



To: San Bernardino County

From: Cedar Creek Associates Inc.

Date: August 21, 2025

Subject: **Response to Public Comments on the Persistence Mine IS/MND**

Response to Comments from CDFW:

General Response to Comments 1 through 4:

The County cannot change the language of Conservation Management Actions (CMAs) that the CDFW has suggested in their comment letter, because the CMAs are part of the published Desert Renewable Energy Conservation Plan authored by the Bureau of Land Management (BLM). The IS/MND is describing how the Project will conform to applicable CMAs; those CMAs are reprinted in the document followed by an explanation below each about how the Project conforms. However, the County will add to the mitigation measures for the Project that the Applicant will consult with CDFW if a Mojave Desert Tortoise, Mojave Ground Squirrel or burrowing owl have been identified on the Project site during the pre-construction, or clearance surveys as performed by an Authorized USFWS Biologist and obtain an Incidental Take Permit (ITP) if required by CDFW, in the event that avoidance of federal or state listed species cannot be achieved, as determined by a USFWS Authorized Biologist. Conformance with CMAs will note that handling of state listed species is prohibited without an ITP.

Additional response to Comment #1: The presence of the Mohave Ground Squirrel was not detected in the proposed Project area, but was detected near the area. The coordinates where the positive trap location was in April 2022 between the two pits, whereby the biologists appear to have inadvertently trespassed on private land. The final documentation for the Project will acknowledge the additional surveying done to show presence outside of the Project area.

Additional response to Comment #2: The Project does not propose desert tortoise translocation; the Applicant understands that handling of desert tortoise would require an ITP. Any desert tortoises found within the Project site would be allowed to leave the site unharmed before Project activities begin. Installing exclusion fencing around the Project site does not in itself trigger a requirement for an ITP.

Additional response to Comment #4: The Applicant has committed to pre-construction migratory bird nest surveys.

Response to Comment #5: The Applicant has already engaged with CDFW regarding the Notification process to consult with CDFW to determine if a Lake and Streambed Alteration Agreement will be required on any portion of the Project area. If the outcome of this consultation determines that a Lake and Streambed Alteration Agreement is needed, the Applicant will obtain a Lake and Streambed Alteration Agreement, as is already stated in the mitigation measures for the Project.

Response to Comment #6: Based on the sensitive plant data and vegetation data collected for the Project, the Project area does not provide overwintering habitat for the Crotch's bumble bee, but there could potentially be burrows and some flowering plant species that provide suitable habitat for the species. The County will therefore add a mitigation measure that where suitable habitat and likely or expected presence occurs in the Project area, if any, as determined by a qualified biologist knowledgeable of foraging, nesting and/or overwintering habitat for Crotch's bumble bee, the Applicant will conduct a survey for this species before any ground disturbing activities commence. If the Crotch's bumble bee is observed in the Project area, the Applicant will adopt measures to avoid Take, and if that is not possible, then Applicant will consult with CDFW to determine if an ITP for incidental take is required and if so, Applicant will apply for same. The Applicant will work in coordination with CDFW to develop the appropriate avoidance measures for the species based on the type of habitat occupied by the bee, if any is identified. Bee surveys in the Project area will be identified by a qualified biologist following CDFW's recommended survey protocols.

Response to Comments from the Desert Tortoise Council et al:

Comments from the Desert Tortoise Council include proposing language changes to CMAs. The County cannot change the language of CMAs suggested in the comment letter, because the CMAs are part of the published Desert Renewable Energy Conservation Plan authored by the BLM. The IS/MND is describing how the Project will conform to applicable CMAs; those CMAs are reprinted in the document followed by an explanation below each about how the Project conforms. However, the County will add to the mitigation measures for the Project that the Applicant must obtain an ITP in the event that avoidance of federal or state listed species cannot be achieved. Conformance with CMAs will note that handling of state listed species is prohibited without an ITP.

Other comments from the tri-party letter from the Desert Tortoise Council, Desert Tortoise Preserve Committee and Mohave Ground Squirrel Conservation Council are comparing the proposed Persistence Mine Project to exploration projects that were previously proposed by GDG, which were analyzed by BLM in 2023 (DOI-BLM-CA-D050-2023-0007-EA). Note that the footprint of the exploration projects analyzed in DOI-BLM-CA-D050-2023-0007-EA are not the same as the Persistence Mine project. The County reviewed the data specific to the Persistence Mine Project site, including new baseline data collected since the BLM's EA publication. Further responses to the Desert Tortoise Council, Desert Tortoise Preserve Committee and Mohave Ground Squirrel Conservation Council's comments by the County will be limited to the scope of the IS/MND for the Persistence Mine Project.

The remaining body of comments from the Desert Council, Desert Tortoise Preserve Committee and Mohave Ground Squirrel Conservation Council's are questioning the validity of baseline wildlife surveys completed for the Project while providing anecdotal or unpublished survey data to support the presumption that desert tortoises, burrowing owls, and Mohave ground squirrels might be present in the Project area and therefore, that impacts will occur and should be identified as significant by the County.

The Project area is known to be within Mohave ground squirrel habitat, and that it provides suitable habitat for burrowing owls and desert tortoises. Surveys to date for the Project area, which have been conducted by qualified biologists, have not confirmed the presence of Mohave ground squirrels, desert tortoises, or burrowing owls in the Project area. There are various records of the species near the Project area, reported in CNDBB and from the baseline surveys for the Project. The County and the Applicant acknowledge that Mohave ground squirrels, desert tortoises, and burrowing owls could

become present in the Project area, and have addressed this possibility by the commitment to conduct pre-disturbance clearance surveys for the species. GDG's EPMs include monitoring measures for desert tortoises which will be in accordance with USFWS protocols. The Applicant-committed EPMs and compliance with BLM's applicable CMAs to protect Mohave ground squirrel, desert tortoises, and burrowing owls, are required of the Project. If the Applicant cannