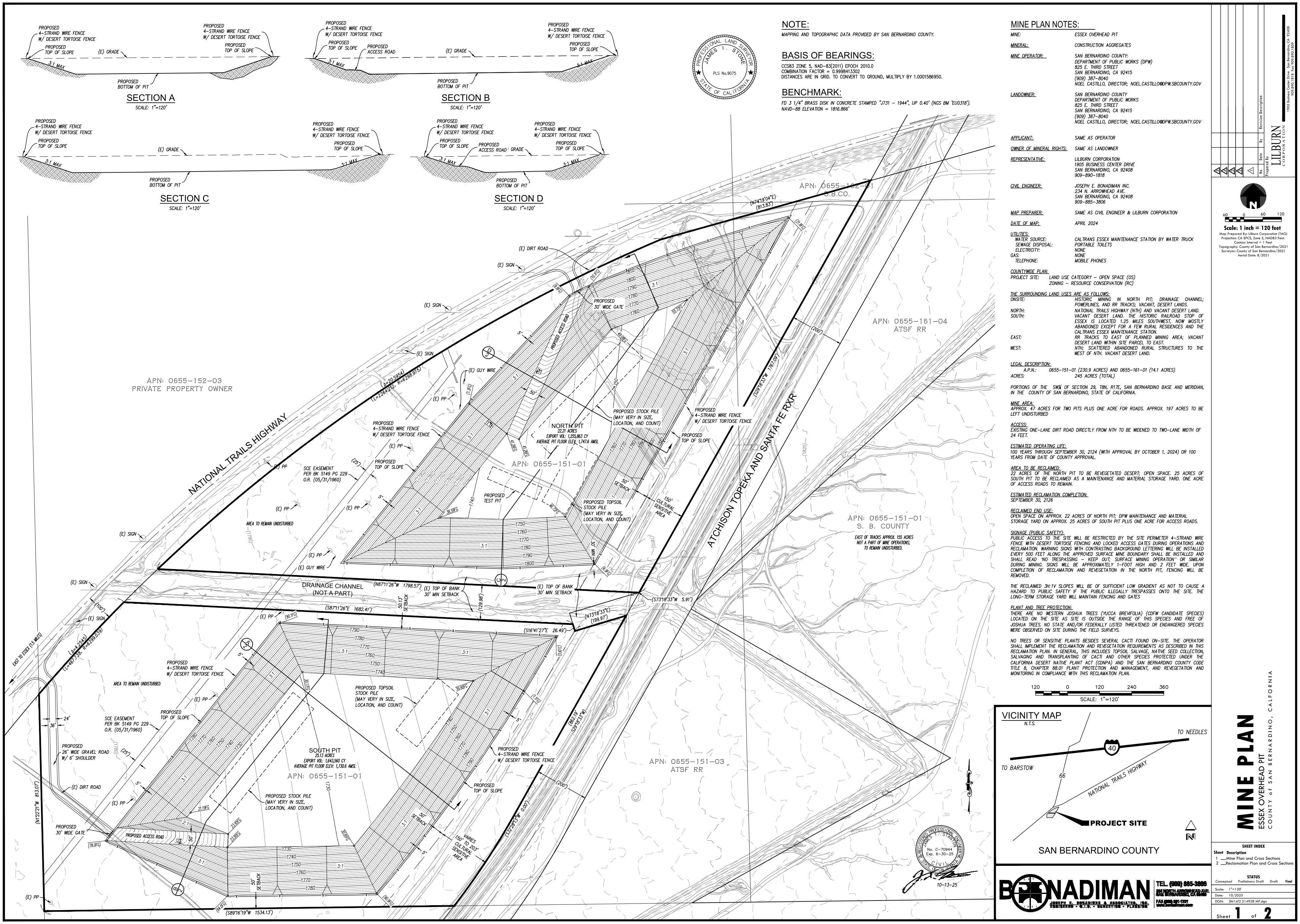
These setbacks will include desert tortoise and 4-strand wire exclusion fencing with warning signs on the outside edge of the property and secured gates at the access roads. Access into the mining area will be from the NTH with 36-foot-wide compacted gravel roads with 6-foot-wide shoulders on both sides extending to the pits. Once off the project site, the street-legal transport trucks will utilize NTH to construction sites. Mining will be conducted as described above under the North Pit.

Truck traffic will be entirely based on the need for DPW to maintain and repair the NTH, which may vary from zero to an average of 15,000 tons/year. Based on street-legal 25-ton trucks, approximately 2 to 5 trucks may access the site per an average day when operational or 4 to 10 truck trips with smaller 15-ton dump trucks. To minimize dust generation, a water truck will be retained for use during excavations and loading of haul trucks. The mine operator shall spray water working mine areas and access roads onsite on a regular basis and more frequently as needed during windy conditions. Water used for dust control will be obtained from the Caltrans Essex Maintenance Station located approximately 1.5 miles southwest via a water truck. Un-surfaced haul road and access road will also have dust controlled with and/or covered with road base material as needed.

Table 1
Mobile Mine and Transport Equipment (Typical)

Equipment Type	Typical Number	Hours/day	Purpose
Dozer	1	4 - 8	Excavate and loosen material. Access construction and maintenance
2 to 5 Axle Dump / Material Haul Trucks	2	4 – 8	Transportation of material
Excavator	1	4 -8	Excavate and load material into trucks.
Loader	1	4 - 8	Excavate and load material into trucks.
Water Truck	1	4	Water for dust control on mining areas, haul roads, and stockpiles.

Source: DPW 2024; Note that equipment listed is typical and makes and models will vary



MINE PLAN

Essex Overhead Pit

County of San Bernardino, California

FIGURE 3

Site operations will be conducted as needed intermittently primarily from 5:30 am till 8 pm (daylight hours only), up to 6 days per week: Monday through Saturday. Occasionally operations may be conducted on Sundays depending on possible emergency road repair, construction and maintenance needs. All refuse shall be disposed into approved trash bins and removed by the operator or a commercial vendor. Portable toilets will be used on-site when in operation and serviced by the operator or by a commercial vendor. Bottled water will be provided to employees.

1.2 MINE WASTE

Although portions of the site have been disturbed in the past, those areas with topsoil will have the top 6 to 12 inches of surface material pushed into the storage stockpiles or perimeter berms shown on the mine plan no higher than six feet in height. Minimal amounts of overburden or waste material are expected (less than 10%) and these volumes will be used to backfill slopes or spread over areas where mining has been completed.

There will be no imported waste materials or chemicals brought to the project site or stored on-site besides fuel and equipment maintenance fluids during active mining periods. Broken road materials may be transported to the site for recycling. Maintenance and fueling will be conducted by a mobile maintenance truck if needed and Best Management Practices (BMPs) will be implemented. All used fluids will be removed from the equipment and from the site following standard regulations. No fuel or used fluids will be stored long-term on-site.

1.3 ORE PROCESSING

The mined material will typically be loaded directly into trucks for transport to DPW construction sites. No permanent crushing or screening plant facilities are planned on-site. On occasion as needed, a portable crusher/screen plant will be utilized on-site to crush/screen excavated material and to recycle road materials removed from damaged road and drainage crossings. Excavated material (raw or processed), road demolition material, recycled material, and soils may be stockpiled onsite for use as needed for road maintenance and repair. When a plant is used onsite, these plants will be powered by portable generators. All process plants and generators will be permitted through the Mojave Desert Air Quality Management District (MDAQMD) as required.

1.4 PRODUCTION WATER

Water use on-site will be utilized to minimize fugitive dust generation. A water truck will be used for wetting-down material and roads during mining activities and for wetting-down haul trucks prior to site departure. Approximately 4,000 gallons of water a day may be used for dust suppression activities. The 4,000-gallon water truck (typical) will fill at the Caltrans Essex Maintenance Station about 1.5 miles southwest. It is not anticipated that there will be any excess water from the dust control procedures; therefore, no recycling is required or planned.

1.5 EROSION AND SEDIMENTATION CONTROL

DPW is required to comply with Statewide National Pollutant Discharge Elimination System (NPDES) and will prepare and implement a Storm Water Pollution Protection Plan (SWPPP) including applicable BMPs. The control of drainage, erosion, and sedimentation of the mine site will be contained in the enclosed pits and by implementing the following primary BMPs as applicable:

- Limiting surface disturbance to the minimum area required for active operations;
- Monitoring erosion on slopes and implementation of one or more soil stabilization practices as applicable for the site such as: earthen berms or dikes; silt fence; fiber rolls; straw bales; gravel bags; sediment basin(s); and straw mulch.
- Stabilizing disturbed areas through grading slopes to 3H:1V; and
- After project completion - final revegetation of slopes will be by seeding with native species.

The final slopes will gently slope at 3H:1V into the closed pit floor. There are no major drainage or run-off channels that will be affected by the mining. The large 100-foot-wide drainage easement bisecting the two pits will be avoided with setbacks of 50 feet established or greater. Only direct precipitation will affect the pits and will be collected within the pits and allowed to evaporate or percolate. Any rainfall occurring at higher elevations to the east of the rail line is collected in a dike system directing water to a culvert under the rail line, through the project site from an east to west direction. The slopes are designed at very gentle 3H:1V that would reduce possible slope erosion and runoff channeling down the slopes. There will be no run-off away from the pits.

During the course of mining and the final design of the 3H:1V slope contouring, some erosion may occur during heavy rainfall on the slopes. Erosion sediment caused by rainfall will be retained at the bottom of the pit and rills or channels in the slopes backfilled. Any water retained within the pits will not impact adjacent properties or local roads due to its containment.

After each major storm event or annually, any final slopes will be visually inspected to determine if any substantial erosion is evident such as sheet, rill or gully erosion. A major storm event is defined as precipitation totals of 0.5 inches per 24-hour period. Any rills or gullies in excess of 8 square inches in cross sectional area and are more than 10 linear feet located on final slopes shall be arrested using methods listed above.

Revegetation will be used for the long-term control of erosion on the slopes. Access points and mined surfaces will be water sprayed as necessary to reduce wind erosion during operations.

1.6 BLASTING

There will be no blasting on this project site, therefore, no explosives will be used or stored on site.

2.0 RECLAMATION PLAN

2.1 LAND USE

The Essex Overhead Pit is on vacant County owned land located to the southwest of the intersection of Route 66 or NTH and the Essex Overpass BNSF railroad tracks. A portion of the northwesterly property (identified as the North Pit) was developed as a quarry in 1930/1931 for use in the construction of Route 66 in the 1930s. Natural vegetation or re-growth on-site consists of primarily creosote sage bush - white burr sage scrub. The NTH borders the site on the west and north while the ATSF railroad lines extend along the entire east side of the two planned mining pits. A power line runs NE to SW parallel to the NTH within the site property on a 30-foot-wide easement. Besides the NTH, powerline, and railroad lines, the adjacent properties to the north, east, and south are vacant, undisturbed desert lands. Most of the areas to the west are also vacant desert lands except for a number of rural buildings located on private lands to the northwest across the NTH. The portion of the overall property on the east side of the railroad tracks is vacant, desert lands that will not be developed.

The mine site is generally level rising approximately 40 feet from the southwest to the northeast with existing elevations ranging from 1,780 to 1,820 feet amsl. The Countywide Plan land use category is open space (OS), and the site is zoned as Resource Conservation (RC). Mining is an allowable use with approval of a conditional use permit and a reclamation plan per the County's Mining Ordinance, Division 8, Chapter 88.03 of the Development Code.

The surrounding land uses are as follows:

North: NTH and vacant desert land.

South: Vacant desert land. The historic railroad stop of Essex is located 1.25 miles southwest, now mostly abandoned except for a few rural residences and the Caltrans Essex Maintenance Station.

East: Railroad tracks to east of planned mining area; vacant desert land within site parcel to east.

West: NTH; scattered abandoned rural structures to the west of NTH and vacant desert land.

2.2 VISIBILITY

The mine site is located adjacent to and east of the NTH and west of the railroad tracks about 1.25 miles northeast of Essex. Access to the site will be from the NTH. The mine site had been partially disturbed by historical mining in the 1930s for the development of the NTH. Mining will be conducted in two shallow pits. As the pits are developed with depth, operations onsite will be partially hidden from view from passing motorists. No permanent process plants will be located on-site. The mine site location is currently affected by views of abandoned structures to the west, a powerline and the railroad lines.

2.3 VEGETATION

For a complete description of the on-site vegetation, refer to the *Biological Resources Assessment* prepared by Leatherman BioConsulting, Inc. (May 2023) included in Appendix 1 of this Plan.

The Project site vegetation is dominated by shrubs and herbaceous understory creosote bush-white sage scrub (*Larrea tridentate-Ambrosia dumosa* Shrubland Alliance). Within the wash located outside of the property boundary between the two planned pits, vegetation consists of desert willow – smoke tree scrub (*Chilopsis linearis – Psorothamnus spinosus* Shrubland Alliance).

A variety of subdominant plants also occur in low densities on-site including cheesebush (*Ambrosia salsola*), incienso brittlebush (*Encelia farinosa*), rayless encelia (*Encelia frutenscens*), and woolly eriophylum (*Eriophyllum lanosum*). Other than the creosote bush, most of the shrubs are less than 3 feet tall and canopy is open. Cacti in the survey area include pencil cholla, beavertail cactus, and cottontop cactus. Few annual plants were observed, even during the spring survey in April 2023. Common species observed include devil's spineflower (*Chorizanthe rigida*), Booth's camissonia (*Eremothera boothii*), Fremont pincushion (*Chaenactis fremontii*), slender pectocarya (*Pectocarya platycapa*) and desert lily (*Hesperocallis undulata*). Non-native annual plants throughout the site included Sahara mustard (*Brassica tournefortii*), red brome (*Bromus rubens)*, and Mediterranean schismus (*Schismus barbatus*). The scrub habitat appeared to be in poor condition due to the prolonged drought in the region. Many of the perennial shrubs appeared to be dead or were brown and leafless, and most of the cacti were dead. No Joshua trees (Yucca brevifolia), a California candidate species for listing, occurred on the Project site.

Eight special status plant species are known to occur in the vicinity of the Project site and were targeted during the surveys. No special status plant species, including federal or state threatened, endangered, or candidate plant species, were observed during the general or focused surveys. Table 2 in Appendix 1 lists the potential for these species to occur within the Project site.

Though no special status plants were observed, annual plants with potential to occur may not have germinated or otherwise been detected. To mitigate potential impacts, the operator shall implement the reclamation and revegetation requirements as described in this Reclamation Plan. In general, this includes topsoil salvage, native seed collection, salvaging and transplanting of suitable of cacti and other species protected under the California Desert Native Plant Act (CDNPA) and the San Bernardino County Code Title 8, Chapter 88.01 Plant Protection and Management, and revegetation and monitoring in compliance with this Reclamation Plan.

2.4 WILDLIFE

For a complete description of the on-site wildlife, refer to *the Biological Resource Assessment* prepared by Leatherman BioConsulting, Inc. (May 2023) included in Appendix 1 of this Plan.

The Project is composed primarily of desert scrub dominated by creosote bush and is suitable for wildlife species that occur in similar areas in the Project vicinity and throughout the region. Fish

and amphibian species do not occur on the Project site due to a lack of suitable aquatic or moist habitat. A variety of reptiles, birds, and mammals are expected to occur or were observed or detected during the surveys. A list of the wildlife species observed within the survey area is presented in Appendix 1. Common wildlife species observed or expected to occur on the Project site include the following among others: the side-blotched lizard (*Uta stansburiana*), observed during the surveys; gopher snake (*Pituophis catenifer*), desert sidewinder (*Crotalus cerastes*), Zebra-tailed lizard (*Callisaurus draconoides*), and western whiptail (*Aspidoscelis tigris*).

Habitat on the Project site provides suitable foraging and nesting habitat for many bird species. Some birds may be year-around residents, but many species only occur during the summer (nesting) or winter. Other species pass through during migration only. Species observed or expected to occur seasonally include red-tailed hawk (*Buteo jamaicensis*), black-throated sparrow (*Amphispiza bilineata*), phainopepla (*Phainopepla nitens*), loggerhead shrike (*Lanius ludovicianus)*, verdin (*Auripaurus flaviceps*), and common raven (*Corvus corax*).

Several mammals were observed or detected by the presence of their sign including scat, tracks, and burrows. Potential dens of both coyote (*Canis latrans*) and kit fox (*Vulpes macrotis*) were observed although none were active. Additional common mammal species expected to occur include kangaroo rats (*Dipodomys spp*.), desert cottontail (*Sylvilagus audubonii*) and white-tailed antelope squirrel (*Ammospermophilus leucurus*).

A total of ten special status wildlife species have been reported in the Project region. These species and their potential to occur within the Project site are listed in Table 3 in Appendix 1. No special status wildlife was observed during survey, but desert tortoise burrows (none of which showed signs of recent use) were observed in the survey area. Several of the special status wildlife species identified during the literature search are not expected to occur on the Project site at all, while others may use the site occasionally. Those with potential to occur are addressed below.

Desert Tortoise

The Mojave Desert tortoise is listed as threatened under both the state and federal Endangered Species Acts and a candidate species for state endangered listing. Suitable habitat and soils occur throughout the Project site. No live tortoises or recent sign were observed during focused tortoise surveys; however, nine burrows ranging in quality from Class 2/3 burrows (definitely made by desert tortoises) to Class 5 (possibly tortoise but deteriorated) were observed in the survey area. The lack of recent sign indicates that tortoises may not currently use the Project site and suggests they have not used it in recent years.

The lack of tortoises and recent sign may be the result of several factors that make the site less favorable compared with surrounding habitat. The location of the Project in a strip of habitat between National Trails Highway and the railroad increases the risk of mortality for tortoises that move in and out the Project site area, reducing the number of tortoises likely to use the area over time. In addition, most of the vegetation on the Project site appeared to be dead or dying due to lack of water from the prolonged drought throughout the region, and adjacent habitat along the highway, railroad, and adjacent Southern California Edison easements is relatively disturbed

from past and current operational uses. The introduction of nonnative plant species, primarily Mediterranean grass (*Schismus barbatus*) and Sahara mustard (*Brassica tornefortii*), further contributes to the lower quality of the habitat.

Despite the lack of recent sign on the Project site, there is the possibility that a tortoise could pass through or take up residence on the Project site when it is active in the spring or fall season. Therefore, the following precautionary measures are recommended to avoid potentially impacting any desert tortoise that may wander on site during operations of the pits within suitable desert tortoise habitat:

- *Worker Environmental Awareness Program - Prior to any construction activities or site development at the site, DPW will implement a Worker Environmental Awareness Program (WEAP) to educate on-site workers about sensitive environmental issues associated with the Project. The program will be administered to all on-site personnel, including the County's DPW personnel, contractors, and all subcontractors, on the first day of work prior to commencing work on the site. The WEAP will emphasis the protected species that have potential to occur on or near the Project site, including the Mojave Desert tortoise, burrowing owl, nesting birds, and desert kit fox, among other plant and wildlife species.*
- *Desert tortoise exclusion fence shall be installed around the perimeter of active mine phases with required biological monitoring during fence construction;*
- *Vehicle speeds shall not exceed 20 miles per hour on access roads enforced by speed limit signs and employee training program;*
- *No cross-country travel with motorized vehicles outside of the project area or access roads by project personnel shall be permitted;*
- *Workers shall inspect for desert tortoise under vehicles prior to moving them;*
- *No firearms, dogs or other pets shall be allowed within the project area; and*
- *All trash and food items shall be promptly contained within closed, common raven-proofed containers and will be removed weekly from the project site to reduce the attractiveness of the area to common ravens*

Desert tortoise are protected by applicable State and/or federal laws, including but not exclusive to the California Endangered Species Act (CESA) and federal Endangered Species Act (ESA). As such, if a desert tortoise is found on-site during work activities, all activities likely to affect the animal(s) should cease immediately and regulatory agencies should be contacted to determine appropriate management actions.

Burrowing Owl

Burrowing owl (BUOW) is not listed under the State or federal ESA but is considered both a State and federal species of special concern (SSC). The BUOW is a migratory bird protected under the Migratory Bird Treaty Act (MBTA) and by State law under the California Fish and Game Code.

No burrowing owls or sign of their presence were detected during surveys of the Project site in the winter and spring. However, suitable habitat for the burrowing owl occurs throughout the Project site and surrounding habitat, and the presence of multiple burrows that are of a size suitable for use by burrowing indicate that owls could occupy the site at some time in the future. The following precautionary measure is recommended to avoid potential impacts to BUOW prior to new disturbance:

- *A pre-construction survey shall be conducted should be completed according to CDFG guidelines (CDFW 2012), with one survey being conducted within 14 days of planned construction and a second survey conducted within 24 hours of grading to verify the continued absence of BUOW species in the area of operations. If burrowing owl or an occupied burrow is observed on-site during the survey, avoidance of occupied burrows during the nesting season (February 1 through August 31) with a 600 -foot setback is required by CDFW.*

Loggerhead Shrike

Loggerhead shrike (*Lanius ludovicianus*) breeds in brushlands and open woodlands with grass over. It is the most widely distributed vertebrate in the western Mojave Desert, but it is not common anywhere in the desert (BLM 2005). One individual was observed near the Project site during the surveys conducted in December 2022. This species could nest in the wash between the Phase I and II pits adjacent to the Project site and forage throughout the survey area, but it likely does not nest within the Project site.

Desert Kit Fox

The desert kit fox is a small fox native to the western United States including the Mojave and Sonoran deserts of California (Ingles 1965). Although the desert kit fox is not designated by federal, state, or local agencies as a special-status species, CDFW regulations prohibit the take of this species. Thus, to be compliant with CDFW regulations, the project must avoid the capture or accidental mortality of desert kit foxes. Several burrows possibly attributable to desert kit fox were detected on the Project site during focused tortoise surveys.

Given the presence of suitable burrows, the extent of suitable habitat in the region, and this species' high mobility and willingness to tolerate human disturbance, kit foxes could take up residence in the survey area at any time in future, even though it appears to be unoccupied currently.

Nesting Birds

The federal MBTA provides protection for nesting birds that are both residents and migrants whether or not they are considered sensitive by resource agencies. The MBTA makes it unlawful to take, possess, buy, sell, purchase, or barter any migratory bird listed under 50 CFR 10, including feathers or other parts, nests, eggs, or products, except as allowed by implementing regulations (50 CFR 21). The USFWS, in coordination with the CDFW administers the MBTA. CDFW's authoritative nexus to MBTA is provided in FGC Sections 3503.5 which protects all

birds of prey and their nests and FGC Section 3800 which protects all non-game birds that occur naturally in the State.

Vegetation suitable for nesting birds, including the logger head shrike discussed above, exists within and adjacent to the Project area. Most birds are protected by the MBTA. In general, impacts to all bird species (common and special status) can be avoided by conducting work outside of the nesting season, which is generally February 15 to August 15, and by conducting a worker environmental awareness training. However, if all work cannot be conducted outside of nesting season, a Project-specific Nesting Bird Management Plan can be prepared to determine suitable buffers.

- *Preconstruction Nesting Bird Surveys are recommended prior to new land disturbing activities that fall within the bird nesting season (February 15 – August 15). The nesting bird surveys would serve to identify any active nests. If no active nests are found, no further action will be required. If an active nest is found, the biologist will set appropriate no-work buffers around the nest which will be based upon the nesting species, its sensitivity to disturbance, nesting stage and expected types, intensity and duration of disturbance. The nests and buffer zones shall be field checked weekly by a qualified biological monitor. The approved no-work buffer zone shall be clearly marked in the field, within which no disturbance activity shall commence until the biologist has determined the young birds have successfully fledged and the nest is inactive.*

2.5 RECLAMATION

The intent of the California Surface Mining and Reclamation Act of 1975 as amended (SMARA) is to "maintain an effective and comprehensive surface mining and reclamation policy with regulation of surface mining operations so as to assure that: (a) adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative uses; (b) the production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment; and (c) residual hazards to the public health and safety are eliminated" (Section 2712).

Article 9, Section 3700 of SMARA states the following: "Reclamation of mined lands shall be implemented in conformance with standards in this Article (Reclamation Standards). The standards shall apply to each surface mining operation to the extent that:

(1) they are consistent with required mitigation identified in conformance with CEQA; and

(2) they are consistent with the planned or actual subsequent use or uses of the mining site."

The objectives of this Reclamation Plan are to:

- Eliminate or reduce environmental impacts from mining operations;

- Reclaim in a usable condition for post-mining end uses which will be a DPW material maintenance and storage yard in the South Pit. The North Pit will be reclaimed to open space;
- Reshape excavated slopes to achieve 3H:1V slopes in both pits and revegetate disturbed areas in the North Pit to minimize aesthetic and biological impacts; and
- Reclaim the site as necessary to eliminate hazards to public health and safety.

Reclamation of the North Pit will be undertaken at the completion of mining operations in this area. Any over-steepened slopes will be partially backfilled or recontoured to 3H:1V. Fill material for slopes will be excess material pushed up onto slopes to create 3H:1V. The fill will be compacted by tracking the dozer over the slope to achieve necessary compaction consistent with final end use of open space. Any rock or gravel on the roads to be reclaimed within the North Pit will be removed and used as fill in the pit area. Final graded slopes and the pit floor will be revegetated and reclaimed as open space.

After completion of mining, the South Pit will be reclaimed and used as a DPW material maintenance and storage yard. Fencing and locked gates will remain around the South Pit for public safety reasons and equipment protection. The completed slopes of the South Pit will be sloped to 3H:1V and seeded with the recommended seed mix in this Reclamation Plan. Refer to Figure 4 for the Reclamation Plan.

2.6 REVEGETATION

A detailed *Revegetation Plan* was prepared for the project by Leatherman BioConsulting, Inc. in June 2023 and is included as Appendix 2. A summary of the *Revegetation Plan* is provided below. The goal of the revegetation program is to establish the guidelines to monitor, maintain, and assess the results of the revegetation program through comparison to established baseline vegetation data and recommended success criteria.

The revegetation plan will implement a series of activities to revegetate portions of the site after completion of mining operations. All slopes (within the North and South Pits) and the North Pit floor will be reclaimed and revegetated. The project site is a relatively barren environment due to past grading, lack of topsoil. the extreme hot temperatures and very dry conditions. Daytime temperatures average over 100º F. from June through August and annual rainfall is less than 4 inches (Barstow Daggett AP; Western Regional Climate Center, wrcc@dri.edu).

Physical reclamation procedures will include regrading to achieve planned slopes of 3H:1V as needed; ripping compacted surfaces to a depth of about 1.5 feet to hold moisture; adding available stockpiled surface material containing banked seeds that will be re-spread over the site to a depth up to one-foot deep; planting with salvaged plants, seeding with collected and commercially available native seeds; staking or flagging reclaimed areas to eliminate additional disturbance, and monitoring and remediation as needed.

Baseline Data

Leatherman BioConsulting prepared a *Revegetation Plan* and surveyed baseline vegetation data including shrub cover, density, and species richness. To evaluate vegetative cover, a series of four 50-meter point intercept transects were established: data were recorded at each 0.5-meter interval for any plant, stem, or canopy intercepting the point. Shrub density and species richness were recorded in four 50 by 50-meter plots (2,500m^2) plots located along the edge of each 50-meter transects; all shrubs rooted in the plots and the number of different shrub species were recorded. Relatively large plots were used due to the paucity of vegetation. Data from these samples are summarized in Appendix 2.

The goal of the analysis was to determine the basic characteristics of the flora that will be of value in establishing goals for the revegetation effort, including perennial cover, perennial densities, and perennial species richness (composition and frequencies). Data on perennial and annual plants were recorded, but only perennial species were considered for the purposes of calculating cover, density, and species richness values. Annual plant information was used to develop an appropriate seed mix. A total of four transects and four plots were surveyed to provide baseline data needed to determine seed types and seeding rates, and to establish the success criteria for the future revegetation effort.

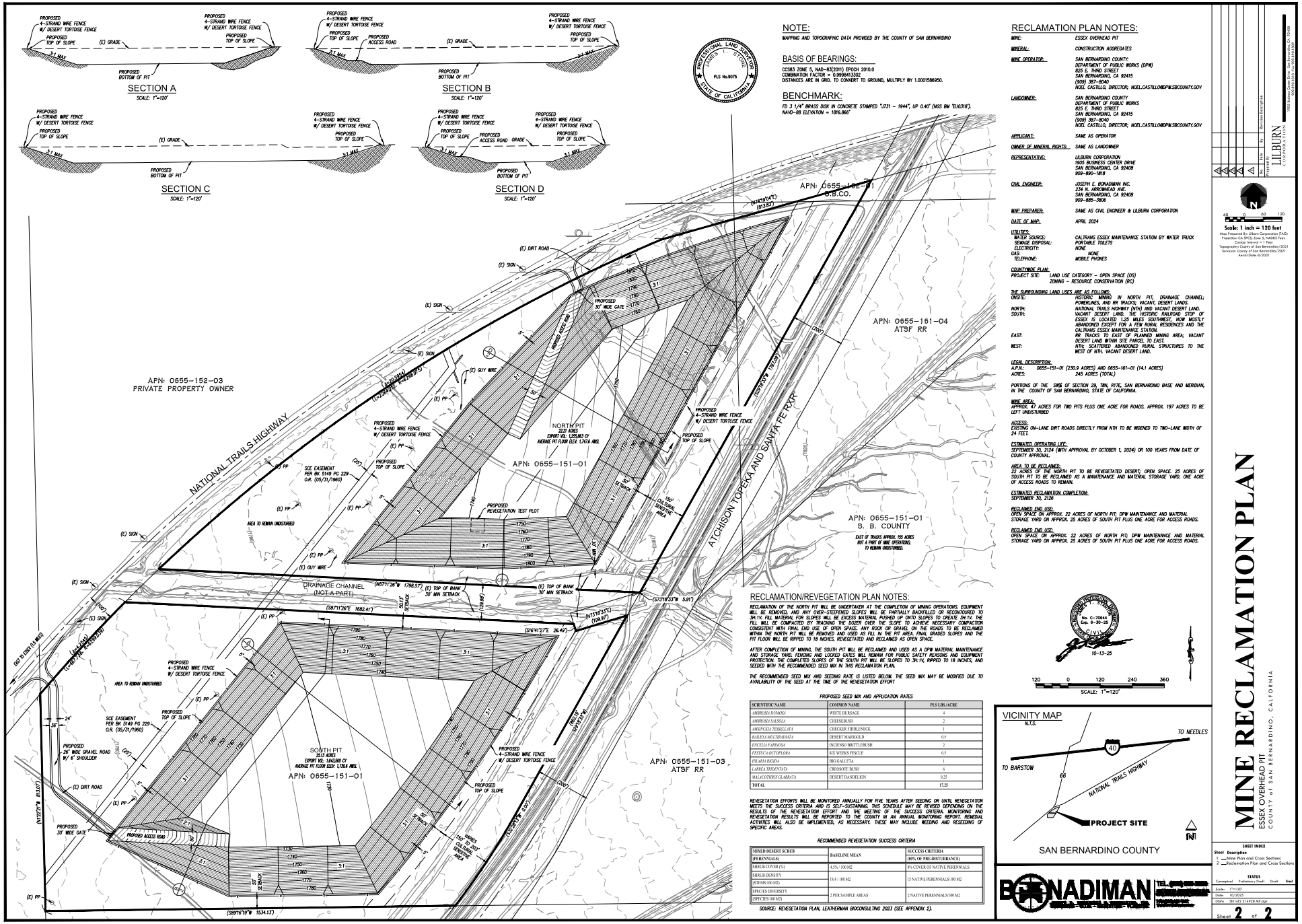
The total (absolute) cover from living perennials on four 50-meter transects ranged from 0 to 10% (plants intersected transects on 0 to 10 points). The total average perennial cover was 4.5 %. The most abundant species (in fact the only perennial) in terms of cover, was creosote bush (average 4.5%) A total of one perennial and three annual species were represented on the transects.

The density of perennial plants measured on the four 2,500 m^2 plots averaged 114.75 plants per plot. This density equates to 4.6 plants per 100 m^2, a more standard measure used when plant density is higher. This translates to approximately 186 perennial plants per acre. The density of the two perennial species was 86.75 plants per 2,500 m^2 plot (or 3.5 per 100 m^2) for creosote bush and 28 plants per plot (or one per 100 m^2) for white-bursage 4.6 plants/100 m^2. No other living perennial species were encountered in the samples.

Perennial species richness for all samples (transects and plots) was relatively low, with only the same two perennial species recorded in all plots sampled (creosote and white-bursage). The average number of species recorded plot therefore was two. Leatherman BioConsulting, Inc.'s (2023) list of plant species observed during these and other surveys includes a total of 23 native and four non-native species, including ten perennial shrubs and trees, three species of cactus, and 14 annuals (four non-native) (*Biological Resource Assessment*; Leatherman BioConsulting, October 2023).

Soil Salvage

Topsoil represents a valuable resource in revegetation efforts, and contributes native seed, beneficial soil microorganisms, and organic and mineral nutrients crucial to revegetation success. Specifically, the top 6 to 12 inches of topsoil, including any vegetation, will be ripped and removed and placed in stockpiles for use during future revegetation activities.



MINE RECLAMATION PLAN

Essex Overhead Pit

County of San Bernardino, California

FIGURE 4

LILBURN CORPORATION

SAN BERNARDINO COUNTY
Department of Public Works

Topsoil would be removed and stored only as work advances in each quarry to preclude surface disturbance before it is necessary. Topsoil will be stored in stockpiles in pre-determined locations that will be left undisturbed until used in the revegetation process. The stockpiles will be clearly marked and covered with rock, seeded with a native erosion control cover, or covered with weed free mulch or matting to limit wind and water erosion. These stockpiles will be less than six feet in height.

Seed Collection

The goal of seed collection is to preserve the local genetic diversity of the existing plant community while providing seed that are well suited for growth at the site. Seed collection will be undertaken and monitored by a professional seed collecting firm or a qualified botanist. When seed collection is not possible, a certified weed free seed mix may be used in lieu of seed collected at the site. These should be purchased as pure live seed (PLS) to assure the seed is viable and weed free and collected from local sources.

The seed collection should occur at least a year before test plots and site revegetation is planned to ensure the seeds are available for the planting season. Proposed seed collection sites that are not on the Project site or surrounding parcel should be reviewed by the Restoration Ecologist before collection for approval.

Plant Salvage

Live cacti that cannot be avoided in the Project footprint will be salvaged in advance of mining activities. Transplanted cacti and associated soil may contain native seed and create sites for trapping windblown seed and providing shaded microclimates for seed germination. The cacti will be tagged and planted in the same cardinal orientation as they were originally growing. Any storage of the cacti prior to planting will be done with approval from the Restoration Ecologist following standard storage techniques for each individual species.

Site Preparation

Site preparation will include removal of all equipment, final grading of slopes, and de-compaction of the surface. Upon completion of mining in specified areas, disturbed areas and slopes will be reclaimed and revegetated within one year. Any rock or gravel on the roads to be reclaimed will be removed and used as fill in the pit area. The slopes will be ripped to a depth of 18 inches parallel to the slope to break up compacted areas and aid in holding moisture and seeds. The stored topsoil will be spread out evenly.

If there is not enough salvageable topsoil for uniform re-soiling, then revegetation will be carried out by establishing random “islands” up to one-foot thick and seeded. The soil islands will include topsoil, retained organic and dead plant material, and any available processing soils and fines (sand, silt, clay). Quick-growing, shallow-rooted species will be included in the seed mix to provide short-term erosion control. By providing short-term erosion control, more favorable growing conditions will be created for climax species that will provide long-term erosion control.

Revegetation

The site will be seeded with locally collected seed from the region or using PLS that is a certified weed-free seed mix as approved by the Restoration Ecologist and LUS. Two alternative seed distribution methods are proposed. The first involves the use of an imprinter to create an irregular surface on the revegetation areas and distribute the seed mechanically. Imprinting uses a heavy drum roller pulled by a tractor. The drum roller has teeth that penetrate and breaks up the surface of the soil to create a pattern of shallow pockets in the soil. These pockets persist over a period of years and create microclimates for retention and germination of seeds, trap water and shelter seedlings from sun and wind, and decrease erosion. An alternative, less expensive method is the use of a hand-held seed spreader to distribute seed.

A unique seed mix was developed for the site's habitat occurring in the project impact area. The recommended seed mix and seeding rates are outlined in Table 2 (below) and may be modified if a native observed species is not available during that year of revegetation and/or if seed costs are exorbitant. All seeds will be pure live seed in lbs./acre.

Quick-growing, shallow-rooted species will be included in the seed mix to provide short-term erosion control. By providing short-term erosion control, more favorable growing conditions will be created for climax species that will provide long-term erosion control. The seed mix will be a subset of the native plants identified during surveys. Species recommended were the most encountered on the site and accounted for the majority of the vegetative coverage. Selection of species at the time of revegetation will be a balance of availability with some preference to species with low dispersibility.

The recommended seed mix and seeding rate is outlined in Table 2. Regardless of the source of the seed (collected locally for this specific project or obtained commercially from regional sources), the seed mix may be modified due to availability of the seed at the time of the revegetation effort.

Table 2
Proposed Seed Mix and Application Rates

Scientific Name	Common Name	PLS Lbs./Acre
Ambrosia dumosa	white bursage	4
Ambrosia salsola	cheesebush	2
Amsinckia tessellata	checker fiddleneck	1
Baileya multiradiata	desert marigold	0.5
Encelia farinosa	incienso brittlebush	2
Festuca octoflora	six weeks fescue	0.5
Hilaria rigida	big galleta	1
Larrea tridentata	creosote bush	6
Malacothrix glabrata	desert dandelion	0.25
Total		**17.25**

Source: *Revegetation Plan,* Leatherman BioConsulting 2023.

No invasive, non-native plant species will be used in the revegetation plan. Only native seeds tolerant to existing soil and rainfall conditions will be used.

Seeding will take place between November and February prior to winter rains to take advantage of winter precipitation and eliminate the need for irrigation. Reclaimed areas will be clearly staked and flagged to eliminate additional disturbance if quarry activities are ongoing.

Test Plots

In addition, the operator shall establish six 100-square meter test plots. The test plots will be located in the southeastern portion of the site on shallow slopes, refer to Sheet 1 of the Mine Plan. The plot areas shall be representative of disturbed slope areas with the following treatments: three plots will include salvaged topsoil and three plots will not. Test plots will include surface ripping/no seeding (control plot); surface ripping and seeding as described above using an imprinter with and without topsoil placement; and surface ripping and seeding as described above using hand seeding with and without topsoil placement, and surface ripping/no seeding with topsoil placement.

The test plots will be maintained and monitored, and tests conducted to refine revegetation techniques, species type, and seeding rates. If necessary, based on changing conditions and preliminary results, additional combinations of treatments may be conducted if the initial tests are not satisfactory. Alternative treatments may include various types and amounts of seeds and different surface/soil preparation methods. The results will be used to develop recommendations for changes to this plan, as needed.

Irrigation

The plant palette proposed for the site consists of primarily drought-tolerant plants species that should perform well without additional water. The average precipitation in the area should be sufficient for seed germination and root establishment of native species.

Planting in the fall, prior to the winter rains, will be sufficient for seed germination and root establishment and reduce weed growth that is typically associated with supplemental irrigation. Scarification of the soil and the creation of surface rills and furrows will allow for maximized collection of water from rain events and run-off.

Fertilization

No fertilization of the site is recommended. The native seeds used for revegetation will be tolerant of existing soil conditions. Additionally, the mechanical loosening, and creation of surface rills and furrows, will create conditions favorable for seed germination and root establishment by native species. Widespread use of fertilizers on desert sites appears to benefit non-native weedy species and not the native species sought as the goal of the revegetation plan (Clary, 1987). Soil samples may be necessary prior to planting to determine that no amendments are necessary if any contaminants are present. This will be determined by the Restoration Ecologist when observing the planting site prior to restoration implementation.

Weed Control

The purpose of the non-native invasive species control plan is to reduce or eliminate the occurrence of non-native invasive plant species that may invade the site where active and natural revegetation is taking place. Non-native invasive species (weeds) can compete with native plant species for available moisture and nutrients and consequently interfere with revegetation of the site.

Weed removal will be conducted prior to initiation of revegetation activities and annually as needed throughout the revegetation process. The occurrence of non-native invasive species on-site shall be monitored by visual inspection annually. The goal is to prevent non-native invasive species from becoming established and depositing seeds in revegetated areas. No areas will be allowed to have more than 10 percent non-native invasive species ground cover. If inspections reveal that non-native invasive species are becoming or have become established on site, then removal will be initiated. Inspections shall be made in conjunction with revegetation monitoring.

Non-native invasive species removal will be accomplished through manual, mechanical or chemical methods depending on the specific circumstances as determined by the Restoration Ecologist. For example, solitary or limited numbers of non-native invasive shrub species can be manually removed by hand (chopped) and the stumps sprayed with an approved weed killer such as Round-Up. Smaller plants (annual grasses) that cover more area may be sprayed, scraped with a tractor, or removed with a string trimmer, depending upon the size of the area of infestation and the number of desired native plants in proximity or mixed in with the non-native invasive or perennial species. However, annual exotic grasses, such as Mediterranean grass (*Schismus* sp.), are present throughout the region, even in relatively undisturbed areas, and it is not practical to try to remove these species from revegetated areas.

Reports of inspections and weed control implementation shall be part of the annual revegetation monitoring and kept on file by the Operator. The BRA (Leatherman October 2023) reported the following nonnative plant species: Mediterranean grass, red brome (*Bromus rubens),* desert chicory (*Rafinesquia neomexicana),* and Sahara mustard (*Brassica tornefortii*).

Monitoring

The Revegetation Monitoring Plan will be an ongoing effort to assess the results of revegetation on the disturbed areas of the site. The monitoring plan will be followed annually to monitor and assess completed revegetated areas (and test plots) and areas where revegetation is being planned or just beginning. A Revegetation Monitoring Report submitted by the operator to LUS will be part of the overall compliance with conditions. Revegetated areas will be assessed utilizing success criteria with successful methods being implemented for future revegetation.

Revegetation efforts will be monitored annually for five years after seeding or until revegetation meets the success criteria and is self-sustaining. This schedule may be revised depending on the results of the revegetation effort and the meeting of the success criteria. Monitoring and revegetation results will be reported to the County in an annual monitoring report.

Success Criteria

The site consists of creosote bush-white burr sage scrub with minimal vegetation. Success criteria will be based on the overall quality of the revegetation results compared to the recorded baseline vegetation data. Following completion of the revegetation, the surviving perennial plant species shall be evaluated annually by the consulting botanist for relative growth as determined by cover, diversity and density. Individual specimens or areas shall receive appropriate remedial attention as necessary. Remedial actions include removing invasive weed species or reseeding. The above procedure will be repeated annually for a total of five years or until success criteria are achieved. Successful revegetation based on baseline data and DMR standards will be achieved when the reseeded areas have met the following in Table 3 five years after reclamation.

Table 3
Essex Overhead Pit
Recommended Revegetation Success Criteria

Mixed Desert Scrub (Perennials)	**Baseline Mean**	**Success Criteria (80% of pre-disturbance)**
Shrub Cover (%)	4.5% / 100 m^2	3.6% cover of native perennials / 100 m^2 Quick-growing, shallow-rooted species will be included in the seed mix to provide short-term erosion control. By providing short-term erosion control, more favorable growing conditions will be created for climax species that will provide long-term erosion control.
Shrub Density (stems/100 m^2)	4.6 / 100 m^2	3.7 native perennials / 100 m^2
Species Diversity or Richness (species/100 m^2)	2 / 100 m^2	2 native perennials / 100 m^2

Source: *Revegetation Plan,* Leatherman BioConsulting 2023 (see Appendix 2).

Revegetation Monitoring

The permanence and sustainability of the revegetated plant communities will be determined annually after the initial seeding. Annual assessments of the site will be conducted by a qualified Restoration Ecologist to determine the success of the revegetation effort.

The Restoration Ecologist will conduct annual monitoring visits for the site for five years following initial seeding or until success criteria are achieved. The visits shall include qualitative and quantitative analysis. The qualitative component will include an assessment of the maintenance activities, plant health, native plant recruitment, plant mortality, wildlife onsite, and photographic documentation. General information and data that should be maintained include the locations (using GPS) and size of revegetation sites, dates of activities, types of equipment used, seed mix and application methods and rates, schedule of supplemental watering (if any), and dates and methods of any invasive plant control activities.

The quantitative monitoring will be conducted each spring following initiation of revegetation activities (seeding). Quantitative sampling will include measurements of perennial cover, densities, and species composition and richness. The site will be sampled using the same methodology used for vegetation analysis in this document for establishing baseline conditions of vegetation. For perennial cover, data would be recorded along an appropriate number of 50-m transects with cover data collected every 0.5-m. For vegetation density and richness, methods can be modified slightly to use 100-m^2 plots adjacent to transects to take advantage of sampling along habitat islands. All data will be recorded on a standard form and copies will be submitted as an appendix to each Annual Report. Photo documentation will also be included for representative transects in order to visually document annual vegetation changes and community development.

2.7 CLEANUP

At the completion of mining activities, all mining equipment will be removed from the project site. All debris will be removed and disposed of at a permitted facility. All mine fencing and gates around the North Pit will be removed following the site achieving its revegetation success criteria. The South Pit will be utilized as a material maintenance and storage yard and gates and fencing will remain in place to prevent unauthorized access. Any unauthorized roads will be blocked or closed permanently at the property boundary.

There are no existing or planned water wells or drill holes on-site. However, if any future on-site wells are drilled in the future, these will be closed in accordance with the California Department of Water Resources Bulletin 74-91 as revised in 1988 or the latest revision and with the San Bernardino County Department of Environmental Health (DEHS) regulations unless deemed at that time to be useful for continued use or monitoring. The wells would be closed in such a manner that they would not be a hazard to the health and safety of people and wildlife.

2.8 POST RECLAMATION AND FUTURE MINING

The reclaimed site will not preclude any future mining activities with depth or surface expansion. Upon completion of mining activities, the site will consist of a DPW material maintenance and storage yard in the 25-acre South Pit and could be used for other uses at the discretion of the DPW. The North Pit (approximately 22 acres) will be reclaimed and revegetated as open space. The remaining 197 acres around the perimeter of the pits and east of the railroad tracks of mostly undisturbed lands will remain as open space.

2.9 SLOPE AND SLOPE TREATMENT

Stabilization of the mine slopes will be accomplished concurrent with final sloping of a completed slope and during the final excavations per pit area or phase and may include some backfilling of slopes if over-steepened. Slope stabilization will improve the aesthetics of the site; reduce slope erosion; eliminate slope sliding; and eliminate hazards such as un-safe drop-offs.

Final slopes will be reclaimed at 3H:1V so backfilling will be minimized. If some minor fill is required to create final 3H:1V slopes, the fill will be compacted by tracking the dozer over the

slope to achieve appropriate compaction consistent with the final end use of DPW material maintenance and storage yard and open space. Overly compacted final-graded slopes and/or the North Pit floor may require being loosened by mechanical means to aid the reseeding effort.

Preserved topsoil (as described in Section 2.11 Soils) will be placed over this prepared compacted/loosened surface, with final treatment and subsequent revegetation to follow pursuant to Section 2.6 Revegetation. Revegetation activities will generally commence in late fall to correspond with the rainy season of the area.

2.10 PONDS, WASTES

No ponds are proposed, and chemicals are not used on-site; no processing occurs on-site. There will be no chemical waste or pollution from the mining operations.

2.11 SOILS

Per the *Revegetation Plan*, an online digital map prepared by the USDA Natural Resources Conservation Service of the soils in the Mojave Desert surrounding Essex was accessed to identify soils on the Project site (USDA 2022). The results of the online search of digital maps indicate that no digital data is available for that region. However, soils appear to be composed primarily of coarse-grained, well drained sandy loams and alluvial fan material that occur throughout many broad valley landforms in the Mojave Desert.

Identified topsoil or at minimum the top 6-12 inches of surface soils and material, will be graded into clearly marked stockpiles to preserve as much of the organic material and seeds as practicable. The stockpiles will be covered with rock, seeded with a native erosion control cover, or covered with weed free mulch or matting to limit wind and water erosion. Locations for temporary and more long-term surface material stockpiles are identified on Sheet 1 of the Mine Plan. The soil stockpiles will be located along the pit perimeters or within the pit area until the initiation of re-soiling when an area's mining has been completed. The stockpiles overall would be approximately three acres at 6-foot high (or could be number of smaller stockpile) or approximately 28,000 cubic yards salvaged for each pit. Note that the two pit areas will not be completely graded at the start of operations. Clearing and soil salvage will occur as expansion of mining takes place.

2.12 DRAINAGE AND EROSION CONTROLS

Post-reclamation drainage on-site will be contained by the resulting shallow basins. Only minor sheet flow may drain into the pit. No defined drainages will be intersected by the project site as drainages have been avoided and cut-off from upstream flow by the railroad tracks. Refer to Section 1.5 for a description of drainage and erosion controls that will be maintained after termination of mining.

2.13 PUBLIC SAFETY

Public access to the site will be restricted by the site perimeter 4-strand wire fence and locked access gates during operations and reclamation. Warning signs with contrasting background lettering will be installed every 500 feet along the approved surface mine boundary shall be installed and shall read "No Trespassing - Keep Out; Surface Mining Operation" or similar during mining. Signs will be approximately 1-foot high and 2 feet wide. Upon completion of reclamation and revegetation in the North Pit, fencing will be removed.

The reclaimed 3H:1V slopes will be of sufficient low gradient as not to cause a hazard to public safety if the public illegally trespasses onto the site. The long-term storage yard will maintain fencing and gates.

No portals, shafts, tunnels or openings have been found on the project site. If any remain on the reclamation site after mining and reclamation, they will be either closed, or gated and protected from public entry but preserved for bat and other wildlife if appropriate with LUS consultation.

2.14 MONITORING AND MAINTENANCE

The County's LUS as lead agency to implement SMARA requires annual reporting of Mining and Reclamation activities. The reports are filed with the State Division of Mine Reclamation and LUS. Revegetated areas will be monitored over a five-year period or until success criteria are achieved following initial planting. Data on plant species diversity, cover, survival and vigor will be collected on revegetated sites and compared to baseline data from undisturbed sites to evaluate project success.

Monitoring and maintenance of reclamation is an ongoing responsibility of the DPW.

Ongoing operations and reclamation activities require monitoring and maintenance as applicable. The DPW will provide onsite review of the following among others:

a. Storm Water Pollution Prevention per the NPDES plan and SWPPP required by State and Federal rules. Erosion control will be reviewed and addressed within the SWPPP.
b. Implementation and effectiveness of dust control measures;
c. Maintenance and managing idling for trucking operations;
d. Inspection of fencing, gates and signs;
e. Monitoring and controlling erosion; and
f. Monitoring revegetation and implementing remedial actions as needed.

2.15 RECLAMATION ASSURANCE FOR PUBLIC AGENCIES

The DPW shall post or cause to be posted reclamation assurance in an amount sufficient to pay for the cost of reclamation as outlined in Section 2. The reclamation assurance shall be reviewed by the Lead Agency annually as required by the SMARA. San Bernardino County LUS is the lead agency for SMARA compliance and will review the Reclamation Assurance and inspect the mine site annually.

In addition to the monitoring through inspections and reporting, the operator is required to assure reclamation of the site in accordance with the approved Reclamation Plan in compliance with Section 2773.1 of SMARA. The DPW shall continue to post reclamation assurance mechanisms in an amount sufficient to pay for the cost of reclamation as outlined in Section 2. The financial assurances must be approved by and payable to the County LUS and the California Department of Conservation.

For a site owned and operated by a public subdivision, SMARA allows the public agency (in this case the DPW) to consist of a "budget set aside" as described under SMARA Section 3806.2 below.

§ 3806.2. Budget Set Aside

(a) A Budget Set Aside shall consist of a specific fund or line item set aside by the state, county, city, district, or other political subdivision responsible for reclamation of the mined lands.
The Budget Set Aside shall remain effective continuously throughout the period in which the Budget Set Aside is used to satisfy the requirements of Section 2773.1, Public Resources Code.

(b) The set aside shall contain the following items:

(1) A resolution or other appropriate document establishing the set aside or line item including proof of approval by the governing body or appropriate official of the state, county, city, district, or other political subdivision;
(2) The types and sources of specific funds;
(3) The period of time that each funding source is to be available;
(4) The calculation amount of the financial assurance prepared pursuant to Section 3804; and
(5) The authorization for the lead agency or the Department of Conservation to use the funds to conduct and complete reclamation if the lead agency or the Department of Conservation determines that the operator is incapable of performing the reclamation covered by the set aside pursuant to Section 2773.1(b).

For other similar sites owned by the County and operated by the DPW, the County has approved a resolution to fund the FACE with a Transportation Road Operations Restricted Fund Balance Reserve that will be adjusted as needed.

2.16 MONITORING AND MAINTENANCE FOR PUBLIC AGENCIES DURING "IDLE" PERIODS PER PRC SECTION 2770.1

During periods of inactivity or when the site is considered "idle" as defined by SMARA, SMARA allows public agencies to secure the site during inactive periods per Section 2770.1 below, which effectively takes the place of an Interim Management Plan (IMP).

§2770.1 For the purposes of a borrow pit surface mining operation that is owned or operated by a lead agency solely for use by that lead agency, all the following shall apply:

(a) (1) In addition to the requirements of Sections 2772 and 2773, the lead agency shall include in its reclamation plan, maintenance measures that become effective when the borrow pit surface mining operation is idle. The maintenance measures shall maintain the site in compliance with this chapter while the borrow pit surface mining operation is idle.

(2) Notwithstanding paragraph (1), a lead agency may obtain an interim management plan pursuant to subdivision (h) of Section 2770.

(3) A lead agency that complies with this subdivision shall be exempt from the requirements of paragraph (6) of subdivision (h) of Section 2770.

(b) Notwithstanding paragraph (2) of subdivision (h) of Section 2770, an interim management plan for a borrow pit surface mining operation may remain in effect until reclamation of the borrow pit surface mining operation is completed in accordance with the approved reclamation plan.

(c) Notwithstanding subdivision (b) of Section 2774, a lead agency may conduct an inspection of a borrow pit surface mining operation once every two calendar years during a period when the borrow pit surface mining operation is idle.

The maintenance measures below will become effective when the surface mining operation is idle to maintain the site in compliance with the Reclamation Plan and SMARA.

DPW will secure the site and establish best management practices to ensure that mining operations can easily resume when road maintenance activities are required. During an IMP period, DPW will monitor and maintain the site through the ongoing compliance with its land use entitlements, and all other state and federal regulations required to control site access, protect public safety, and ensure safe physical conditions. DPW will secure the Site as follows:

- Patrolling mine areas on an ongoing basis utilizing DPW personnel or outside security personnel, to discover any items that are inconsistent with the Site's Reclamation Plan, DPW protocol or applicable regulations.
- Reporting/recording any such items for prompt attention such as trash dumping.
- Maintaining appropriate gates, fences, and signage around the Site. DPW will also repair any damaged gates and fences within 30 days of discovery.
- Monitoring slopes and revegetation and implementing remedial actions as necessary.
- Monitoring erosion and erosion control measures outlined in the Site's SWPPP and repairing erosion and erosion control measures as needed.

- Inspecting mine areas and removing any deleterious or hazardous materials and trash in accordance with government requirements.

3.0 GEOLOGY

Regionally, the Project is located within the Eastern Mojave Desert portion of San Bernardino County, California, which is a part of the Mojave Desert Geomorphic Province, also cited as part of the Basin and Range Geomorphic Province. The Province is characterized by a series of structural and topographic basins bounded by relatively linear mountain ranges.

Sediments eroding from the bedrock are deposited as alluvium on the flanks of the hills and mountains, and over time, have largely filled the valleys (basins) between the mountain ranges. The alluvial sediments are primarily composed of layers of gravel, sand, silt, and clay in varying proportions. The grain size of the alluvium is generally coarse on the upper parts of the alluvial slopes with more fine-grained deposits down slope.

The Study Area, as is most of Southern California, is located in a seismically active area. According to the California Geologic Survey, Fault Activity Map, 2010, the nearest active fault is the South Bristol Mountain Fault located 27 miles west of the site. The site is not located within a Geologic Hazards Zone (Policy Map HZ-1 Earthquake Fault Zones; Countywide Policy Plan, 2019).

4.0 HYDROLOGY

The following information is from *California Groundwater Basin Bulletin 118, https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Groundwater-Management/Bulletin-118/Files/2003-Basin-Descriptions/7_002_FennerValley.pdf. (last update 2/27/2004)*

The project site is located within the Fenner Valley Groundwater Basin.
• Groundwater Basin Number: 7-2
• County: San Bernardino
• Surface Area: 454,000 acres (709 square miles)

This basin underlies Fenner and Clipper Valleys in eastern San Bernardino County. The basin is bounded by nonwater-bearing rocks of the Marble and Providence Mountains on the west, of the Providence and New York Mountains on the north, of the Piute and Old Woman Mountains on the east, and of the Ship and Old Woman Mountains on the south. Surface water drains south and southwest toward Schuyler Wash, which follows the axis of the valley, and exits the valley through Fenner Gap and beneath Bristol and Cadiz Lakes. Average annual precipitation ranges from 7 to 10 inches in the basin; Barstow averages 4 inches annually.

In this part of the Mojave Desert, both an upper and a lower alluvial aquifer have been identified. The upper aquifer consists of Quaternary age sands and gravels that reach 600 feet thick (DWR 1967; MWD 1999; 2000). The lower aquifer consists of middle to late Tertiary age alluvial deposits that contain a higher proportion of fine material and are generally less permeable than

those the upper aquifer (MWD 2000). The thickness of the lower alluvial aquifer may reach 1,800 feet near the town of Danby (MWD 2000). These aquifers are separated in places by discontinuous layers of silt and clay; however, both aquifers are presumably unconfined (MWD 1999).

Recharge is dominantly from percolation of surface runoff through stream beds and washes. Because of limited pumping, groundwater levels in the basin have remained fairly stable (MWD 1999). The total storage capacity is estimated at 5,600,000 acre-feet (af) (DWR 1975). Natural recharge is estimated to be about 3,000 af/yr., and extractions through 1981 are estimated to have been about 8 af (DWR 1999).

The site lies within a broad alluvial fan with surface flows generally from the northeast to the southwest. There are no perennial (year-round) streams on-site. However, the railroad tracks to the east and the NTH to the north have effectively cut off natural surface flows in the old drainages that are found onsite. The natural flows east of the railroad tracks drainages have been directed into channels and through an underpass that is directed through the property site in a channel that bisects the western half of the site. This drainage will be avoided by mining operations with a 50-foot setback from the 150-foot-wide drainage easement (in some places larger as to avoid any potential impact, avoidance of jurisdictional water). No active major drainages will be impacted by the proposed excavation area. There are no waters of the U.S. or wetlands on-site. The plan was designed to avoid any potential impacts to jurisdictional waters.

Water will be utilized to minimize dust generation. A water truck will be used for wetting-down material and roads during mining activities and for wetting-down haul trucks prior to site departure. Approximately 4,000 gallons of water a day (6 to 20 days a year) may be used for dust suppression activities. The 4,000-gallon water truck (typical) will fill at the Caltrans Essex Maintenance Station about 1.5 miles southwest. It is not anticipated that there will be any excess water from the dust control procedures; therefore, no recycling is required or planned.

REFERENCES

California Department of Conservation, Division of Mine Reclamation. *Surface Mining and Reclamation Act of 1975* (SMARA, Public Resources Code, Sections 2710-2796). January 2024.

California Dept. of Water Resources. https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Groundwater-Management/Bulletin-118/Files/2003-Basin-Descriptions/7_002_FennerValley.pdf.

County of San Bernardino, Countywide Policy Plan. Approved October 27, 2020, Adopted November 27, 2020. http://countywideplan.com/wp-content/uploads/2020/08/CWP_PolicyPlan_PubHrngDraft_HardCopy_2020_July.pdf

County of San Bernardino 2007 Development Code, 2022 S-31 Supplement contains: Local Legislation current through Ord. 4445, passed August 23, 2022. Chapter 88.03 Surface Mining and Land Reclamation.

Leatherman BioConsulting, Inc. *Biological Resources Assessment*, June 2023.

Leatherman BioConsulting, Inc. *Revegetation Plan.* June 2023.

Natural Resources Assessment, Inc. *Jurisdictional Delineation - Essex Overhead Mine. May 2024*.

Western Regional Climate Center, wrcc@dri.edu ; Barstow Daggett AP climate data. https://wrcc.dri.edu/cgi-bin/cliMAIN.pl?ca2257.

ACRONYMS

af	ace-feet
amsl	above mean sea level
APN	assessor's parcel number
BLM	Bureau of Land Management
BMP	Best Management Practices
Cal-OSHA	California Occupational Safety and Health Administration
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CESA	California Endangered Species Act
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CNPS	California Native Plant Society
COA	Condition of Approval
CUPA	Certified Unified Program Agency (Hazardous Materials Division of the San Bernardino County Fire Department is designated as the "CUPA.")
CY, cy	Cubic yards
DEHS	Department of Environmental Health Services (San Bernardino County)

DMR	Division of Mine Reclamation
DOC	Department of Conservation
DPW	San Bernardino County Department of Public Works
DWR	Department of Water Resources
FESA	Federal Endangered Species Act
H:V	horizontal to vertical; typically, in feet (slope inclination)
MBTA	Migratory Bird Treaty Act (protects nesting birds)
MSHA	Mining Safety and Health Administration
MDAQMD	Mojave Desert Air Quality Management District
MWD	Metropolitan Water District
NCSS	National Cooperative Soil Survey
NPDES	National Pollutant Discharge Elimination System
NTH	National Trails Highway (US Route 66)
OS	Open Space (Countywide Plan land use category
RC	Resource Conservation (County zoning)
RWQCB	Regional Water Quality Control Board
SCS	Soil Conservation Service
SMARA	Surface Mining and Reclamation Act of 1975
SPCC	Spill Prevention, Control, and Countermeasure
SWPPP	Storm Water Pollution Prevention Plan
USDA	United States Department of Agriculture
USFWS	United States Fish and Wildlife Service
USGS	United States Geological Survey

SMARA CROSS REFERENCE MATRIX

Essex Overhead Pit
Mine Reclamation Plan
Surface Mining and Reclamation Act of 1975 (SMARA) &
California Code of Regulations (CCR Title 14)

Prepared by Lilburn Corporation – June 2024

Including reference to:
ARTICLE 1. GENERAL PROVISIONS. SECTION 2710 et seq.
ARTICLE 2. DEFINITIONS. SECTION 2725 et seq.
ARTICLE 3. DISTRICT COMMITTEES. SECTION 2740 – 2741
ARTICLE 4. STATE POLICY FOR THE RECLAMATION OF MINED LANDS. SECTION 2755 et seq.
ARTICLE 5. RECLAMATION PLANS AND THE CONDUCT OF SURFACE MINING OPERATIONS. SECTION 2770 et seq., as amended
CCR TITLE 14 (REGISTER 85, No. 18-5-4-83)
CHAPTER 8. MINING AND GEOLOGY
SUBCHAPTER 1. STATE MINING AND GEOLOGY BOARD
ARTICLE 1. SURFACE MINING AND RECLAMATION PRACTIVE. SECTION 3500 et seq.
ARTICLE 9. RECLAMATION STANDARDS. SECTION 3700 et seq.

SMARA/CCR SECTION	DESCRIPTION	N/A	PAGE(S)	SECTION(S)
MINING OPERATIONS AND CLOSURE				
SMARA 2770.5	100-year flood, Caltrans contact	X		
SMARA 2772 (c) (1)	Name and Address of operator/agent.		3	1.0
SMARA 2772 (c) (2)	Quantity & type of minerals to be mined.		6	1.1
SMARA 2772 (c) (3)	Initiation and termination date.		3	1.0
SMARA 2772 (c) (4)	Maximum anticipated depth of mining.		6-7	1.1
SMARA 2772 (c) (5)	Description, including map with boundaries, topographic details, geology, streams, roads, utilities.		1 – 10 Sheets 1 & 2	1.0 - 1.2
SMARA 2772 (c) (6)	Mining plan and time schedule for reclamation (concurrent or phased reclamation).		6-7, 17-18	1.1, 2.5
SMARA 2772 (c) (7)	Proposed subsequent use.		17-18, 26	2.5, 2.8
SMARA 2772 (c) (8)	Description of reclamation measures adequate for proposed end use.		17-26	2.5 - 2.7
SMARA 2772	Description of containment		10	1.2

SMARA/CCR SECTION	DESCRIPTION	N/A	PAGE(S)	SECTION(S)
MINING OPERATIONS AND CLOSURE				
(c) (8) (a)	control and mine waste disposal.			
SMARA 2772 (c) (8) (b)	Rehabilitation of stream banks/beds to minimize erosion	X	---	---
SMARA 2772 (c) (9)	Impact of reclamation on future mining.		26	2.8
SMARA 2772 (c) (10)	Applicant statement accepting responsibility for reclamation per the reclamation plan.		Attached to application	
SMARA 2773 (a)	Water quality monitoring plan specific to property.		11, 27 SWPPP to be prepared upon approval	1.5, 2.12
SMARA 2773 (a)	Sediment and erosion control monitoring plan specific to property.		11, 27 SWPPP to be prepared upon approval	1.5, 2.12
SMARA 2773 (a)	Revegetation plan specific to property. Monitoring Plan.		18-26	2.6 Revegetation Plan, App. 2
SMARA 2773.1	Performance (financial) assurances.		Draft attached to application	
SMARA 2777	Amended reclamation plans required prior to substantial deviations to approved plans.	X	INFORMATIONAL	
CCR 3502 (b) (1)	Environmental setting and impact of reclamation on surrounding land uses. (Identify sensitive species, wildlife habitat, sensitive natural communities, e.g., wetlands, riparian zones, etc.).		12-17	2.1 – 2.5
CCR 3502 (b) (2)	Public health and safety (exposure).		27	2.13
CCR 3502 (b) (3)	Slopes: critical gradient, consider physical properties and landscaping.		6-10, 26	1.1, 2.9

SMARA/CCR SECTION	DESCRIPTION	N/A	PAGE(S)	SECTION(S)
MINING OPERATIONS AND CLOSURE				
CCR 3502 (b) (4)	Fill materials in conformance with current engineering practice.	X	---	
CCR 3502 (b) (5)	Disposition of old equipment		216	2.7
CCR 3502 (b) (6)	Temporary stream and water diversions shown.	X	---	
CCR 3503 (a) (1)	Removal of vegetation and overburden preceding mining kept to a minimum.		17-26	2.5, 2.6
CCR 3503 (a) (2)	Overburden stockpiles managed to minimize water and wind erosion.	X	---	
CCR 3503 (a) (3)	Erosion control facilities (dikes, ditches, etc.) as necessary.		11, 27	1.5, 2.12
CCR 3503 (b) (1)	Settling ponds (sedimentation and water quality).	X		
CCR 3503 (b) (2)	Prevent siltation of groundwater recharge areas.	X		
CCR 3503 (c)	Protection of fish and wildlife habitat (all reasonable measures).		13-17	2.3, 2.4
CCR 3503 (d)	Disposal of mine waste and overburden (stable-no natural drainage restrictions without suitable provisions for diversion).	X	---	
CCR 3503 (e)	Erosion and drainage (grading to drain to natural courses or interior basins).		11, 27	1.5, 2.12
CCR 3503 (f)	Resoiling (fine material on top plus mulches).		18-27	2.6, 2.11
CCR 3503 (g)	Revegetation and plant survival (use available research).		18-26	2.6
CCR 3703 (a)	Sensitive species conserved or mitigated		13	2.3
CCR 3703 (b)	Wildlife habitat at least as good as pre-project, if approved end use is habitat.		18-26	2.6

SMARA/CCR SECTION	DESCRIPTION	N/A	PAGE(S)	SECTION(S)
MINING OPERATIONS AND CLOSURE				
CCR 3703 (c)	Wetlands avoided or mitigated at 1:1 minimum	X		
CCR 3704 (a)	For urban use, fill compacted in accordance with UBC or local grading ordinance.	X		
CCR 3704 (b)	For resource conservation, compare to standard for that end use	X		
CCR 3704 (c)	Mine waste stockpiled to facilitate phased reclamation and separate from growth media.	X		
CCR 3704 (d)	Final reclamation fill slopes not exceed 2:1, except when engineering and revegetation analysis allow.	X		
CCR 3704 (e)	Final landforms or fills conform with surrounding topography or end use.		17-18, 26	2.5, 2.9
CCR 3704 (f)	Cut slopes have minimum factor of safety for end use and conform with surrounding topography.		17-18, 26	2.5, 2.9
CCR 3704 (g)	Piles or dumps not placed in wetlands without mitigation.	X		
CCR 3705 (a)	Vegetative cover, suitable to end use, self-sustaining. Baseline studies documenting cover, density and species richness.		18-26; Table 3	2.6; Appendix 2
CCR 3705 (b)	Test plots if success has not been proven previously		23	2.6
CCR 3705 (c)	Decompaction of site.		17-26	2.5, 2.6
CCR 3705 (d)	Roads stripped of road base materials, resoiled and revegetated, unless exempted.		17-26	2.5, 2.6
CCR 3705 (e)	Soil altered or other than native topsoil, required soil analysis. Amend if necessary.	X	---	---

SMARA/CCR SECTION	DESCRIPTION	N/A	PAGE(S)	SECTION(S)
MINING OPERATIONS AND CLOSURE				
CCR 3705 (f)	Temporary access not bladed. Barriers installed.	X		
CCR 3705 (g)	Use native plant species, unless exotic species meet end use.		18-26	2.6
CCR 3705 (h)	Plant during correct season.		18-26	2.5, 2.6
CCR 3705 (i)	Erosion control and irrigation, when necessary.		11, 27	1.5, 2.12
CCR 3705 (j)	If irrigated, demonstrate self-sustaining without for two-year minimum.	X		
CCR 3705 (k)	Weeds managed.		24	2.6
CCR 3705 (l)	Plant protection measures, fencing, caging.	X		
CCR 3705 (m)	Success quantified by cover, density and species-richness. Standards proposed in plan. Sample method set forth in plan and sample size provides 80 percent confidence level, as minimum.		18-26; Table 3	2.6, App. 2
CCR 3706 (a)	Mining and reclamation to protect downstream beneficial uses.	X	---	---
CCR 3706 (b)	Water quality, recharge, and groundwater storage shall not be diminished, except as allowed by plan.	X	---	---
CCR 3706 (c)	Erosion and sedimentation controlled during all phases as per RWQCB/SWRCB.		11, 27	1.5, 2.12
CCR 3706 (d)	Surface runoff and drainage controlled and methods designed for not less than 20 year/1 hour intensity storm event.		11, 27	1.5, 2.12
CCR 3706 (e)	Altered drainages shall not cause increased erosion or sedimentation.	X	---	---

SMARA/CCR SECTION	DESCRIPTION	N/A	PAGE(S)	SECTION(S)
MINING OPERATIONS AND CLOSURE				
CCR 3706 (f)	Stream diversions constructed in accordance with DFG 1603, EPA 404, Sec. 10 Rivers and Harbors.	X	11, 27 (avoidance of jurisdictional waters)	1.5, 2.12
CCR 3706 (g)	All temporary diversions eventually removed.	X	---	---
CCR 3707 (a)	Return prime ag to prime ag, unless exempted.	X	---	---
CCR 3707 (b)	Segregate and replace topsoil by horizon.	X	---	---
CCR 3707 (c)	Productivity rates equal pre-project or similar site for two consecutive years. Rates set forth in plan.	X	---	---
CCR 3707 (d)	Fertilizers and amendments not contaminate water.	X	---	---
CCR 3708	Other ag capable of sustaining crops of area.	X	---	---
CCR 3709 (a)	Equipment stored in designated area and waste disposed of according to ordinance.		7	1.1
CCR 3709 (b)	Structures and equipment dismantled and removed.		26	2.7
CCR 3710 (a)	Surface and groundwater protected.		11, 27	1.5, 2.12
CCR 3710 (a)	Surface and groundwater projected in accordance with Porter Cologne and Clean Water Acts (RWQCB/SWRCB).		11, 27	1.5, 2.12
CCR 3710 (b)	In-stream in accordance with CFG 1600, EPA 404, and Sec. 10 Rivers and Harbors.	X	--	---
CCR 3710 (c)	In-stream channel elevations and bank erosion evaluated annually using extraction quantities, cross-sections, and aerial photos.	X	---	---

SMARA/CCR SECTION	DESCRIPTION	N/A	PAGE(S)	SECTION(S)
MINING OPERATIONS AND CLOSURE				
CCR 3710 (d)	In-stream mining activities shall not cause fish to become entrapped in pools or in off-channel pits. California Fish and Game Code section 1600.	X	---	---
CCR 3711(a)	All salvageable topsoil removed. Topsoil and vegetation removal not proceed mining by more than one year.		27	2.11
CCR 3711 (b)	Topsoil resources mapped prior to stripping, location of stockpiles on map. Topsoil and growth media in separate stockpiles.		27	2.11
CCR 3711 (c)	Soil salvage and phases set forth in plan, minimize disturbance, designed to achieve revegetation success.		27	2.11
CCR 3711 (d)	Topsoiling phased ASAP. Stockpiles not to be disturbed until needed. Stockpiles clearly identified and planted with vegetation or otherwise protected.		27	2.11
CCR 3711 (e)	Topsoil redistributed in stable site and consistent thickness.		18-27	2.6, 2.11
CCR 3712	Waste and tailings, and waste disposal governed by SWRCB (Article 7, Chapter 15, Title 23, CCR).		10	1.2
CCR 3713 (a)	Drill holes, water wells, monitoring wells abandoned in accordance with laws.	X	---	---
CCR 3713 (b)	All portals, shafts, tunnels, or openings, gated or protected from public entry, but preserve access for wildlife.	X	---	---

EXHIBIT G

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

June 11, 2025
Sent via email.

Derek Newland
Planner
San Bernardino County Department of Public Works
385 N. Arrowhead Avenue
San Bernardino, CA 92415

Subject: Initial Study/Mitigated Negative Declaration
Essex Overhead Quarry (Project)
State Clearinghouse No. 2025050552

Dear Derek Newland:

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration (IS/MND) from San Bernardino County Department of Public Works (DPW) for the Project pursuant 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

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

need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: San Bernardino County DPW

Objective: The objective of the Project is to construct and operate a sand and gravel quarry referred to as the Essex Overhead Pit. The Project proponent proposes to develop and utilize a long-term materials source and storage site for a 100-year period to provide construction aggregate materials for repair, maintenance, and fill for the local and regional roads, shoulders and wash crossings, to facilitate stockpiling and recycling of removed materials, and to support a soils management area. The Project includes the construction of two pits (North Pit and South Pit) that will make up approximately 47 acres of approximately 90 acres west of the BNSF railroad tracks. The remaining property (approximately 197 acres) east of the BNSF railroad tracks will remain as undisturbed desert lands. Primary Project activities include mining, excavation, staging, stockpiling, construction and maintenance of access roads, and transportation of materials. No blasting, screening or permanent crushing will occur as part of Project activities.

Location: The Project site is located thirty-five miles west of Needles, CA and south of I-40 between National Trails Hwy, and the BNSF Railroad at Goffs Road.

Timeframe: The IS/MND does not provide a timeframe for construction. CDFW recommends that the final IS/MND includes anticipated start and end dates for this Project.

COMMENTS AND RECOMMENDATIONS

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

Specific Comments

COMMENT #1: Mohave Desert Tortoise (Gopherus agassizii)

Issue: The Project may have impacts to Mohave Desert Tortoise, a California Endangered Species Act threatened species, proposed endangered. The IS/MND describes a process to install permanent desert tortoise fencing to preclude desert tortoise from entering the Project site. The process includes the installation of fence stakes and then a biologist conducting a clearance survey. If the clearance survey results in not finding desert tortoise, the Project will move forward with the installation of the permanent desert tortoise fencing. CDFW is concerned that there is the potential for desert tortoise to enter the Project site during the fence installation. Take is defined as by California Fish and Game Code section 86 as hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.

Specific Impact: Mohave Desert tortoise is a State and federally listed threatened species. This species is impacted by ongoing threats, including loss, degradation, and fragmentation of habitat, due to development. Staging of construction equipment, vehicles, and foot traffic may result in the collapse of occupied burrows and result in direct mortality and/or injury to Mohave desert tortoise. Project construction and related activities may result in collision with or crushing by vehicles or heavy equipment; entrapment within open trenches and pipes; entrapment or entanglement within materials and equipment staged and moved; crushing or burial of individuals or eggs in burrows; destruction of burrows and refugia; and increased predation. The installation of fencing may result in the crushing of occupied burrows, capture of Mohave desert tortoise and the need to relocate/translocate individuals out of the Project area. The handling of Mohave desert tortoise to relocate/translocate out of harm's way requires the authorization of take through a CESA incidental take permit or other state authorization.

Why Impact Would Occur: The IS/MND indicates that there is suitable habitat and soils for Mohave desert tortoise within Project site and there were sign of Mohave desert tortoise use in the area. The California Natural Diversity database includes several historical occurrences of Mohave desert tortoise in the area. Additionally, INaturalist includes several recent occurrences of Mohave desert tortoise in the immediate vicinity of the Project site. CDFW also strongly encourages the Project proponent to apply for a CESA incidental take permit (ITP) for take of Mohave desert tortoise.

Evidence impact would be significant: Mohave desert tortoise is a California Endangered Species Act (CESA)-listed species. Take of any CESA listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Consequently, if a project, including project construction or any project-related activity during the life of the project, results in take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization prior to project

implementation. This may include an incidental take permit or other take authorization from CDFW (Fish and Game Code, §§ 2080.1 & 2081).

Mohave desert tortoise populations have declined significantly in recent decades as a result of human activities in their native habitat including land development, off-road vehicle use, overgrazing, agricultural development, military activities, predation, and the spread of invasive plant species (USFWS 2011). The Mohave desert tortoise population in the western Mojave Desert has declined by 90% since the 1980s. Mohave desert tortoises can take up to 20years to reach sexual maturity, which limits their ability to recover from even small losses in population numbers (USFWS 2011).

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant: CDFW recommends inclusion of the following changes to the mitigation measures for Mohave desert tortoise (edits are in strikethrough and additions are in bold):

BIO-3 Desert Tortoise (Revised)

The following mitigation measures are recommended to avoid potential impacts to desert tortoise. If at any time during the process desert tortoises are observed on the Project Site, the County shall not initiate construction and shall instead contact the USFWS and CDFW to develop an avoidance strategy and/or seek authorization for incidental take of desert tortoise.

<u>Worker Environmental Awareness Program</u>
Prior to any construction activities or site development at the quarry, the County will implement a Worker Environmental Awareness Program (WEAP) to educate on-site workers about sensitive environmental issues associated with the Project. The program will be administered to all on-site personnel, including the County's personnel, contractors, and all subcontractors, on the first day of work prior to commencing work on the site. The WEAP will emphasis the protected species that have potential to occur on or near the Project Site, including the Mojave desert tortoise, burrowing owl, nesting birds, and desert kit fox, among other plant and wildlife species. The program will include the following elements:

- A presentation, developed by or in consultation with a qualified biologist, discussing the sensitive biological resources with potential to occur on-site, and explaining the reasons for protecting these resources and penalties for non-compliance.
- Contact information for the project biological monitor, and instructions to contact the monitor with any questions regarding the WEAP information.
- An acknowledgement form, to be signed by each worker indicating that they received WEAP training and will abide by the site rules protecting biological resources.

Mojave Desert Tortoise Exclusion Fencing and Monitoring

Prior to initiation of construction activities in each project Phase, a desert tortoise **pre-construction surveys for Mojave desert tortoise be conducted prior to construction in accordance with the USFWS 2019 Mojave desert tortoise survey methodology to avoid direct and indirect impacts to Mojave desert tortoise (USFWS 2019). If Mojave desert tortoise is found to be present, individuals should be fully avoided. If full avoidance is infeasible, the Project shall obtain an CESA Incidental Take Permit (ITP) and mitigate impacts to Mojave desert tortoise through the purchase of credits from a mitigation/conservation bank, and/or land acquisition and perpetual management and conservation thereof. A desert tortoise exclusion** fence shall be installed around the perimeter of the active quarry pit and staging area to exclude desert tortoise from entering the facility throughout the operation of the Phase. If at any time during the process desert tortoises are observed on the Project Site, the County shall not initiate construction and shall instead contact the USFWS and CDFW to develop an avoidance strategy and/or seek authorization for incidental take of desert tortoise under the federal and state Endangered Species Acts.

~~After the location of the desert tortoise exclusion fence is staked, a qualified biologist shall conduct a survey in all disturbance areas and along the fence line for desert tortoise. Immediately following the survey (assuming no tortoises are detected), a desert tortoise exclusion fence shall be installed around the quarry areas.~~ **If desert tortoise are not found during the preconstruction survey a** ~~The~~ exclusion fence shall be installed in accordance with the specifications set forth in Chapter 8 of the USFWS' Desert Tortoise Field Manual (USFWS 2009), and installation of the fence shall be monitored by a biologist familiar with the installation of tortoise exclusion fencing. Following the installation of the exclusion fencing and prior to construction-related ground clearing and/or grading, the County shall retain a qualified biologist to conduct clearance surveys for the Mojave desert tortoise within the fenced area. Surveys shall follow the current guidelines for conducting clearance surveys used by the USFWS. The surveys shall consist of conducting two consecutive surveys by walking five-meter-wide parallel belt transects in a north-south and then east-west direction to obtain 100 percent coverage of the survey area. Again, if any sign indicating the presence of Mojave desert tortoise is detected, the County shall not proceed with ground clearing. **If Mohave desert tortoise is found, work will cease, and the County shall contact USFWS and CDFW to seek authorization for incidental take of desert tortoise under the federal and state Endangered Species Acts.**

COMMENT #2 American badger (Taxidea taxus)

Issue: The Biological Resources Assessment (BRA) prepared for the Project identifies that American badger habitat is present within the Project site however avoidance and

minimization measures were not proposed within the draft IS/MND to avoid impacts to American badger.

Specific Impact: The Project is within the range and supports suitable habitat for American badger, a Species of Special Concern (SSC). The IS/MND fails to address potential impacts to American badger and provide avoidance and minimization measures.

Why Impact Would Occur: The Project would eliminate potential habitat for American badger through construction of a quarry. Project activities that would eliminate potential habitat and potentially impact the species, include grading, excavation and the use of heavy equipment.

Evidence impact would be significant: Impacts on SSC could require a mandatory finding of significance under CEQA (CEQA Guidelines, § 15065). A SSC is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- Is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;

- Is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed; is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or

- Has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CEQA threatened or endangered status.

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant: CDFW recommends inclusion of the following changes to the mitigation measures for desert tortoise (edits are in strikethrough and additions are in bold):

BIO-7 American Badger (NEW)

Prior to initiation of Project Activities, an American badger Mitigation and Monitoring Plan (plan) shall be developed and implemented. The objective of the plan shall be to avoid direct impacts to the American badger as a result of Project activities. The final plan is subject to review, comment, and revision by CDFW. The final plan shall include, but is not limited to, the following procedures and

impact avoidance measures: Describe pre-construction survey and clearance field protocol, to determine the number and locations of single or paired badgers on the Project site that would need to be avoided or passively relocated and the number and locations of badger burrows or burrow complexes that would need to be collapsed to prevent re-occupancy by the animals.

Pre-Construction Surveys. Biological Monitors shall conduct preconstruction surveys for American badger no more than 30 days prior to initiation of construction activities, including pre-construction site mobilization. Surveys shall also address the potential presence of active dens within 100 feet of the Project boundary (including utility corridors and access roads). If dens are detected, each den shall be classified as inactive, potentially active, or active den.

Monitoring and Protection Measures, Passive Hazing, and Den Excavation: The plan will include details on monitoring requirements, types and methods of passive hazing, and methods and timing of den excavation, including, but not limited to the following:

- **Inactive dens. Inactive dens (e.g., inactive dens are dens that are mostly or entirely silted in and ones in which the back of the den can clearly be seen (e.g., the den isn't deep and doesn't curve) that would be directly impacted by construction activities shall be excavated by hand and backfilled to prevent reuse.**

- **Potentially and definitely active dens. Potentially and definitely active dens that would be directly impacted by construction activities shall be monitored by a CDFW approved Biological Monitor for three consecutive nights using a tracking medium (such as diatomaceous earth or fire clay) and/or infrared camera stations at the entrance. If no tracks are observed in the tracking medium or no photos of the target species are captured after three nights, the den shall be excavated and backfilled by hand. If tracks are observed, the den shall be progressively blocked with natural materials (rocks, dirt, sticks, and vegetation piled in front of the entrance) for the next three to five nights to discourage the badger from continued use. After verification that the den is unoccupied it shall then be excavated and backfilled by hand to ensure that no badgers are trapped in the den. If the den is proven inactive then den may be collapsed during whelping season.**

- **Active natal/pupping dens. If an active natal den (a den with pups) is detected on the site during construction, CDFW shall be contacted within 24 hours to determine the appropriate course of action to**

minimize the potential for animal harm or mortality. The course of action would depend on the age of the pups, location of the den on the site (e.g., is the den in a central area or in a perimeter location), status of the perimeter site fence (completed or not), and the pending construction activities proposed near the den. A 500-foot no-disturbance buffer shall be maintained around all active dens. If the den is active whelping season, even if pups are not seen, disturbance is not allowed. Active natal/pupping dens will not be excavated or passively relocated.

- **Address other factors and procedures that may affect the success of relocation offsite, such as: estimates of the distances badgers would need to travel across the Project site and across adjacent lands to safely access suitable habitat (including burrows) off-site; proposed scheduling of the passive relocation effort; and methods to minimize likelihood that the animals will return to the Project site during construction.**

COMMENT #3 Impacts to Nesting Birds

Section IV Biological Resources Page 35

Issue: The Project may have impacts on nesting birds that are a SSC, and common birds that are subject to Fish and Game Code Sections 3503, 3503.5, and 3515, and the Migratory Bird Treaty Act of 1918.

Specific Impact: The Project as described could result in direct take associated with grading, vehicle and equipment strike, indirect take associated with Project operations such as attracting predators, displacement, reduction of habitat and habitat quality associated with road infrastructure and mining activities. The Project as described would cause permanent and temporary impacts to avian species' foraging and nesting habitat.

Why impact would occur: Within the IS/MND, MM-BIO-1 limits nesting bird surveys to only occur within the nesting bird season, CDFW would like to note that regardless of the time of year, a pre-construction clearance survey should be conducted to avoid potential impacts to nesting birds. This is considering that the timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.).

On page 32, the IS/MND states that the loggerhead shrike (Lanius ludovicianus) a SSC was observed in the Project area and has a high probability of occurring. Construction

while birds are nesting could result in a decrease in breeding success or otherwise lead to nest abandonment. For example, noise from road use, generators, and heavy equipment may disrupt mating, calls, or songs, which could impact reproductive success [2].

Evidence impact would be significant: 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 Potentially Feasible Mitigation Measure: CDFW recommends the inclusion of the Mitigation Measure below, as revised (edits are in ~~strikethrough~~ and additions are in **bold**) in the final IS/MND to ensure impacts to birds are mitigated to a level of less than significant.

BIO-1 Nesting Bird Surveys (Revised)

To ensure compliance with the MBTA and the California Fish and Game Code, to the extent feasible, there shall be no vegetation cutting, removal, clearing, and/or grading allowed during the nesting season (February 15 – August 15). ~~If work is to be conducted within the nesting season, then~~ **Regardless of the time of year,** a nesting bird survey shall be conducted by a qualified biologist within three days prior to disturbance. If nesting birds are not detected, no further action is necessary. If an active nest is detected and the qualified biologist determines that work activities may impact nesting, an appropriate buffer zone will be established around the nest. The buffer shall be established using highly visible construction fencing or flagging, and construction personnel shall be instructed on the sensitivity of nest areas. The size of the buffer may vary depending on site features, the sensitivity of the species, and the type of construction activity, but will be designed to prevent disruption of nesting activity. The nests and associated buffer zones shall be avoided until the nesting cycle is complete or it is determined by the qualified biologist that the nest has failed. **The Project site will need to be re-surveyed if there is a lapse in construction for more than 3 days.**

[2] Halfwerk, W., L.J.M. Holleman, C. M Lessells, H. Slabbekoorn. 2011. Negative Impact of Traffic Noise on Avian Reproductive Success. Journal of Applied Ecology 48:210–219.

COMMENT #4 Burrowing Owl (Athene cunicularia)

Section IV Biological Resources Page 37

Issue: Page 37 of the IS/MND concludes “Because no burrowing owl or their sign were present within the survey area and suitable habitat is present in the region, the loss of habitat due to the Project is not considered an adverse impact.” CDFW is concerned that this impact analysis is incorrect and the conclusions in the Biological Resources Assessment were not accurately conveyed into the IS/MND. According to the Project’s Biological Resources Assessment Report, in particular Table 5, there were 12 potential burrows suitable for burrowing owl within the Project site. According to the listing petition submitted to the California Fish and Game Commission from several entities, burrow availability is a major factor in defining burrowing owl habitat. Additionally, habitat loss due to development within the Western Mojave Desert poses a significant threat to burrowing owl populations. The mere presence of suitable habitat in the region is not sufficient justification to conclude that the project's impacts do not require mitigation.

Within the 2012 Staff Report, the minimum habitat replacement recommendation was purposely excluded as it was shown to serve as a default, replacing any site-specific analysis and discounting the wide variation in natal area, home range, foraging area, and other factors influencing burrowing owls and burrowing owl population persistence in a particular area. It hypothesized that mitigation for permanent impacts to nesting, occupied, and satellite burrows and burrowing owl habitat should be on, adjacent or proximate to the impact site where possible and where habitat is sufficient to support burrowing owls present. If mitigation occurs offsite, it should include (a) permanent conservation of similar vegetation communities (grassland, scrublands, desert, urban, and agriculture) to provide for burrowing owl nesting, foraging, wintering, and dispersal (i.e., during breeding and non-breeding seasons) comparable to or better than that of the impact area, and (b) be sufficiently large acreage with the presence of fossorial mammals. Furthermore, the report noted that suitable mitigation lands should be based on a comparison of the habitat attributes of the impacted and conserved lands, including but not limited to: type and structure of habitat being impacted or conserved; density of burrowing owls in impacted and conserved habitat; and significance of impacted or conserved habitat to the species range-wide. CDFW recommends consultation prior to obtaining mitigation lands for the species.

The ISMND shall propose mitigation for permanent loss of western burrowing owl habitat. The mitigation lands may require habitat enhancements including enhancement or expansion of burrows for breeding, shelter and dispersal opportunity, and removal or control of population stressors. Permanent protection of mitigation land through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, development and implementation of a mitigation

land management plan to address long-term ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment. The ratio of acquisition to loss must in most cases exceed 1:1 for any species, particularly burrowing owl. The ratio should be higher for rarer species, particularly for those that occupy irreplaceable habitats.

The Project has the potential to result in permanent and temporary loss, degradation, and impacts to burrowing owl habitat. The Project also has the potential to cause direct take of burrowing owl during Project activities and the life of the Project.

Specific Impact: The Project has the potential to impact burrowing owl through the collapsing of burrows, entombment, displacement, direct take associated with vehicle and/or equipment strike(s), indirect take and reduction in habitat quality associated with Project activities. The Project as described will cause permanent and temporary impacts to burrowing owl foraging and nesting habitat.

Why impact would occur: Although the BRA prepared for this Project states that a habitat assessment and burrow survey were conducted in December 2022, no focused burrowing owl surveys were conducted. The BRA concluded that no burrowing owls are currently onsite, and this is concerning to CDFW considering the surveys are over three years old and the burrow survey was conducted during the non-breeding season (September 1- January 31). Burrowing owls and their sign are more difficult to detect during the non-breeding season.

Evidence impact would be significant: Burrowing owls are regulated under Fish and Game Code section 3503.5, are a CDFW SSC, and have recently been petitioned for consideration to be listed as endangered or threatened under CESA. The Project, as described, may result in injury, direct mortality, indirect mortality, disruption of breeding behavior, and/or may reduce reproductive capacity of the species. CDFW considers the direct and indirect take of burrowing owl, and the loss of the species' habitat as a significant impact, unless mitigated to a level of less than significant and in compliance with State (i.e., Fish and Game Code sections 3503.5, etc.) and Federal laws (i.e., Migratory Bird Treaty Act).

As a candidate species for listing, burrowing owl is granted the same protection as threatened or endangered species under CESA. Take of any CESA-listed species is prohibited except as authorized by State law (Fish and Game Code § 2080 and § 2085). Consequently, if a Project, including Project construction or any Project-related activity during the life of the Project, results in the take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization prior to Project implementation. This may include an incidental take permit or a consistency determination (California Fish and Game Code § 2080.1 and § 2081).

Recommended potentially feasible mitigation measure to reduce impacts to less than significant: CDFW recommends the revision of MM-BIO 4 to minimize potential impacts to burrowing owl. Edits are in ~~strikethrough~~ and additions in **bold**.

BIO-4 Burrowing Owl (Revised)

~~Because no burrowing owls or their sign were present within the survey area and suitable habitat is present in the region, the loss of habitat due to the Project is not considered an adverse impact.~~ ~~However,~~ ~~b~~**B**urrowing owls could move onto the site prior to Project development, **therefore prior to any ground disturbance**, ~~take avoidance pre-construction~~ **breeding season surveys for burrowing owl should be completed according to the Staff Report on Burrowing Owl Mitigation (CDFW 2012 or most recent version) by a qualified biologist.** ~~CDFG guidelines~~ ~~with~~ **In addition to the breeding season surveys**, one survey **will be** ~~being~~ conducted within 14 days of planned construction and a second survey conducted within 24 hours of grading. **The surveys shall include 100 percent coverage and include a minimum 500-meter buffer in adjacent habitat. Burrowing owls may recolonize a site after only a few days. Time lapses between Project activities will trigger subsequent take avoidance surveys.** ~~Depending on the results of those surveys, a Burrowing Owl Management Plan may be prepared in consultation with CDFW that will outline protection and avoidance and minimization measures that will be implemented for the project, including methods for avoidance, exclusion and burrow excavation, and passive relocation.~~

If burrowing owl, active burrowing owl burrows, or sign thereof are found and there is potential for take, the project proponent shall submit an incidental take permit application and the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be reviewed and approved by CDFW for comment prior to commencing Project activities. The plan shall propose avoidance and minimization measures and a mitigation proposal at a minimum 3:1 ratio (3 acres of mitigation for every acre of impact) for permanent loss of occupied burrow(s) and habitat. The mitigation lands may require habitat enhancements including enhancement or expansion of burrows for breeding, shelter and dispersal opportunity, and removal or control of population stressors. Permanent protection of mitigation land shall be through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, with development and implementation of a mitigation land management plan to address longterm ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment. Such plan may be superseded by any condition of approval more stringent in the obtained incidental take permit.

Additional Comments

COMMENT #5: Lake and Streambed Alteration (Agreement) Notification

Based on review of aerial imagery, CDFW determined that ephemeral streams may occur within the Project area. Thus, CDFW recommends that the Project proponent revise **BIO-6** below to either obtain written correspondence from CDFW stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or if notification under section 1602 of the Fish and Game Code is required for the Project, to obtain a CDFW-executed Lake and Streambed Alteration Agreement. Additions are in **bold**.

BIO-6 Jurisdictional Waters (Revised)

Based on Jurisdictional Delineation assessment, impact to potential jurisdictional waters is minimal. However, the following BMP measures are recommended to address any potential impacts:

- Drainage from the development areas includes runoff of water, soil, as well as inorganic and organic matter. NRAI recommends standard water quality measures required for all projects be implemented for this Project. Project design shall incorporate measures, including measures required through the National Pollutant Discharge Elimination System (NPDES) requirements, to ensure that all measures shall be put in place to avoid discharge of untreated surface runoff from developed and paved areas. Stormwater systems shall be designed to prevent the release of toxins, chemicals, petroleum products, exotic plant materials or other elements that might degrade or harm biological resources or ecosystem processes in adjacent areas.

- Operation of motor vehicles near adjacent undeveloped lands may introduce undesirable petroleum products and solvents into the natural environment. All activity involving hazardous substances should be conducted in accordance with applicable local, State, and Federal safety standards.

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

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNNDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/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 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 IS/MND to assist San Bernardino County DPW in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Gabriella Tolley, Environmental Scientist at Gabriella.Tolley@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Brandy Wood
4D7592534089 41E...

Brandy Wood
Environmental Project Manager

cc: Office of Planning and Research, State Clearinghouse, Sacramento

Attachment A: Mitigation and Monitoring Reporting Plan

CDFW recommends the following language be incorporated into the final IS/MND for the Project.

Mitigation Measure		**Timing**	**Responsible Party**
BIO-3 Desert Tortoise	The following mitigation measures are recommended to avoid potential impacts to desert tortoise. If at any time during the process desert tortoises are observed on the Project Site, the County shall not initiate construction and shall instead contact the USFWS and CDFW to develop an avoidance strategy and/or seek authorization for incidental take of desert tortoise. <u>Worker Environmental Awareness Program</u> Prior to any construction activities or site development at the quarry, the County will implement a Worker Environmental Awareness Program (WEAP) to educate on-site workers about sensitive environmental issues associated with the Project. The program will be administered to all on-site personnel, including the County's personnel, contractors, and all subcontractors, on the first day of work prior to commencing work on the site. The WEAP will emphasis the protected	Prior to commencing ground or vegetation disturbing activities	Project Proponent

	species that have potential to occur on or near the Project Site, including the Mojave desert tortoise, burrowing owl, nesting birds, and desert kit fox, among other plant and wildlife species. The program will include the following elements: • A presentation, developed by or in consultation with a qualified biologist, discussing the sensitive biological resources with potential to occur on-site, and explaining the reasons for protecting these resources and penalties for non-compliance. • Contact information for the project biological monitor, and instructions to contact the monitor with any questions regarding the WEAP information. • An acknowledgement form, to be signed by each worker indicating that they received WEAP training and will abide by the site rules protecting biological resources. <u>Mojave Desert Tortoise Exclusion Fencing and Monitoring</u>		

	Prior to initiation of construction activities in each project Phase, a desert tortoise pre-construction surveys for Mojave desert tortoise be conducted prior to construction in accordance with the USFWS 2019 Mojave desert tortoise survey methodology to avoid direct and indirect impacts to Mojave desert tortoise (USFWS 2019). If Mojave desert tortoise is found present, individuals should be fully avoided. If full avoidance is infeasible, the Project shall obtain an CESA Incidental Take Permit (ITP) and mitigate impacts to Mojave desert tortoise through the purchase of credits from a mitigation/conservation bank, and/or land acquisition and perpetual management and conservation thereof. A desert tortoise exclusion fence shall be installed around the perimeter of the active quarry pit and staging area to exclude desert tortoise from entering the facility throughout the operation of the Phase. If at any time during the process desert tortoises are observed on the Project Site, the County shall not initiate construction and shall instead contact the USFWS and CDFW to develop an		

	avoidance strategy and/or seek authorization for incidental take of desert tortoise under the federal and state Endangered Species Acts. If desert tortoise are not found during the preconstruction survey a exclusion fence shall be installed in accordance with the specifications set forth in Chapter 8 of the USFWS' Desert Tortoise Field Manual (USFWS 2009), and installation of the fence shall be monitored by a biologist familiar with the installation of tortoise exclusion fencing. Following the installation of the exclusion fencing and prior to construction-related ground clearing and/or grading, the County shall retain a qualified biologist to conduct clearance surveys for the Mojave desert tortoise within the fenced area. Surveys shall follow the current guidelines for conducting clearance surveys used by the USFWS. The surveys shall consist of conducting two consecutive surveys by walking five-meter-wide parallel belt transects in a north-south and then east-west direction to obtain 100 percent coverage of the survey area. Again, if any sign indicating the presence		

	of Mojave desert tortoise is detected, the County shall not proceed with ground clearing. If Mohave desert tortoise is found, work will cease and the County shall contact USFWS and CDFW to seek authorization for incidental take of desert tortoise under the federal and state Endangered Species Acts**.**		
BIO-7 American Badger	Prior to initiation of Project Activities, an American badger Mitigation and Monitoring Plan (plan) shall be developed and implemented. The objective of the plan shall be to avoid direct impacts to the American badger as a result of Project activities. The final plan is subject to review, comment, and revision by CDFW. The final plan shall include, but is not limited to, the following procedures and impact avoidance measures: Describe pre-construction survey and clearance field protocol, to determine the number and locations of single or paired badgers on the Project site that would need to be avoided or passively relocated and the number and locations of badger burrows or burrow complexes that would need to be collapsed to prevent re-occupancy by the animals.	Prior to commencing ground or vegetation disturbing activities	Project Proponent

	Pre-Construction Surveys. Biological Monitors shall conduct preconstruction surveys for American badger no more than 30 days prior to initiation of construction activities, including pre-construction site mobilization. Surveys shall also address the potential presence of active dens within 100 feet of the Project boundary (including utility corridors and access roads). If dens are detected, each den shall be classified as inactive, potentially active, or active den. Monitoring and Protection Measures, Passive Hazing, and Den Excavation: The plan will include details on monitoring requirements, types and methods of passive hazing, and methods and timing of den excavation, including, but not limited to the following: • Inactive dens. Inactive dens (e.g., inactive dens are dens that are mostly or entirely silted in and ones in which the back of the den can clearly be seen (e.g., the den isn't deep and doesn't curve) that would be directly impacted by construction activities shall be excavated by		

	hand and backfilled to prevent reuse. • Potentially and definitely active dens. Potentially and definitely active dens that would be directly impacted by construction activities shall be monitored by a CDFW approved Biological Monitor for three consecutive nights using a tracking medium (such as diatomaceous earth or fire clay) and/or infrared camera stations at the entrance. If no tracks are observed in the tracking medium or no photos of the target species are captured after three nights, the den shall be excavated and backfilled by hand. If tracks are observed, the den shall be progressively blocked with natural materials (rocks, dirt, sticks, and vegetation piled in front of the entrance) for the next three to five nights to discourage the badger from continued use. After verification that the den is unoccupied it shall then be		

	excavated and backfilled by hand to ensure that no badgers are trapped in the den. If the den is proven inactive then den may be collapsed during whelping season. • Active natal/pupping dens. If an active natal den (a den with pups) is detected on the site during construction, CDFW shall be contacted within 24 hours to determine the appropriate course of action to minimize the potential for animal harm or mortality. The course of action would depend on the age of the pups, location of the den on the site (e.g., is the den in a central area or in a perimeter location), status of the perimeter site fence (completed or not), and the pending construction activities proposed near the den. A 500-foot no-disturbance buffer shall be maintained around all active dens. If the den is active whelping season, even if pups are not seen,		

	disturbance is not allowed. Active natal/pupping dens will not be excavated or passively relocated. • Address other factors and procedures that may affect the success of relocation offsite, such as: estimates of the distances badgers would need to travel across the Project site and across adjacent lands to safely access suitable habitat (including burrows) off-site; proposed scheduling of the passive relocation effort; and methods to minimize likelihood that the animals will return to the Project site during construction.		
BIO-1 Nesting Bird Surveys	To ensure compliance with the MBTA and the California Fish and Game Code, to the extent feasible, there shall be no vegetation cutting, removal, clearing, and/or grading allowed during the nesting season (February 15 – August 15). Regardless of the time of year**,** a nesting bird survey shall be conducted by a qualified biologist within three days prior to disturbance. If	Prior to commencing ground or vegetation disturbing activities	Project Proponent

	nesting birds are not detected, no further action is necessary. If an active nest is detected and the qualified biologist determines that work activities may impact nesting, an appropriate buffer zone will be established around the nest. The buffer shall be established using highly visible construction fencing or flagging, and construction personnel shall be instructed on the sensitivity of nest areas. The size of the buffer may vary depending on site features, the sensitivity of the species, and the type of construction activity, but will be designed to prevent disruption of nesting activity. The nests and associated buffer zones shall be avoided until the nesting cycle is complete or it is determined by the qualified biologist that the nest has failed. The Project site will need to be re-surveyed if there is a lapse in construction for more than 3 days.		
BIO-4 Burrowing Owl	Burrowing owls could move onto the site prior to Project development, therefore prior to any ground disturbance, breeding season surveys for burrowing owl should be completed according to the Staff Report on Burrowing Owl Mitigation (CDFW 2012	Prior to commencing ground or vegetation disturbing activities	Project Proponent

	or most recent version) by a qualified biologist. In addition to the breeding season surveys, one survey will be conducted within 14 days of planned construction and a second survey conducted within 24 hours of grading. The surveys shall include 100 percent coverage and include a minimum 500-meter buffer in adjacent habitat. Burrowing owls may recolonize a site after only a few days. Time lapses between Project activities will trigger subsequent take avoidance surveys. If burrowing owl, active burrowing owl burrows, or sign thereof are found and there is potential for take, the project proponent shall submit an incidental take permit application and the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be reviewed and approved by CDFW for comment prior to commencing Project activities. The plan shall propose avoidance and minimization measures and a mitigation proposal at a minimum 3:1 ratio (3 acres of mitigation for every acre of impact) for permanent loss of occupied burrow(s) and habitat. The mitigation lands		

	may require habitat enhancements including enhancement or expansion of burrows for breeding, shelter and dispersal opportunity, and removal or control of population stressors. Permanent protection of mitigation land shall be through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, with development and implementation of a mitigation land management plan to address longterm ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment. Such plan may be superseded by any condition of approval more stringent in the obtained incidental take permit.		
BIO-6 Jurisdictional Waters	Based on Jurisdictional Delineation assessment, impact to potential jurisdictional waters is minimal. However, the following BMP measures are recommended to address any potential impacts:	Prior to commencing ground or vegetation disturbing activities	Project Proponent

	• Drainage from the development areas includes runoff of water, soil, as well as inorganic and organic matter. NRAI recommends standard water quality measures required for all projects be implemented for this Project. Project design shall incorporate measures, including measures required through the National Pollutant Discharge Elimination System (NPDES) requirements, to ensure that all measures shall be put in place to avoid discharge of untreated surface runoff from developed and paved areas. Stormwater systems shall be designed to prevent the release of toxins, chemicals, petroleum products, exotic plant materials or other elements that might degrade or harm biological resources or ecosystem processes in adjacent areas. • Operation of motor vehicles near adjacent undeveloped lands		

	may introduce undesirable petroleum products and solvents into the natural environment. All activity involving hazardous substances should be conducted in accordance with applicable local, State, and Federal safety standards. • Prior to construction and issuance of any grading permit, the Project proponent should obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project proponent should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project**.**		

EXHIBIT H

July 9, 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 Essex Overhead Quarry
IS/MND SCH#2025050552

Dear Mr. Newland:

The County received a comment letter from the California Department of Fish and Wildlife (CDFW) dated June 11, 2025 regarding the Essex Overhead Quarry Initial Study/Mitigated Negative (IS/MND) SCH#2025050552. The letter provided five comments addressing potential biological impacts mainly editing existing and adding one mitigation measures to follow CDFW protocol, including (1) monitoring and survey requirements which are embedded in the existing mitigation measures and (2) required implementation of current regulations and Incidental Take Permits (ITPs). The potential biological impacts discussed by CDFW were all addressed in the IS/MND and the biological reports prepared for the project. The CDFW's specific comments are on pages 1-14 and the five issues are copied within our response letter below with additional information within the CDFW comment letter attached. CDFW edited mitigation measures are included in a table format on pages 16-29.

CDFW edited the MMs with equal or more effective measures and recommended adding mitigation for American badger. Mitigation for American badger has been added to MM BIO-5 for kit fox. It is recommended that the County include potions of these revised measures as included in this response letter into conditions of approval and into the staff report for the Planning Commission hearing. The revised MMs are included under each issue. No changes to MM BIO-6 is recommended.

The following biological reports were conducted for the project site:

Biological Resources Assessment for the Essex Overhead Quarry San Bernardino County, California May 15, 2023, Leatherman BioConsulting, Inc.; *Jurisdictional Delineation Essex Overhead Mine*, May 2024, Natural Resources Assessment, Inc.; *Essex Overhead Quarry Revegetation Plan San Bernardino County, California*, July 2023, Leatherman BioConsulting, Inc.

Comment #1: Mohave Desert Tortoise *(Gopherus agassizii)*

CDFW Issue: The Project may have impacts to Mohave Desert Tortoise, a California Endangered Species Act threatened species, proposed endangered. The IS/MND describes a process to install permanent desert tortoise fencing to preclude desert tortoise from entering the Project site. The process includes the installation of fence stakes and then a biologist conducting a clearance

survey. If the clearance survey results in not finding desert tortoise, the Project will move forward with the installation of the permanent desert tortoise fencing. CDFW is concerned that there is the potential for desert tortoise to enter the Project site during the fence installation. Take is defined as by California Fish and Game Code section 86 as hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.

This issue was addressed in the IS/MND and focused biology reports and mitigation was listed. Existing MM BIO-3 requires the County to implement a Worker Education Program and to construct desert tortoise exclusion fencing and monitoring program. If desert tortoise is found to be present during pre-construction surveys and desert tortoise cannot be fully avoided, the County shall obtain an CESA Incidental Take Permit (ITP). The CDFW edits to the MM added typical survey and ITP conditions to MM BIO-3 which are acceptable to the County.

CDFW did not provide any new or site specific information on occurrence or potential impact to this species. The CDFW recommendation to edit MM BIO-3 shall be accepted by the County. Upon acceptance of CDFW revised MM BIO-3, the proposed project will not significantly impact desert tortoise due to permanent and temporary loss and degradation of desert tortoise habitat. The edited MM BIO-3 is included below (edits are in ~~strikethrough~~ and additions are in **bold**).

BIO-3 Desert Tortoise (Revised)

The following mitigation measures are recommended to avoid potential impacts to desert tortoise. If at any time during the process desert tortoises are observed on the Project Site, the County shall not initiate construction and shall instead contact the USFWS and CDFW to develop an avoidance strategy and/or seek authorization for incidental take of desert tortoise.

Worker Environmental Awareness Program

Prior to any construction activities or site development at the quarry, the County will implement a Worker Environmental Awareness Program (WEAP) to educate on-site workers about sensitive environmental issues associated with the Project. The program will be administered to all on-site personnel, including the County's personnel, contractors, and all subcontractors, on the first day of work prior to commencing work on the site. The WEAP will emphasis the protected species that have potential to occur on or near the Project Site, including the Mojave desert tortoise, burrowing owl, nesting birds, and desert kit fox, among other plant and wildlife species. The program will include the following elements:

- *A presentation, developed by or in consultation with a qualified biologist, discussing the sensitive biological resources with potential to occur on-site, and explaining the reasons for protecting these resources and penalties for non-compliance.*
- *Contact information for the project biological monitor, and instructions to contact the monitor with any questions regarding the WEAP information.*
- *An acknowledgement form, to be signed by each worker indicating that they received WEAP training and will abide by the site rules protecting biological resources.*

Mojave Desert Tortoise Exclusion Fencing and Monitoring

Prior to initiation of construction activities in each project Phase, a desert tortoise ***pre-construction surveys for Mojave desert tortoise be conducted prior to construction in accordance with the USFWS 2019 Mojave desert tortoise survey methodology to avoid direct and indirect impacts to Mojave desert tortoise (USFWS 2019). If Mojave desert tortoise is found to be present, individuals should be fully avoided. If full avoidance is infeasible, the Project shall obtain an CESA Incidental Take Permit (ITP) and mitigate impacts to Mojave desert tortoise through the purchase of credits from a mitigation/conservation bank, and/or land acquisition and perpetual management and conservation thereof.*** *A desert tortoise exclusion fence shall be installed around the perimeter of the active quarry pit and staging area to exclude desert tortoise from entering the facility throughout the operation of the Phase. If at any time during the process desert tortoises are observed on the Project Site, the County shall not initiate construction and shall instead contact the USFWS and CDFW to develop an avoidance strategy and/or seek authorization for incidental take of desert tortoise under the federal and state Endangered Species Acts.*

~~*After the location of the desert tortoise exclusion fence is staked, a qualified biologist shall conduct a survey in all disturbance areas and along the fence line for desert tortoise. Immediately following the survey (assuming no tortoises are detected), a desert tortoise exclusion fence shall be installed around the quarry areas.*~~ *If desert tortoise are not found during the preconstruction survey a The exclusion fence shall be installed in accordance with the specifications set forth in Chapter 8 of the USFWS' Desert Tortoise Field Manual (USFWS 2009), and installation of the fence shall be monitored by a biologist familiar with the installation of tortoise exclusion fencing. Following the installation of the exclusion fencing and prior to construction-related ground clearing and/or grading, the County shall retain a qualified biologist to conduct clearance surveys for the Mojave desert tortoise within the fenced area. Surveys shall follow the current guidelines for conducting clearance surveys used by the USFWS. The surveys shall consist of conducting two consecutive surveys by walking five-meter-wide parallel belt transects in a north-south and then east-west direction to obtain 100 percent coverage of the survey area. Again, if any sign indicating the presence of Mojave desert tortoise is detected, the County shall not proceed with ground clearing. If Mohave desert tortoise is found, work will cease, and the County shall contact USFWS and CDFW to seek authorization for incidental take of desert tortoise under the federal and state Endangered Species Acts.*

Comment #2: American Badger

CDFW Issue: The Biological Resources Assessment (BRA) prepared for the Project identifies that American badger habitat is present within the Project site however avoidance and minimization measures were not proposed within the draft IS/MND to avoid impacts to American badger.

This issue was addressed in the IS/MND and biology reports. Focused desert tortoise and burrowing owl surveys investigated onsite burrows and determined no badgers or badger sign were observed and potential for occurrence is considered low. Therefore, potential impacts were not considered significant under CEQA. However, the area has potential badger habitat, thus the inclusion of American badger surveys, and actions if found onsite will be included in existing MM

BIO-5 for kit fox to minimize any potential impacts. CDFW did not provide any new or site specific information on occurrence or potential impact to this species.

It is recommended to include an American badger survey as part of BIO-5 edited to include CDFW comments as applicable including adding a recommendation to prepare an American Badger Mitigation and Monitoring Plan if this species is observed onsite.

MM BIO-5 shall be edited as follows and included in the project conditions (edits are in ~~strikethrough~~ and additions are **in bold**).

*BIO-5 Desert Kit Fox **and American Badger***

*To avoid impacts to desert kit fox **and American badger** that could move onto the Project Site prior to quarry construction, the County shall retain a qualified biologist to conduct preconstruction surveys within 14 days of new ground disturbance. The survey shall be focused on detecting any desert kit fox **and American badger** individuals or dens within the disturbance footprint, including all the dens reported in the Biological Resource Assessment. Each den shall be classified as inactive, potentially active, or definitely active based on field observations.*

Active and potentially active dens in areas that would be impacted by mining activities shall be monitored by a qualified biologist for three consecutive nights using a tracking medium (such as diatomaceous earth or fire clay) and/or motion camera stations at the entrance. If no tracks are observed in the tracking medium or no photos of the target species are captured after three nights, the den shall be excavated and backfilled by hand to prevent reuse. If tracks are observed, the den shall be classified as active, and a management plan will be developed in consultation with CDFW to identify measures for avoidance, exclusion, and/or passive relocation.

Upon acceptance of revised MM BIO-5 to include American badger, the proposed project will not significantly impact American badger and potential suitable habitat.

Comment #3: Nesting Birds

CDFW Issue: The Project may have impacts on nesting birds that are a SSC, and common birds that are subject to Fish and Game Code Sections 3503, 3503.5, and 3515, and the Migratory Bird Treaty Act of 1918.

The issue was addressed in the IS/MND and biology reports and mitigation was listed. Existing MM BIO-1 was edited to state nesting surveys required any time of year prior to disturbing soil or vegetation. 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-1 to include (regardless of the time of year) shall be accepted by the County. Upon acceptance of CDFW revised MM BIO-1, the proposed project will not significantly impact nesting birds.

MM BIO-1 shall be edited as follows and included in the project conditions (edits are in ~~strikethrough~~ and additions are **in bold**).

BIO-1 Nesting Bird Surveys

To ensure compliance with the MBTA and the California Fish and Game Code, to the extent feasible, there shall be no vegetation cutting, removal, clearing, and/or grading allowed during the nesting season (February 15 – August 15). ~~*If work is to be conducted within the nesting season, then*~~ ***Regardless of the time of year****, a nesting bird survey shall be conducted by a qualified biologist within three days prior to disturbance. If nesting birds are not detected, no further action is necessary. If an active nest is detected and the qualified biologist determines that work activities may impact nesting, an appropriate buffer zone will be established around the nest. The buffer shall be established using highly visible construction fencing or flagging, and construction personnel shall be instructed on the sensitivity of nest areas. The size of the buffer may vary depending on site features, the sensitivity of the species, and the type of construction activity, but will be designed to prevent disruption of nesting activity. The nests and associated buffer zones shall be avoided until the nesting cycle is complete or it is determined by the qualified biologist that the nest has failed. The Project site will need to be re-surveyed if there is a lapse in construction for more than 3 days.*

Comment #4: Burrowing Owl (BUOW)

CDFW Issue: Page 37 of the IS/MND concludes "Because no burrowing owl or their sign were present within the survey area and suitable habitat is present in the region, the loss of habitat due to the Project is not considered an adverse impact." CDFW is concerned that this impact analysis is incorrect and the conclusions in the Biological Resources Assessment were not accurately conveyed into the IS/MND. According to the Project's Biological Resources Assessment Report, in particular Table 5, there were 12 potential burrows suitable for burrowing owl within the Project site. According to the listing petition submitted to the California Fish and Game Commission from several entities, burrow availability is a major factor in defining burrowing owl habitat. Additionally, habitat loss due to development within the Western Mojave Desert poses a significant threat to burrowing owl populations. The mere presence of suitable habitat in the region is not sufficient justification to conclude that the project's impacts do not require mitigation.

Based on CNDDB reports and potential occurrence in area, this issue was addressed in the IS/MND biology reports, and (from IS/MND) *"focused burrowing owl surveys were conducted following the guidelines described in the California Department of Fish and Game (now CDFW) Staff Report on Burrowing Owl Mitigation (CDFW 2012). The habitat assessment determined that the Project site and surrounding areas support suitable habitat for the burrowing owl. The burrow survey was conducted during the tortoise surveys. Transect widths in open habitat can be up to 30 meters (or 100 feet) but were spaced and maintained at approximately 10 meters (33 feet) to meet tortoise survey requirements. All potentially suitable natural or artificial (manmade) burrows were investigated as the surveys were conducted.*

Throughout the survey, the Project site and the surrounding areas were periodically surveyed for burrowing owls by scanning suitable habitat, potential burrow locations, possible perch locations, and other habitat features that may be used by burrowing owls. No burrowing owl or sign was observed and additional surveys were not conducted."

The CDFW mentioned the 12 potential burrows observed onsite. From the BRA 2023: "*Nearly all of the burrows were attributed to either coyote or desert kit fox. None of these burrows appeared to be occupied, and no diagnostic sign to indicate they had been used recently were observed. Because there is suitable habitat and suitable burrows within the survey area and throughout the region, burrowing owls could take up residence in the survey area at any time, even though it appears to be unoccupied currently."*

Based on the potential that BUOW could take up residence by the time the project is initiated, MM BIO-4 was included. CDFW did not provide any new or site specific information on occurrence or potential impact to this species. CDFW recommended edits to MM BIO-4.

It is recommended to the County to include an edited MM BIO-4 for the protection of this species as follows below (edits are in ~~strikethrough~~ and additions are in **bold**). With implementation of MM BIO-4, the proposed project will not significantly impact burrowing owl.

MM BIO-4: (edited)

~~*Because no burrowing owls or their sign were present within the survey area and suitable habitat is present in the region, the loss of habitat due to the Project is not considered an adverse impact. However, b*~~ *Burrowing owls could move onto the site prior to Project development,* ***therefore prior to any new ground disturbance, pre-construction breeding season surveys for burrowing owl should be completed according to the Staff Report on Burrowing Owl Mitigation (CDFW 2012 or most recent version) by a qualified biologist.*** *One survey will be conducted within 14 days of planned construction and a second survey conducted within 24 hours of grading.* ***The surveys shall include 100 percent coverage and include a minimum 500-meter buffer in adjacent habitat. Burrowing owls may recolonize a site after only a few days. Time lapses between Project activities will trigger subsequent take avoidance surveys.***

If burrowing owl, active burrowing owl burrows, or sign thereof are found and there is potential for take, the County shall submit an incidental take permit application and the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be reviewed and approved by CDFW for comment prior to commencing Project activities.

Comment #5: Lake and Streambed Alteration Agreement Notification

CDFW Issue: Based on review of aerial imagery, CDFW determined that ephemeral streams may occur within the Project area. Thus, CDFW recommends that the Project proponent revise BIO-6 below to either obtain written correspondence from CDFW stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or if notification under section

1602 of the Fish and Game Code is required for the Project, to obtain a CDFW-executed Lake and Streambed Alteration Agreement.

A Jurisdictional Delineation report dated May 20, 2024, was conducted and prepared by Natural Resources Assessment, Inc. and its results summarized in the IS/MND. No impacts to waters of the state were identified. The identified washes and streambeds observed in the vicinity of the site were specifically avoided by project design with appropriate setbacks. Indirect impacts to these streambeds will be avoided through implementation of best management practices (BMPs) as listed in MM BIO-6.

CDFW did not provide any new or site specific information on occurrence or potential impact to jurisdictional streambeds except to state that based on aerial imagery, ephemeral streams may occur within the Project area. Based on the Jurisdictional Delineation report prepared for the project and implementation of MM-BIO-6, the proposed project will not significantly affect fish and wildlife resources within a stream or associated habitat. No revision to BIO-6 is recommended.

BIO-6 Jurisdictional Waters

Based on Jurisdictional Delineation assessment, impact to potential jurisdictional waters is minimal. However, the following BMP measures are recommended to address any potential impacts:

- *Drainage from the development areas includes runoff of water, soil, as well as inorganic and organic matter. NRAI recommends standard water quality measures required for all projects be implemented for this Project. Project design shall incorporate measures, including measures required through the National Pollutant Discharge Elimination System (NPDES) requirements, to ensure that all measures shall be put in place to avoid discharge of untreated surface runoff from developed and paved areas. Stormwater systems shall be designed to prevent the release of toxins, chemicals, petroleum products, exotic plant materials or other elements that might degrade or harm biological resources or ecosystem processes in adjacent areas.*
- *Operation of motor vehicles near adjacent undeveloped lands may introduce undesirable petroleum products and solvents into the natural environment. All activity involving hazardous substances should be conducted in accordance with applicable local, State, and Federal safety standards.*

Upon County review of this response letter, the proposed 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 R. Derus

Martin Derus
President
Lilburn Corporation

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

June 11, 2025
Sent via email.

Derek Newland
Planner
San Bernardino County Department of Public Works
385 N. Arrowhead Avenue
San Bernardino, CA 92415

Subject: Initial Study/Mitigated Negative Declaration
Essex Overhead Quarry (Project)
State Clearinghouse No. 2025050552

Dear Derek Newland:

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration (IS/MND) from San Bernardino County Department of Public Works (DPW) for the Project pursuant 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

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

need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: San Bernardino County DPW

Objective: The objective of the Project is to construct and operate a sand and gravel quarry referred to as the Essex Overhead Pit. The Project proponent proposes to develop and utilize a long-term materials source and storage site for a 100-year period to provide construction aggregate materials for repair, maintenance, and fill for the local and regional roads, shoulders and wash crossings, to facilitate stockpiling and recycling of removed materials, and to support a soils management area. The Project includes the construction of two pits (North Pit and South Pit) that will make up approximately 47 acres of approximately 90 acres west of the BNSF railroad tracks. The remaining property (approximately 197 acres) east of the BNSF railroad tracks will remain as undisturbed desert lands. Primary Project activities include mining, excavation, staging, stockpiling, construction and maintenance of access roads, and transportation of materials. No blasting, screening or permanent crushing will occur as part of Project activities.

Location: The Project site is located thirty-five miles west of Needles, CA and south of I-40 between National Trails Hwy, and the BNSF Railroad at Goffs Road.

Timeframe: The IS/MND does not provide a timeframe for construction. CDFW recommends that the final IS/MND includes anticipated start and end dates for this Project.

COMMENTS AND RECOMMENDATIONS

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

Specific Comments

COMMENT #1: Mohave Desert Tortoise (Gopherus agassizii)

Issue: The Project may have impacts to Mohave Desert Tortoise, a California Endangered Species Act threatened species, proposed endangered. The IS/MND describes a process to install permanent desert tortoise fencing to preclude desert tortoise from entering the Project site. The process includes the installation of fence stakes and then a biologist conducting a clearance survey. If the clearance survey results in not finding desert tortoise, the Project will move forward with the installation of the permanent desert tortoise fencing. CDFW is concerned that there is the potential for desert tortoise to enter the Project site during the fence installation. Take is defined as by California Fish and Game Code section 86 as hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.

Specific Impact: Mohave Desert tortoise is a State and federally listed threatened species. This species is impacted by ongoing threats, including loss, degradation, and fragmentation of habitat, due to development. Staging of construction equipment, vehicles, and foot traffic may result in the collapse of occupied burrows and result in direct mortality and/or injury to Mohave desert tortoise. Project construction and related activities may result in collision with or crushing by vehicles or heavy equipment; entrapment within open trenches and pipes; entrapment or entanglement within materials and equipment staged and moved; crushing or burial of individuals or eggs in burrows; destruction of burrows and refugia; and increased predation. The installation of fencing may result in the crushing of occupied burrows, capture of Mohave desert tortoise and the need to relocate/translocate individuals out of the Project area. The handling of Mohave desert tortoise to relocate/translocate out of harm's way requires the authorization of take through a CESA incidental take permit or other state authorization.

Why Impact Would Occur: The IS/MND indicates that there is suitable habitat and soils for Mohave desert tortoise within Project site and there were sign of Mohave desert tortoise use in the area. The California Natural Diversity database includes several historical occurrences of Mohave desert tortoise in the area. Additionally, INaturalist includes several recent occurrences of Mohave desert tortoise in the immediate vicinity of the Project site. CDFW also strongly encourages the Project proponent to apply for a CESA incidental take permit (ITP) for take of Mohave desert tortoise.

Evidence impact would be significant: Mohave desert tortoise is a California Endangered Species Act (CESA)-listed species. Take of any CESA listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Consequently, if a project, including project construction or any project-related activity during the life of the project, results in take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization prior to project

implementation. This may include an incidental take permit or other take authorization from CDFW (Fish and Game Code, §§ 2080.1 & 2081).

Mohave desert tortoise populations have declined significantly in recent decades as a result of human activities in their native habitat including land development, off-road vehicle use, overgrazing, agricultural development, military activities, predation, and the spread of invasive plant species (USFWS 2011). The Mohave desert tortoise population in the western Mojave Desert has declined by 90% since the 1980s. Mohave desert tortoises can take up to 20years to reach sexual maturity, which limits their ability to recover from even small losses in population numbers (USFWS 2011).

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant: CDFW recommends inclusion of the following changes to the mitigation measures for Mohave desert tortoise (edits are in strikethrough and additions are in bold):

BIO-3 Desert Tortoise (Revised)

The following mitigation measures are recommended to avoid potential impacts to desert tortoise. If at any time during the process desert tortoises are observed on the Project Site, the County shall not initiate construction and shall instead contact the USFWS and CDFW to develop an avoidance strategy and/or seek authorization for incidental take of desert tortoise.

<u>Worker Environmental Awareness Program</u>
Prior to any construction activities or site development at the quarry, the County will implement a Worker Environmental Awareness Program (WEAP) to educate on-site workers about sensitive environmental issues associated with the Project. The program will be administered to all on-site personnel, including the County's personnel, contractors, and all subcontractors, on the first day of work prior to commencing work on the site. The WEAP will emphasis the protected species that have potential to occur on or near the Project Site, including the Mojave desert tortoise, burrowing owl, nesting birds, and desert kit fox, among other plant and wildlife species. The program will include the following elements:

- A presentation, developed by or in consultation with a qualified biologist, discussing the sensitive biological resources with potential to occur on-site, and explaining the reasons for protecting these resources and penalties for non-compliance.
- Contact information for the project biological monitor, and instructions to contact the monitor with any questions regarding the WEAP information.
- An acknowledgement form, to be signed by each worker indicating that they received WEAP training and will abide by the site rules protecting biological resources.

Mojave Desert Tortoise Exclusion Fencing and Monitoring

Prior to initiation of construction activities in each project Phase, a desert tortoise **pre-construction surveys for Mojave desert tortoise be conducted prior to construction in accordance with the USFWS 2019 Mojave desert tortoise survey methodology to avoid direct and indirect impacts to Mojave desert tortoise (USFWS 2019). If Mojave desert tortoise is found to be present, individuals should be fully avoided. If full avoidance is infeasible, the Project shall obtain an CESA Incidental Take Permit (ITP) and mitigate impacts to Mojave desert tortoise through the purchase of credits from a mitigation/conservation bank, and/or land acquisition and perpetual management and conservation thereof. A desert tortoise exclusion** fence shall be installed around the perimeter of the active quarry pit and staging area to exclude desert tortoise from entering the facility throughout the operation of the Phase. If at any time during the process desert tortoises are observed on the Project Site, the County shall not initiate construction and shall instead contact the USFWS and CDFW to develop an avoidance strategy and/or seek authorization for incidental take of desert tortoise under the federal and state Endangered Species Acts.

~~After the location of the desert tortoise exclusion fence is staked, a qualified biologist shall conduct a survey in all disturbance areas and along the fence line for desert tortoise. Immediately following the survey (assuming no tortoises are detected), a desert tortoise exclusion fence shall be installed around the quarry areas.~~ **If desert tortoise are not found during the preconstruction survey a** ~~The~~ exclusion fence shall be installed in accordance with the specifications set forth in Chapter 8 of the USFWS' Desert Tortoise Field Manual (USFWS 2009), and installation of the fence shall be monitored by a biologist familiar with the installation of tortoise exclusion fencing. Following the installation of the exclusion fencing and prior to construction-related ground clearing and/or grading, the County shall retain a qualified biologist to conduct clearance surveys for the Mojave desert tortoise within the fenced area. Surveys shall follow the current guidelines for conducting clearance surveys used by the USFWS. The surveys shall consist of conducting two consecutive surveys by walking five-meter-wide parallel belt transects in a north-south and then east-west direction to obtain 100 percent coverage of the survey area. Again, if any sign indicating the presence of Mojave desert tortoise is detected, the County shall not proceed with ground clearing. **If Mohave desert tortoise is found, work will cease, and the County shall contact USFWS and CDFW to seek authorization for incidental take of desert tortoise under the federal and state Endangered Species Acts.**

COMMENT #2 American badger (Taxidea taxus)

Issue: The Biological Resources Assessment (BRA) prepared for the Project identifies that American badger habitat is present within the Project site however avoidance and

minimization measures were not proposed within the draft IS/MND to avoid impacts to American badger.

Specific Impact: The Project is within the range and supports suitable habitat for American badger, a Species of Special Concern (SSC). The IS/MND fails to address potential impacts to American badger and provide avoidance and minimization measures.

Why Impact Would Occur: The Project would eliminate potential habitat for American badger through construction of a quarry. Project activities that would eliminate potential habitat and potentially impact the species, include grading, excavation and the use of heavy equipment.

Evidence impact would be significant: Impacts on SSC could require a mandatory finding of significance under CEQA (CEQA Guidelines, § 15065). A SSC is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- Is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;

- Is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed; is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or

- Has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CEQA threatened or endangered status.

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant: CDFW recommends inclusion of the following changes to the mitigation measures for desert tortoise (edits are in strikethrough and additions are in bold):

BIO-7 American Badger (NEW)

Prior to initiation of Project Activities, an American badger Mitigation and Monitoring Plan (plan) shall be developed and implemented. The objective of the plan shall be to avoid direct impacts to the American badger as a result of Project activities. The final plan is subject to review, comment, and revision by CDFW. The final plan shall include, but is not limited to, the following procedures and

impact avoidance measures: Describe pre-construction survey and clearance field protocol, to determine the number and locations of single or paired badgers on the Project site that would need to be avoided or passively relocated and the number and locations of badger burrows or burrow complexes that would need to be collapsed to prevent re-occupancy by the animals.

Pre-Construction Surveys. Biological Monitors shall conduct preconstruction surveys for American badger no more than 30 days prior to initiation of construction activities, including pre-construction site mobilization. Surveys shall also address the potential presence of active dens within 100 feet of the Project boundary (including utility corridors and access roads). If dens are detected, each den shall be classified as inactive, potentially active, or active den.

Monitoring and Protection Measures, Passive Hazing, and Den Excavation: The plan will include details on monitoring requirements, types and methods of passive hazing, and methods and timing of den excavation, including, but not limited to the following:

- **Inactive dens. Inactive dens (e.g., inactive dens are dens that are mostly or entirely silted in and ones in which the back of the den can clearly be seen (e.g., the den isn't deep and doesn't curve) that would be directly impacted by construction activities shall be excavated by hand and backfilled to prevent reuse.**

- **Potentially and definitely active dens. Potentially and definitely active dens that would be directly impacted by construction activities shall be monitored by a CDFW approved Biological Monitor for three consecutive nights using a tracking medium (such as diatomaceous earth or fire clay) and/or infrared camera stations at the entrance. If no tracks are observed in the tracking medium or no photos of the target species are captured after three nights, the den shall be excavated and backfilled by hand. If tracks are observed, the den shall be progressively blocked with natural materials (rocks, dirt, sticks, and vegetation piled in front of the entrance) for the next three to five nights to discourage the badger from continued use. After verification that the den is unoccupied it shall then be excavated and backfilled by hand to ensure that no badgers are trapped in the den. If the den is proven inactive then den may be collapsed during whelping season.**

- **Active natal/pupping dens. If an active natal den (a den with pups) is detected on the site during construction, CDFW shall be contacted within 24 hours to determine the appropriate course of action to**

minimize the potential for animal harm or mortality. The course of action would depend on the age of the pups, location of the den on the site (e.g., is the den in a central area or in a perimeter location), status of the perimeter site fence (completed or not), and the pending construction activities proposed near the den. A 500-foot no-disturbance buffer shall be maintained around all active dens. If the den is active whelping season, even if pups are not seen, disturbance is not allowed. Active natal/pupping dens will not be excavated or passively relocated.

- **Address other factors and procedures that may affect the success of relocation offsite, such as: estimates of the distances badgers would need to travel across the Project site and across adjacent lands to safely access suitable habitat (including burrows) off-site; proposed scheduling of the passive relocation effort; and methods to minimize likelihood that the animals will return to the Project site during construction.**

COMMENT #3 Impacts to Nesting Birds

Section IV Biological Resources Page 35

Issue: The Project may have impacts on nesting birds that are a SSC, and common birds that are subject to Fish and Game Code Sections 3503, 3503.5, and 3515, and the Migratory Bird Treaty Act of 1918.

Specific Impact: The Project as described could result in direct take associated with grading, vehicle and equipment strike, indirect take associated with Project operations such as attracting predators, displacement, reduction of habitat and habitat quality associated with road infrastructure and mining activities. The Project as described would cause permanent and temporary impacts to avian species' foraging and nesting habitat.

Why impact would occur: Within the IS/MND, MM-BIO-1 limits nesting bird surveys to only occur within the nesting bird season, CDFW would like to note that regardless of the time of year, a pre-construction clearance survey should be conducted to avoid potential impacts to nesting birds. This is considering that the timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.).

On page 32, the IS/MND states that the loggerhead shrike (Lanius ludovicianus) a SSC was observed in the Project area and has a high probability of occurring. Construction

while birds are nesting could result in a decrease in breeding success or otherwise lead to nest abandonment. For example, noise from road use, generators, and heavy equipment may disrupt mating, calls, or songs, which could impact reproductive success [2].

Evidence impact would be significant: 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 Potentially Feasible Mitigation Measure: CDFW recommends the inclusion of the Mitigation Measure below, as revised (edits are in ~~strikethrough~~ and additions are in **bold**) in the final IS/MND to ensure impacts to birds are mitigated to a level of less than significant.

BIO-1 Nesting Bird Surveys (Revised)

To ensure compliance with the MBTA and the California Fish and Game Code, to the extent feasible, there shall be no vegetation cutting, removal, clearing, and/or grading allowed during the nesting season (February 15 – August 15). ~~If work is to be conducted within the nesting season, then~~ **Regardless of the time of year,** a nesting bird survey shall be conducted by a qualified biologist within three days prior to disturbance. If nesting birds are not detected, no further action is necessary. If an active nest is detected and the qualified biologist determines that work activities may impact nesting, an appropriate buffer zone will be established around the nest. The buffer shall be established using highly visible construction fencing or flagging, and construction personnel shall be instructed on the sensitivity of nest areas. The size of the buffer may vary depending on site features, the sensitivity of the species, and the type of construction activity, but will be designed to prevent disruption of nesting activity. The nests and associated buffer zones shall be avoided until the nesting cycle is complete or it is determined by the qualified biologist that the nest has failed. **The Project site will need to be re-surveyed if there is a lapse in construction for more than 3 days.**

[2] Halfwerk, W., L.J.M. Holleman, C. M Lessells, H. Slabbekoorn. 2011. Negative Impact of Traffic Noise on Avian Reproductive Success. Journal of Applied Ecology 48:210–219.

COMMENT #4 Burrowing Owl (Athene cunicularia)

Section IV Biological Resources Page 37

Issue: Page 37 of the IS/MND concludes “Because no burrowing owl or their sign were present within the survey area and suitable habitat is present in the region, the loss of habitat due to the Project is not considered an adverse impact.” CDFW is concerned that this impact analysis is incorrect and the conclusions in the Biological Resources Assessment were not accurately conveyed into the IS/MND. According to the Project’s Biological Resources Assessment Report, in particular Table 5, there were 12 potential burrows suitable for burrowing owl within the Project site. According to the listing petition submitted to the California Fish and Game Commission from several entities, burrow availability is a major factor in defining burrowing owl habitat. Additionally, habitat loss due to development within the Western Mojave Desert poses a significant threat to burrowing owl populations. The mere presence of suitable habitat in the region is not sufficient justification to conclude that the project's impacts do not require mitigation.

Within the 2012 Staff Report, the minimum habitat replacement recommendation was purposely excluded as it was shown to serve as a default, replacing any site-specific analysis and discounting the wide variation in natal area, home range, foraging area, and other factors influencing burrowing owls and burrowing owl population persistence in a particular area. It hypothesized that mitigation for permanent impacts to nesting, occupied, and satellite burrows and burrowing owl habitat should be on, adjacent or proximate to the impact site where possible and where habitat is sufficient to support burrowing owls present. If mitigation occurs offsite, it should include (a) permanent conservation of similar vegetation communities (grassland, scrublands, desert, urban, and agriculture) to provide for burrowing owl nesting, foraging, wintering, and dispersal (i.e., during breeding and non-breeding seasons) comparable to or better than that of the impact area, and (b) be sufficiently large acreage with the presence of fossorial mammals. Furthermore, the report noted that suitable mitigation lands should be based on a comparison of the habitat attributes of the impacted and conserved lands, including but not limited to: type and structure of habitat being impacted or conserved; density of burrowing owls in impacted and conserved habitat; and significance of impacted or conserved habitat to the species range-wide. CDFW recommends consultation prior to obtaining mitigation lands for the species.

The ISMND shall propose mitigation for permanent loss of western burrowing owl habitat. The mitigation lands may require habitat enhancements including enhancement or expansion of burrows for breeding, shelter and dispersal opportunity, and removal or control of population stressors. Permanent protection of mitigation land through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, development and implementation of a mitigation

land management plan to address long-term ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment. The ratio of acquisition to loss must in most cases exceed 1:1 for any species, particularly burrowing owl. The ratio should be higher for rarer species, particularly for those that occupy irreplaceable habitats.

The Project has the potential to result in permanent and temporary loss, degradation, and impacts to burrowing owl habitat. The Project also has the potential to cause direct take of burrowing owl during Project activities and the life of the Project.

Specific Impact: The Project has the potential to impact burrowing owl through the collapsing of burrows, entombment, displacement, direct take associated with vehicle and/or equipment strike(s), indirect take and reduction in habitat quality associated with Project activities. The Project as described will cause permanent and temporary impacts to burrowing owl foraging and nesting habitat.

Why impact would occur: Although the BRA prepared for this Project states that a habitat assessment and burrow survey were conducted in December 2022, no focused burrowing owl surveys were conducted. The BRA concluded that no burrowing owls are currently onsite, and this is concerning to CDFW considering the surveys are over three years old and the burrow survey was conducted during the non-breeding season (September 1- January 31). Burrowing owls and their sign are more difficult to detect during the non-breeding season.

Evidence impact would be significant: Burrowing owls are regulated under Fish and Game Code section 3503.5, are a CDFW SSC, and have recently been petitioned for consideration to be listed as endangered or threatened under CESA. The Project, as described, may result in injury, direct mortality, indirect mortality, disruption of breeding behavior, and/or may reduce reproductive capacity of the species. CDFW considers the direct and indirect take of burrowing owl, and the loss of the species' habitat as a significant impact, unless mitigated to a level of less than significant and in compliance with State (i.e., Fish and Game Code sections 3503.5, etc.) and Federal laws (i.e., Migratory Bird Treaty Act).

As a candidate species for listing, burrowing owl is granted the same protection as threatened or endangered species under CESA. Take of any CESA-listed species is prohibited except as authorized by State law (Fish and Game Code § 2080 and § 2085). Consequently, if a Project, including Project construction or any Project-related activity during the life of the Project, results in the take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization prior to Project implementation. This may include an incidental take permit or a consistency determination (California Fish and Game Code § 2080.1 and § 2081).

Recommended potentially feasible mitigation measure to reduce impacts to less than significant: CDFW recommends the revision of MM-BIO 4 to minimize potential impacts to burrowing owl. Edits are in ~~strikethrough~~ and additions in **bold**.

BIO-4 Burrowing Owl (Revised)

~~Because no burrowing owls or their sign were present within the survey area and suitable habitat is present in the region, the loss of habitat due to the Project is not considered an adverse impact.~~ ~~However,~~ ~~b~~**B**urrowing owls could move onto the site prior to Project development, **therefore prior to any ground disturbance**, ~~take avoidance pre-construction~~ **breeding season surveys for burrowing owl should be completed according to the Staff Report on Burrowing Owl Mitigation (CDFW 2012 or most recent version) by a qualified biologist.** ~~CDFG guidelines~~ ~~with~~ **In addition to the breeding season surveys**, one survey **will be** ~~being~~ conducted within 14 days of planned construction and a second survey conducted within 24 hours of grading. **The surveys shall include 100 percent coverage and include a minimum 500-meter buffer in adjacent habitat. Burrowing owls may recolonize a site after only a few days. Time lapses between Project activities will trigger subsequent take avoidance surveys.** ~~Depending on the results of those surveys, a Burrowing Owl Management Plan may be prepared in consultation with CDFW that will outline protection and avoidance and minimization measures that will be implemented for the project, including methods for avoidance, exclusion and burrow excavation, and passive relocation.~~

If burrowing owl, active burrowing owl burrows, or sign thereof are found and there is potential for take, the project proponent shall submit an incidental take permit application and the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be reviewed and approved by CDFW for comment prior to commencing Project activities. The plan shall propose avoidance and minimization measures and a mitigation proposal at a minimum 3:1 ratio (3 acres of mitigation for every acre of impact) for permanent loss of occupied burrow(s) and habitat. The mitigation lands may require habitat enhancements including enhancement or expansion of burrows for breeding, shelter and dispersal opportunity, and removal or control of population stressors. Permanent protection of mitigation land shall be through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, with development and implementation of a mitigation land management plan to address longterm ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment. Such plan may be superseded by any condition of approval more stringent in the obtained incidental take permit.

Additional Comments

COMMENT #5: Lake and Streambed Alteration (Agreement) Notification

Based on review of aerial imagery, CDFW determined that ephemeral streams may occur within the Project area. Thus, CDFW recommends that the Project proponent revise **BIO-6** below to either obtain written correspondence from CDFW stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or if notification under section 1602 of the Fish and Game Code is required for the Project, to obtain a CDFW-executed Lake and Streambed Alteration Agreement. Additions are in **bold**.

BIO-6 Jurisdictional Waters (Revised)

Based on Jurisdictional Delineation assessment, impact to potential jurisdictional waters is minimal. However, the following BMP measures are recommended to address any potential impacts:

- Drainage from the development areas includes runoff of water, soil, as well as inorganic and organic matter. NRAI recommends standard water quality measures required for all projects be implemented for this Project. Project design shall incorporate measures, including measures required through the National Pollutant Discharge Elimination System (NPDES) requirements, to ensure that all measures shall be put in place to avoid discharge of untreated surface runoff from developed and paved areas. Stormwater systems shall be designed to prevent the release of toxins, chemicals, petroleum products, exotic plant materials or other elements that might degrade or harm biological resources or ecosystem processes in adjacent areas.

- Operation of motor vehicles near adjacent undeveloped lands may introduce undesirable petroleum products and solvents into the natural environment. All activity involving hazardous substances should be conducted in accordance with applicable local, State, and Federal safety standards.

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

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNNDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/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 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 IS/MND to assist San Bernardino County DPW in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Gabriella Tolley, Environmental Scientist at Gabriella.Tolley@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Brandy Wood
4D7592534089 41E...

Brandy Wood
Environmental Project Manager

cc: Office of Planning and Research, State Clearinghouse, Sacramento

Attachment A: Mitigation and Monitoring Reporting Plan

CDFW recommends the following language be incorporated into the final IS/MND for the Project.

Mitigation Measure		**Timing**	**Responsible Party**
BIO-3 Desert Tortoise	The following mitigation measures are recommended to avoid potential impacts to desert tortoise. If at any time during the process desert tortoises are observed on the Project Site, the County shall not initiate construction and shall instead contact the USFWS and CDFW to develop an avoidance strategy and/or seek authorization for incidental take of desert tortoise. <u>Worker Environmental Awareness Program</u> Prior to any construction activities or site development at the quarry, the County will implement a Worker Environmental Awareness Program (WEAP) to educate on-site workers about sensitive environmental issues associated with the Project. The program will be administered to all on-site personnel, including the County's personnel, contractors, and all subcontractors, on the first day of work prior to commencing work on the site. The WEAP will emphasis the protected	Prior to commencing ground or vegetation disturbing activities	Project Proponent

	species that have potential to occur on or near the Project Site, including the Mojave desert tortoise, burrowing owl, nesting birds, and desert kit fox, among other plant and wildlife species. The program will include the following elements: • A presentation, developed by or in consultation with a qualified biologist, discussing the sensitive biological resources with potential to occur on-site, and explaining the reasons for protecting these resources and penalties for non-compliance. • Contact information for the project biological monitor, and instructions to contact the monitor with any questions regarding the WEAP information. • An acknowledgement form, to be signed by each worker indicating that they received WEAP training and will abide by the site rules protecting biological resources. <u>Mojave Desert Tortoise Exclusion Fencing and Monitoring</u>		

	Prior to initiation of construction activities in each project Phase, a desert tortoise pre-construction surveys for Mojave desert tortoise be conducted prior to construction in accordance with the USFWS 2019 Mojave desert tortoise survey methodology to avoid direct and indirect impacts to Mojave desert tortoise (USFWS 2019). If Mojave desert tortoise is found present, individuals should be fully avoided. If full avoidance is infeasible, the Project shall obtain an CESA Incidental Take Permit (ITP) and mitigate impacts to Mojave desert tortoise through the purchase of credits from a mitigation/conservation bank, and/or land acquisition and perpetual management and conservation thereof. A desert tortoise exclusion fence shall be installed around the perimeter of the active quarry pit and staging area to exclude desert tortoise from entering the facility throughout the operation of the Phase. If at any time during the process desert tortoises are observed on the Project Site, the County shall not initiate construction and shall instead contact the USFWS and CDFW to develop an		

	avoidance strategy and/or seek authorization for incidental take of desert tortoise under the federal and state Endangered Species Acts. If desert tortoise are not found during the preconstruction survey a exclusion fence shall be installed in accordance with the specifications set forth in Chapter 8 of the USFWS' Desert Tortoise Field Manual (USFWS 2009), and installation of the fence shall be monitored by a biologist familiar with the installation of tortoise exclusion fencing. Following the installation of the exclusion fencing and prior to construction-related ground clearing and/or grading, the County shall retain a qualified biologist to conduct clearance surveys for the Mojave desert tortoise within the fenced area. Surveys shall follow the current guidelines for conducting clearance surveys used by the USFWS. The surveys shall consist of conducting two consecutive surveys by walking five-meter-wide parallel belt transects in a north-south and then east-west direction to obtain 100 percent coverage of the survey area. Again, if any sign indicating the presence		

	of Mojave desert tortoise is detected, the County shall not proceed with ground clearing. If Mohave desert tortoise is found, work will cease and the County shall contact USFWS and CDFW to seek authorization for incidental take of desert tortoise under the federal and state Endangered Species Acts**.**		
BIO-7 American Badger	Prior to initiation of Project Activities, an American badger Mitigation and Monitoring Plan (plan) shall be developed and implemented. The objective of the plan shall be to avoid direct impacts to the American badger as a result of Project activities. The final plan is subject to review, comment, and revision by CDFW. The final plan shall include, but is not limited to, the following procedures and impact avoidance measures: Describe pre-construction survey and clearance field protocol, to determine the number and locations of single or paired badgers on the Project site that would need to be avoided or passively relocated and the number and locations of badger burrows or burrow complexes that would need to be collapsed to prevent re-occupancy by the animals.	Prior to commencing ground or vegetation disturbing activities	Project Proponent

	Pre-Construction Surveys. Biological Monitors shall conduct preconstruction surveys for American badger no more than 30 days prior to initiation of construction activities, including pre-construction site mobilization. Surveys shall also address the potential presence of active dens within 100 feet of the Project boundary (including utility corridors and access roads). If dens are detected, each den shall be classified as inactive, potentially active, or active den. Monitoring and Protection Measures, Passive Hazing, and Den Excavation: The plan will include details on monitoring requirements, types and methods of passive hazing, and methods and timing of den excavation, including, but not limited to the following: • Inactive dens. Inactive dens (e.g., inactive dens are dens that are mostly or entirely silted in and ones in which the back of the den can clearly be seen (e.g., the den isn't deep and doesn't curve) that would be directly impacted by construction activities shall be excavated by		

	hand and backfilled to prevent reuse. • Potentially and definitely active dens. Potentially and definitely active dens that would be directly impacted by construction activities shall be monitored by a CDFW approved Biological Monitor for three consecutive nights using a tracking medium (such as diatomaceous earth or fire clay) and/or infrared camera stations at the entrance. If no tracks are observed in the tracking medium or no photos of the target species are captured after three nights, the den shall be excavated and backfilled by hand. If tracks are observed, the den shall be progressively blocked with natural materials (rocks, dirt, sticks, and vegetation piled in front of the entrance) for the next three to five nights to discourage the badger from continued use. After verification that the den is unoccupied it shall then be		

	excavated and backfilled by hand to ensure that no badgers are trapped in the den. If the den is proven inactive then den may be collapsed during whelping season. • Active natal/pupping dens. If an active natal den (a den with pups) is detected on the site during construction, CDFW shall be contacted within 24 hours to determine the appropriate course of action to minimize the potential for animal harm or mortality. The course of action would depend on the age of the pups, location of the den on the site (e.g., is the den in a central area or in a perimeter location), status of the perimeter site fence (completed or not), and the pending construction activities proposed near the den. A 500-foot no-disturbance buffer shall be maintained around all active dens. If the den is active whelping season, even if pups are not seen,		

	disturbance is not allowed. Active natal/pupping dens will not be excavated or passively relocated. • Address other factors and procedures that may affect the success of relocation offsite, such as: estimates of the distances badgers would need to travel across the Project site and across adjacent lands to safely access suitable habitat (including burrows) off-site; proposed scheduling of the passive relocation effort; and methods to minimize likelihood that the animals will return to the Project site during construction.		
BIO-1 Nesting Bird Surveys	To ensure compliance with the MBTA and the California Fish and Game Code, to the extent feasible, there shall be no vegetation cutting, removal, clearing, and/or grading allowed during the nesting season (February 15 – August 15). Regardless of the time of year**,** a nesting bird survey shall be conducted by a qualified biologist within three days prior to disturbance. If	Prior to commencing ground or vegetation disturbing activities	Project Proponent

	nesting birds are not detected, no further action is necessary. If an active nest is detected and the qualified biologist determines that work activities may impact nesting, an appropriate buffer zone will be established around the nest. The buffer shall be established using highly visible construction fencing or flagging, and construction personnel shall be instructed on the sensitivity of nest areas. The size of the buffer may vary depending on site features, the sensitivity of the species, and the type of construction activity, but will be designed to prevent disruption of nesting activity. The nests and associated buffer zones shall be avoided until the nesting cycle is complete or it is determined by the qualified biologist that the nest has failed. The Project site will need to be re-surveyed if there is a lapse in construction for more than 3 days.		
BIO-4 Burrowing Owl	Burrowing owls could move onto the site prior to Project development, therefore prior to any ground disturbance, breeding season surveys for burrowing owl should be completed according to the Staff Report on Burrowing Owl Mitigation (CDFW 2012	Prior to commencing ground or vegetation disturbing activities	Project Proponent

	or most recent version) by a qualified biologist. In addition to the breeding season surveys, one survey will be conducted within 14 days of planned construction and a second survey conducted within 24 hours of grading. The surveys shall include 100 percent coverage and include a minimum 500-meter buffer in adjacent habitat. Burrowing owls may recolonize a site after only a few days. Time lapses between Project activities will trigger subsequent take avoidance surveys. If burrowing owl, active burrowing owl burrows, or sign thereof are found and there is potential for take, the project proponent shall submit an incidental take permit application and the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be reviewed and approved by CDFW for comment prior to commencing Project activities. The plan shall propose avoidance and minimization measures and a mitigation proposal at a minimum 3:1 ratio (3 acres of mitigation for every acre of impact) for permanent loss of occupied burrow(s) and habitat. The mitigation lands		

	may require habitat enhancements including enhancement or expansion of burrows for breeding, shelter and dispersal opportunity, and removal or control of population stressors. Permanent protection of mitigation land shall be through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, with development and implementation of a mitigation land management plan to address longterm ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment. Such plan may be superseded by any condition of approval more stringent in the obtained incidental take permit.		
BIO-6 Jurisdictional Waters	Based on Jurisdictional Delineation assessment, impact to potential jurisdictional waters is minimal. However, the following BMP measures are recommended to address any potential impacts:	Prior to commencing ground or vegetation disturbing activities	Project Proponent

	• Drainage from the development areas includes runoff of water, soil, as well as inorganic and organic matter. NRAI recommends standard water quality measures required for all projects be implemented for this Project. Project design shall incorporate measures, including measures required through the National Pollutant Discharge Elimination System (NPDES) requirements, to ensure that all measures shall be put in place to avoid discharge of untreated surface runoff from developed and paved areas. Stormwater systems shall be designed to prevent the release of toxins, chemicals, petroleum products, exotic plant materials or other elements that might degrade or harm biological resources or ecosystem processes in adjacent areas. • Operation of motor vehicles near adjacent undeveloped lands		

	may introduce undesirable petroleum products and solvents into the natural environment. All activity involving hazardous substances should be conducted in accordance with applicable local, State, and Federal safety standards. • Prior to construction and issuance of any grading permit, the Project proponent should obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project proponent should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project**.**		

EXHIBIT I

Department of Toxic Substances Control

Yana Garcia
Secretary for
Environmental Protection

Katherine M. Butler, MPH, Director
8800 Cal Center Drive
Sacramento, California 95826-3200
dtsc.ca.gov

Gavin Newsom
Governor

SENT VIA ELECTRONIC MAIL

June 2, 2025

Derek Newland
Planner
San Bernardino County Land Use Services
385 N. Arrowhead Avenue
San Bernardino, CA 92415
derek.newland@lus.sbcounty.gov

RE: MITIGATED NEGATIVE DECLARATION FOR THE COUNTY OF SAN BERNARDINO DEPARTMENT OF PUBLIC WORKS ESSEX OVERHEAD QUARRY PROJECT DATED MAY 13, 2025, STATE CLEARINGHOUSE NUMBER 2025050552

Dear Derek Newland,

The Department of Toxic Substances Control (DTSC) reviewed the Mitigated Negative Declaration (MND) for the County of San Bernardino Department of Public Works Essex Overhead Quarry (Project). The Project is a Conditional Use Permit and Mining Reclamation Plan to construct the San Bernardino County Department of Public Works Essex Overhead Pit. The purpose of the mine is to develop and utilize a long-term materials source and storage site to provide construction aggregate materials for repair, maintenance, and fill for the local and regional roads (particularly for route 66), shoulders and wash crossings, to facilitate stockpiling and recycling of removed materials, and to support a soils management area. Two pits will make up approx. 47 acres within approx. 90 acres west of the railroad tracks. The remaining property (approximately 197 acres) east of the railroad tracks will remain as undisturbed desert lands.

The proposed Project location is in close proximity to Camp Essex which is located north of Goffs Road/National Old Trails Highway junction. Camp Essex was used by the U.S. Army's 93rd Infantry Division from 1943 to 1944. The property included 19 ranges for different types of military munitions training and is currently identified by DTSC as having potential explosive hazards such as mortars, grenades, small to large caliber munitions and small arms ammunition. The U.S. Army Corps of Engineers is responsible for managing Department of Defense activities at Formerly Used Defense Sites, also referred to as FUDS. More information on the location, history, and investigation of Camp Essex can be found on the DTSC EnviroStor page: Camp Essex.

DTSC recommends and requests consideration of the following comments:

1. Although it is not anticipated that munitions, munitions debris, or other explosive hazards associated with the FUDS site will be identified within the boundaries of the Project site, DTSC recommends performing additional research on the FUDS boundaries in relation to the Project site.
   Should a suspected military munition be encountered at the Project site: **Recognize** that munitions are dangerous; **Retreat** — do not approach, touch, move or disturb it, but carefully leave the area; and **Report** immediately what you saw and where you saw it to local law enforcement — call 911.
2. All imported soil and fill material should be tested to assess any contaminants of concern and meet screening levels as outlined in the DTSC Preliminary Endangerment Assessment Guidance Manual. Additionally, DTSC advises referencing the DTSC Information Advisory Clean Imported Fill Material Fact Sheet if importing fill is necessary. To minimize the possibility of introducing contaminated soil and fill material there should be documentation of the origins of the soil or fill material or, if applicable, sampling be conducted to assess that imported soil and fill material are suitable for the intended land use. The soil sampling should include analysis based on the source of the fill

and knowledge of past land use. Additional information can be found by visiting DTSC's Human and Ecological Risk Office (HERO) webpage.

3. Be aware of signs of contaminated soil, residual staining, or odors during the construction process and advise collecting appropriate samples for waste characterization. Contact DTSC if further assessment is necessary. DTSC recommends compliance with all applicable or relevant and appropriate environmental laws.

DTSC would like to thank you for the opportunity to comment on the MND for the County of San Bernardino Department of Public Works Essex Overhead Quarry. Thank you for your assistance in protecting California's people and environment from the harmful effects of toxic substances. If you have any questions or would like clarification on DTSC's comments, please respond to this letter or via our CEQA Review email for additional guidance.

Sincerely,

Tamara Purvis

Tamara Purvis
Associate Environmental Planner
HWMP - Permitting Division – CEQA Unit
Department of Toxic Substances Control
Tamara.Purvis@dtsc.ca.gov

cc: (via email)

Governor's Office of Land Use and Climate Innovation
State Clearinghouse
State.Clearinghouse@opr.ca.gov

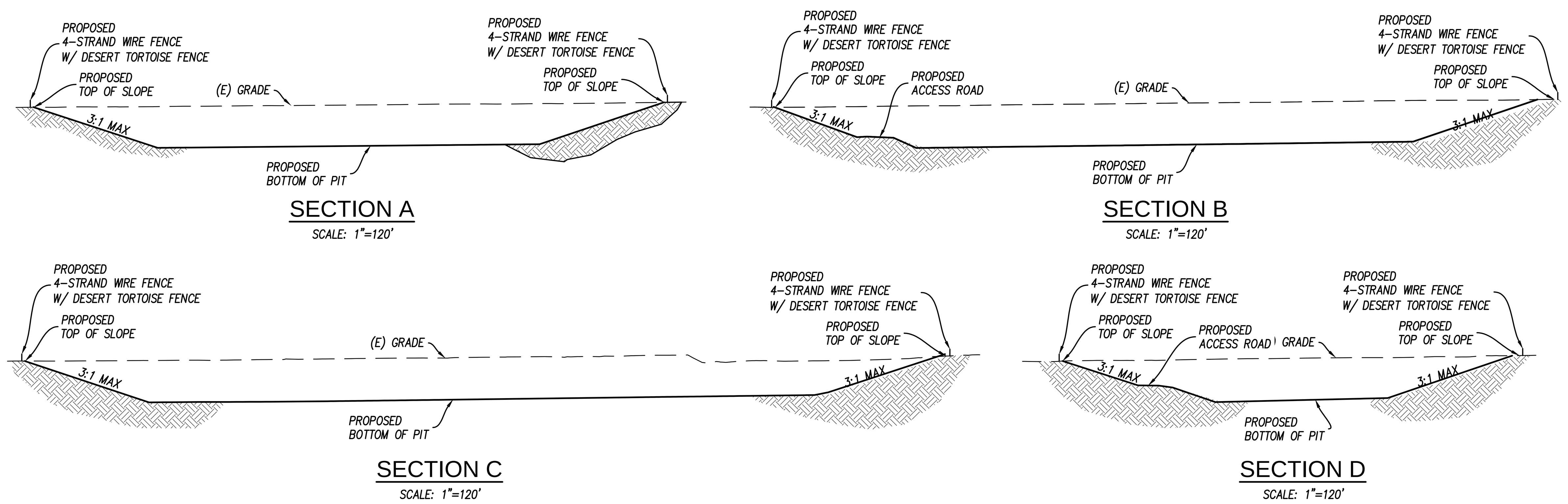
Alexis White
Environmental Scientist / Project Manager
SMRP – Cleanup - Cypress
Department of Toxic Substances Control
Alexis.White@dtsc.ca.gov

Christie Bautista
Senior Environmental Scientist (Sup)
SMRP – Cleanup - Cypress
Department of Toxic Substances Control
Christie.Bautista@dtsc.ca.gov

Dave Kereazis
Associate Environmental Planner
HWMP-Permitting Division – CEQA Unit
Department of Toxic Substances Control
Dave.Kereazis@dtsc.ca.gov

Scott Wiley
Associate Governmental Program Analyst
HWMP - Permitting Division – CEQA Unit
Department of Toxic Substances Control
Scott.Wiley@dtsc.ca.gov

EXHIBIT J



NOTE:

MAPPING AND TOPOGRAPHIC DATA PROVIDED BY THE COUNTY OF SAN BERNARDINO

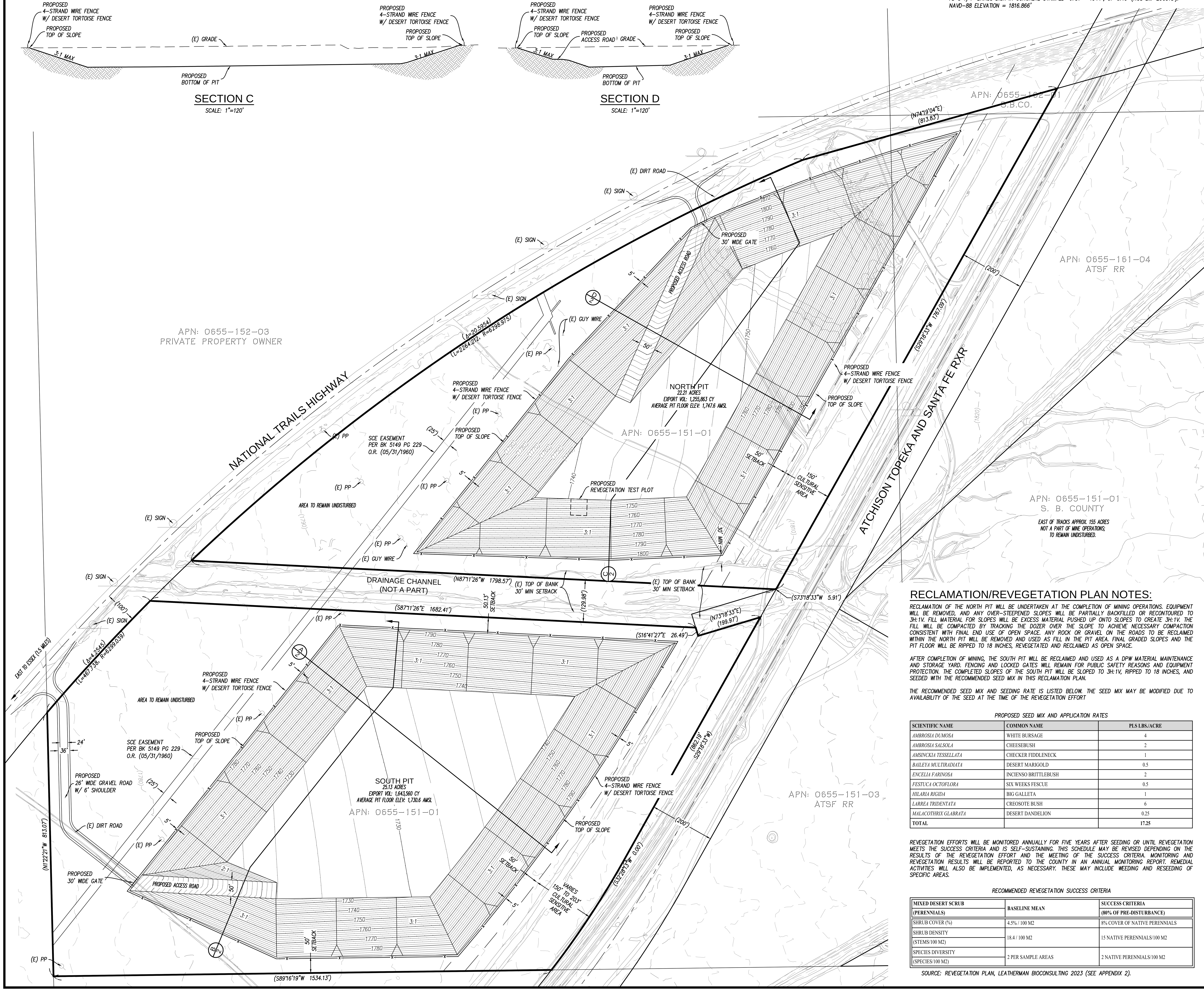
BASIS OF BEARINGS:

CCS83 ZONE 5, NAD-83(2011) EPOCH 2010.0
COMBINATION FACTOR = 0.9998413302
DISTANCES ARE IN GRID. TO CONVERT TO GROUND, MULTIPLY BY 1.0001586950.

BENCHMARK:

FD 3 1/4" BRASS DISK IN CONCRETE STAMPED "J731 – 1944", UP 0.40' (NGS BM 'EU0318').
NAVD-88 ELEVATION = 1816.866'

PROFESSIONAL LAND SURVEYOR JAMES I. STONE PLS No.9075 STATE OF CALIFORNIA



PROFESSIONAL ENGINEER JAMES I. STANTON No. C-70944 Exp. 6-30-25 CIVIL STATE OF CALIFORNIA

10-13-25

SCALE: 1"=120'

RECLAMATION PLAN NOTES:

MINE:	ESSEX OVERHEAD PIT
MINERAL:	CONSTRUCTION AGGREGATES
MINE OPERATOR:	SAN BERNARDINO COUNTY: DEPARTMENT OF PUBLIC WORKS (DPW) 825 E. THIRD STREET SAN BERNARDINO, CA 92415 (909) 387-8040 NOEL CASTILLO, DIRECTOR; NOEL.CASTILLO@DPW.SBCOUNTY.GOV
LANDOWNER:	SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC WORKS 825 E. THIRD STREET SAN BERNARDINO, CA 92415 (909) 387-8040 NOEL CASTILLO, DIRECTOR; NOEL.CASTILLO@DPW.SBCOUNTY.GOV
APPLICANT:	SAME AS OPERATOR
OWNER OF MINERAL RIGHTS:	SAME AS LANDOWNER
REPRESENTATIVE:	LILBURN CORPORATION 1905 BUSINESS CENTER DRIVE SAN BERNARDINO, CA 92408 909-890-1818
CIVIL ENGINEER:	JOSEPH E. BONADIMAN INC. 234 N. ARROWHEAD AVE. SAN BERNARDINO, CA 92408 909-885-3806
MAP PREPARER:	SAME AS CIVIL ENGINEER & LILBURN CORPORATION
DATE OF MAP:	APRIL 2024

UTILITIES:

WATER SOURCE:	CALTRANS ESSEX MAINTENANCE STATION BY WATER TRUCK
SEWAGE DISPOSAL:	PORTABLE TOILETS
ELECTRICITY:	NONE
GAS:	NONE
TELEPHONE:	MOBILE PHONES

COUNTYWIDE PLAN:
PROJECT SITE: LAND USE CATEGORY – OPEN SPACE (OS)
ZONING – RESOURCE CONSERVATION (RC)

THE SURROUNDING LAND USES ARE AS FOLLOWS:

ONSITE:	HISTORIC MINING IN NORTH PIT; DRAINAGE CHANNEL; POWERLINES, AND RR TRACKS; VACANT, DESERT LANDS.
NORTH:	NATIONAL TRAILS HIGHWAY (NTH) AND VACANT DESERT LAND.
SOUTH:	VACANT DESERT LAND. THE HISTORIC RAILROAD STOP OF ESSEX IS LOCATED 1.25 MILES SOUTHWEST, NOW MOSTLY ABANDONED EXCEPT FOR A FEW RURAL RESIDENCES AND THE CALTRANS ESSEX MAINTENANCE STATION.
EAST:	RR TRACKS TO EAST OF PLANNED MINING AREA; VACANT DESERT LAND WITHIN SITE PARCEL TO EAST.
WEST:	NTH; SCATTERED ABANDONED RURAL STRUCTURES TO THE WEST OF NTH. VACANT DESERT LAND.

LEGAL DESCRIPTION:
A.P.N.: 0655-151-01 (230.9 ACRES) AND 0655-161-01 (14.1 ACRES)
ACRES: 245 ACRES (TOTAL)

PORTIONS OF THE SW¼ OF SECTION 29, T8N, R17E, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA.

MINE AREA:
APPROX. 47 ACRES FOR TWO PITS PLUS ONE ACRE FOR ROADS. APPROX. 197 ACRES TO BE LEFT UNDISTURBED

ACCESS:
EXISTING ON-LANE DIRT ROADS DIRECTLY FROM NTH TO BE WIDENED TO TWO-LANE WIDTH OF 24 FEET.

ESTIMATED OPERATING LIFE:
SEPTEMBER 30, 2124 (WITH APPROVAL BY OCTOBER 1, 2024) OR 100 YEARS FROM DATE OF COUNTY APPROVAL.

AREA TO BE RECLAIMED:
22 ACRES OF THE NORTH PIT TO BE REVEGETATED DESERT; OPEN SPACE. 25 ACRES OF SOUTH PIT TO BE RECLAIMED AS A MAINTENANCE AND MATERIAL STORAGE YARD. ONE ACRE OF ACCESS ROADS TO REMAIN.

ESTIMATED RECLAMATION COMPLETION:
SEPTEMBER 30, 2126

RECLAIMED END USE:
OPEN SPACE ON APPROX. 22 ACRES OF NORTH PIT; DPW MAINTENANCE AND MATERIAL STORAGE YARD ON APPROX. 25 ACRES OF SOUTH PIT PLUS ONE ACRE FOR ACCESS ROADS.

RECLAIMED END USE:
OPEN SPACE ON APPROX. 22 ACRES OF NORTH PIT; DPW MAINTENANCE AND MATERIAL STORAGE YARD ON APPROX. 25 ACRES OF SOUTH PIT PLUS ONE ACRE FOR ACCESS ROADS.

RECLAMATION/REVEGETATION PLAN NOTES:

RECLAMATION OF THE NORTH PIT WILL BE UNDERTAKEN AT THE COMPLETION OF MINING OPERATIONS. EQUIPMENT WILL BE REMOVED, AND ANY OVER-STEEPENED SLOPES WILL BE PARTIALLY BACKFILLED OR RECONTOURED TO 3H:1V. FILL MATERIAL FOR SLOPES WILL BE EXCESS MATERIAL PUSHED UP ONTO SLOPES TO CREATE 3H:1V. THE FILL WILL BE COMPACTED BY TRACKING THE DOZER OVER THE SLOPE TO ACHIEVE NECESSARY COMPACTION CONSISTENT WITH FINAL END USE OF OPEN SPACE. ANY ROCK OR GRAVEL ON THE ROADS TO BE RECLAIMED WITHIN THE NORTH PIT WILL BE REMOVED AND USED AS FILL IN THE PIT AREA. FINAL GRADED SLOPES AND THE PIT FLOOR WILL BE RIPPED TO 18 INCHES, REVEGETATED AND RECLAIMED AS OPEN SPACE.

AFTER COMPLETION OF MINING, THE SOUTH PIT WILL BE RECLAIMED AND USED AS A DPW MATERIAL MAINTENANCE AND STORAGE YARD. FENCING AND LOCKED GATES WILL REMAIN FOR PUBLIC SAFETY REASONS AND EQUIPMENT PROTECTION. THE COMPLETED SLOPES OF THE SOUTH PIT WILL BE SLOPED TO 3H:1V, RIPPED TO 18 INCHES, AND SEEDED WITH THE RECOMMENDED SEED MIX IN THIS RECLAMATION PLAN.

THE RECOMMENDED SEED MIX AND SEEDING RATE IS LISTED BELOW. THE SEED MIX MAY BE MODIFIED DUE TO AVAILABILITY OF THE SEED AT THE TIME OF THE REVEGETATION EFFORT

PROPOSED SEED MIX AND APPLICATION RATES

SCIENTIFIC NAME	COMMON NAME	PLS LBS./ACRE
AMBROSIA DUMOSA	WHITE BURSAGE	4
AMBROSIA SALSOLA	CHEESEBUSH	2
AMSINCKIA TESSELLATA	CHECKER FIDDLENECK	1
BAILEYA MULTIRADIATA	DESERT MARIGOLD	0.5
ENCELIA FARINOSA	INCIENSO BRITTLEBUSH	2
FESTUCA OCTOFLORA	SIX WEEKS FESCUE	0.5
HILARIA RIGIDA	BIG GALLETA	1
LARREA TRIDENTATA	CREOSOTE BUSH	6
MALACOTHRIX GLABRATA	DESERT DANDELION	0.25
TOTAL		**17.25**

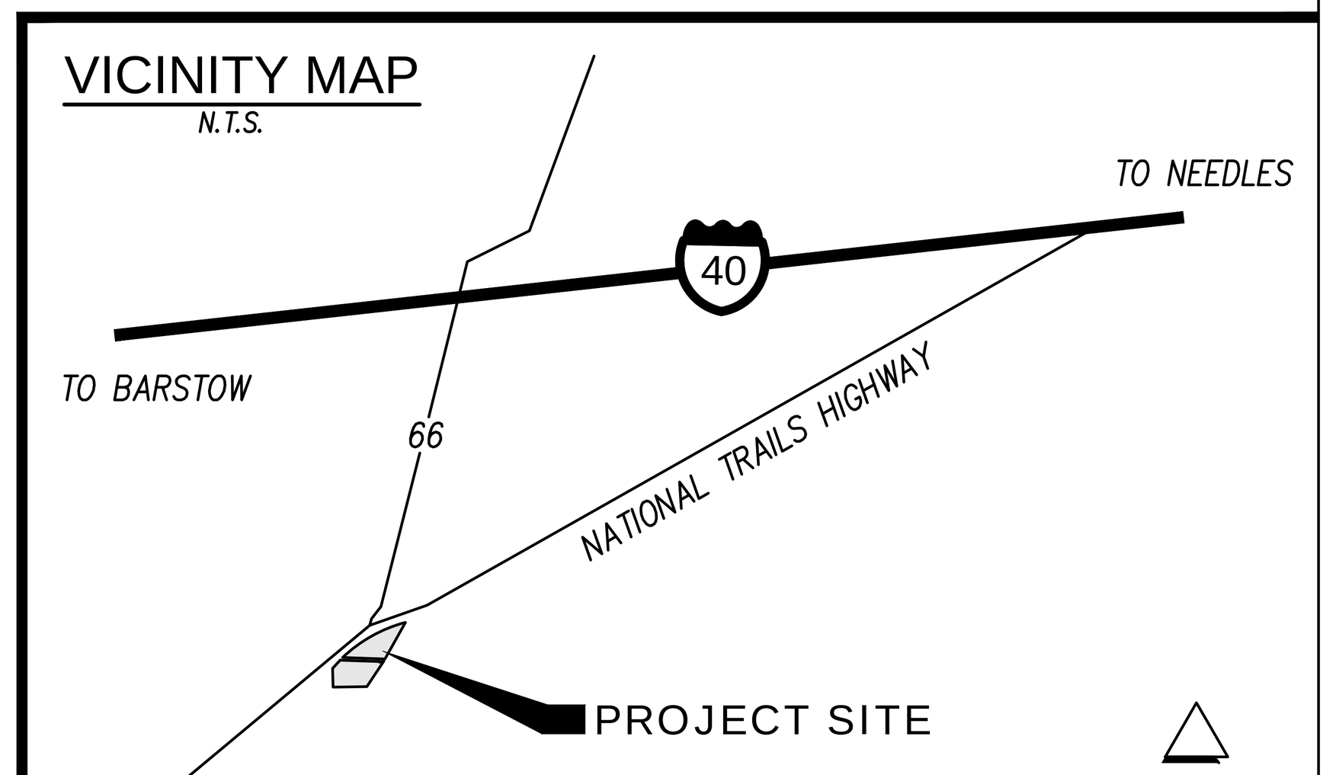
REVEGETATION EFFORTS WILL BE MONITORED ANNUALLY FOR FIVE YEARS AFTER SEEDING OR UNTIL REVEGETATION MEETS THE SUCCESS CRITERIA AND IS SELF-SUSTAINING. THIS SCHEDULE MAY BE REVISED DEPENDING ON THE RESULTS OF THE REVEGETATION EFFORT AND THE MEETING OF THE SUCCESS CRITERIA. MONITORING AND REVEGETATION RESULTS WILL BE REPORTED TO THE COUNTY IN AN ANNUAL MONITORING REPORT. REMEDIAL ACTIVITIES WILL ALSO BE IMPLEMENTED, AS NECESSARY. THESE MAY INCLUDE WEEDING AND RESEEDING OF SPECIFIC AREAS.

RECOMMENDED REVEGETATION SUCCESS CRITERIA

MIXED DESERT SCRUB (PERENNIALS)	BASELINE MEAN	SUCCESS CRITERIA (80% OF PRE-DISTURBANCE)
SHRUB COVER (%)	4.5% / 100 M2	8% COVER OF NATIVE PERENNIALS
SHRUB DENSITY (STEMS/100 M2)	18.4 / 100 M2	15 NATIVE PERENNIALS/100 M2
SPECIES DIVERSITY (SPECIES/100 M2)	2 PER SAMPLE AREAS	2 NATIVE PERENNIALS/100 M2

SOURCE: REVEGETATION PLAN, LEATHERMAN BIOCONSULTING 2023 (SEE APPENDIX 2).

VICINITY MAP
N.T.S.



SAN BERNARDINO COUNTY

BONADIMAN
JOSEPH E. BONADIMAN & ASSOCIATES, INC.
ENGINEERS • G.I.S. • SURVEYING • PLANNING
TEL. (909) 885-3806
234 NORTH ARROWHEAD AVE.
SAN BERNARDINO, CA 92408
FAX (909) 381-1721
www.bonadiman.com

No.	Date	By	Revision Description
1			
2			
3			
4			
5			

Prepared By LILBURN CORPORATION
1905 Business Center Drive San Bernardino, CA 92408
909.890.1818 Fax 909.890.1809

Scale: 1 inch = 120 feet
Map Prepared By: Lilburn Corporation (TAG)
Projection: CA SPCS, Zone 5, NAD83 Feet.
Contour Interval = 1 Feet
Topography: County of San Bernardino/2021
Surveyor: County of San Bernardino/2021
Aerial Date: 8/2021

MINE RECLAMATION PLAN

ESSEX OVERHEAD PIT
COUNTY of SAN BERNARDINO, CALIFORNIA

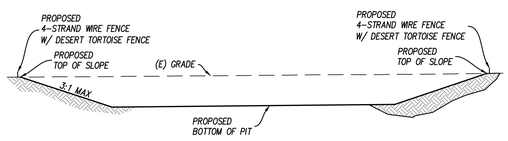
SHEET INDEX

Sheet	Description
1	Mine Plan and Cross Sections
2	Reclamation Plan and Cross Sections

STATUS
Conceptual Preliminary Draft Draft Final

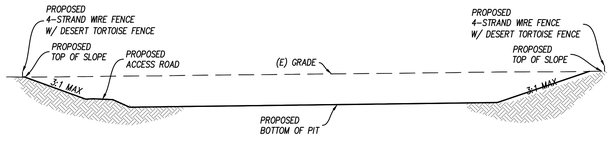
Scale: 1"=120'
Date: 10/2025
DGN: Sht1of2 214928 MP.dgn

EXHIBIT K



SECTION A

SCALE: 1"=120'



SECTION B

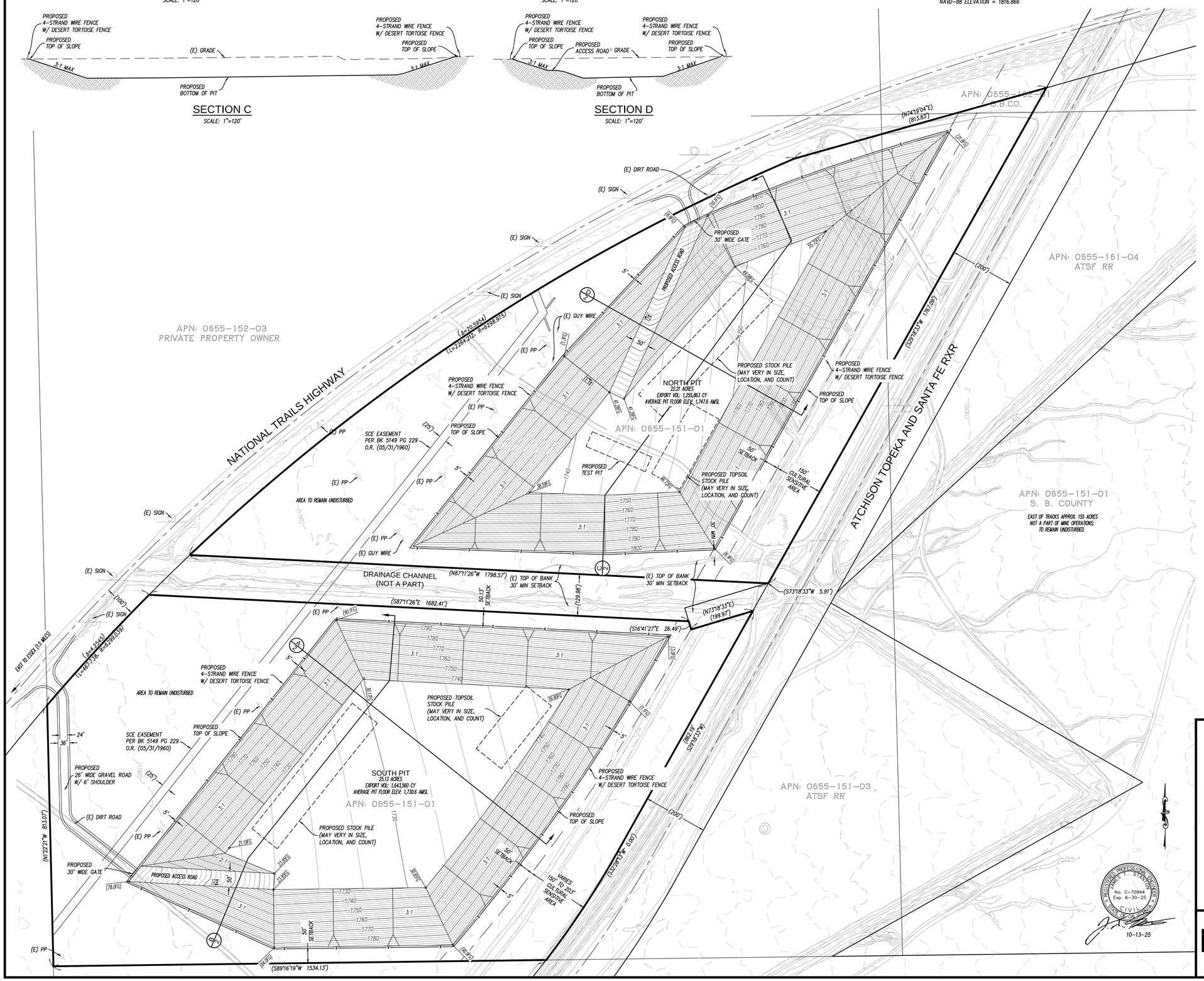
SCALE: 1"=120'

SECTION C

SCALE: 1"=120'

SECTION D

SCALE: 1"=120'



NOTE:

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BASIS OF BEARINGS:

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NAVD-88 ELEVATION = 1816.866'

PROFESSIONAL LAND SURVEYOR
JAMES I. STONE
PLS No.9075
STATE OF CALIFORNIA

MINE PLAN NOTES:

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MINERAL:	CONSTRUCTION AGGREGATES
MINE OPERATOR:	SAN BERNARDINO COUNTY: DEPARTMENT OF PUBLIC WORKS (DPW) 825 E. THIRD STREET SAN BERNARDINO, CA 92415 (909) 387-8040 NOEL CASTILLO, DIRECTOR; NOEL.CASTILLO@DPW.SBCOUNTY.GOV
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CIVIL ENGINEER:	JOSEPH E. BONADIMAN INC. 234 N. ARROWHEAD AVE. SAN BERNARDINO, CA 92408 909-885-3806
MAP PREPARED:	SAME AS CIVIL ENGINEER & LILBURN CORPORATION
DATE OF MAP:	APRIL 2024
UTILITIES: WATER SOURCE: SEWAGE DISPOSAL: ELECTRICITY: GAS: TELEPHONE:	 CALTRANS ESSEX MAINTENANCE STATION BY WATER TRUCK PORTABLE TOILETS NONE NONE MOBILE PHONES
COUNTYWIDE PLAN: PROJECT SITE:	 LAND USE CATEGORY – OPEN SPACE (OS) ZONING – RESOURCE CONSERVATION (RC)

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RECLAIMED END USE:
OPEN SPACE ON APPROX. 22 ACRES OF NORTH PIT; DPW MAINTENANCE AND MATERIAL STORAGE YARD ON APPROX. 25 ACRES OF SOUTH PIT PLUS ONE ACRE FOR ACCESS ROADS.

SIGNAGE (PUBLIC SAFETY):
PUBLIC ACCESS TO THE SITE WILL BE RESTRICTED BY THE SITE PERIMETER 4-STRAND WIRE FENCE WITH DESERT TORTOISE FENCING AND LOCKED ACCESS GATES DURING OPERATIONS AND RECLAMATION. WARNING SIGNS WITH CONTRASTING BACKGROUND LETTERING WILL BE INSTALLED EVERY 500 FEET ALONG THE APPROVED SURFACE MINE BOUNDARY SHALL BE INSTALLED AND SHALL READ "NO TRESPASSING – KEEP OUT; SURFACE MINING OPERATION" OR SIMILAR DURING MINING. SIGNS WILL BE APPROXIMATELY 1-FOOT HIGH AND 2 FEET WIDE. UPON COMPLETION OF RECLAMATION AND REVEGETATION IN THE NORTH PIT, FENCING WILL BE REMOVED.

THE RECLAIMED 3H:1V SLOPES WILL BE OF SUFFICIENT LOW GRADIENT AS NOT TO CAUSE A HAZARD TO PUBLIC SAFETY IF THE PUBLIC ILLEGALLY TRESPASSES ONTO THE SITE. THE LONG-TERM STORAGE YARD WILL MAINTAIN FENCING AND GATES

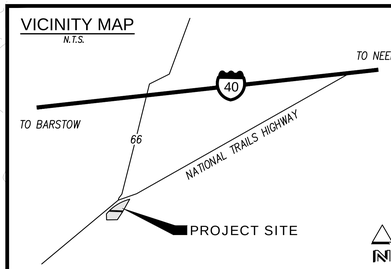
PLANT AND TREE PROTECTION:
THERE ARE NO WESTERN JOSHUA TREES (YUCCA BREVIFOLIA) (CDFW CANDIDATE SPECIES) LOCATED ON THE SITE AS SITE IS OUTSIDE THE RANGE OF THIS SPECIES AND FREE OF JOSHUA TREES. NO STATE AND/OR FEDERALLY LISTED THREATENED OR ENDANGERED SPECIES WERE OBSERVED ON SITE DURING THE FIELD SURVEYS.

NO TREES OR SENSITIVE PLANTS BESIDES SEVERAL CACTI FOUND ON-SITE. THE OPERATOR SHALL IMPLEMENT THE RECLAMATION AND REVEGETATION REQUIREMENTS AS DESCRIBED IN THIS RECLAMATION PLAN. IN GENERAL, THIS INCLUDES TOPSOIL SALVAGE, NATIVE SEED COLLECTION, SALVAGING AND TRANSPLANTING OF CACTI AND OTHER SPECIES PROTECTED UNDER THE CALIFORNIA DESERT NATIVE PLANT ACT (CDNPA) AND THE SAN BERNARDINO COUNTY CODE TITLE 8, CHAPTER 88.01 PLANT PROTECTION AND MANAGEMENT, AND REVEGETATION AND MONITORING IN COMPLIANCE WITH THIS RECLAMATION PLAN.

120 0 120 240 360
SCALE: 1"=120'

VICINITY MAP

N.T.S.



SAN BERNARDINO COUNTY

REGISTERED PROFESSIONAL ENGINEER
JOSEPH E. BONADIMAN
No. C-70944
Exp. 6-30-25
CIVIL
STATE OF CALIFORNIA

10-13-25

BONADIMAN
JOSEPH E. BONADIMAN & ASSOCIATES, INC.
ENGINEERS • G.I.S. • SURVEYING • PLANNING
TEL. (909) 885-3806
234 NORTH ARROWHEAD AVE.
SAN BERNARDINO, CA 92408
FAX (909) 381-1721
www.bonadiman.com

LILBURN CORPORATION
1905 Business Center Drive San Bernardino, CA 92408
909.890.1818 Fax 909.890.1809

No.	Date	By	Revision Description

MINE PLAN

ESSEX OVERHEAD PIT
COUNTY of SAN BERNARDINO, CALIFORNIA

SHEET INDEX

STATUS
Conceptual Preliminary Draft Draft Final

Scale: 1"=120'
Date: 10/2025
DGN: Sht1of2 214928 MP.dgn

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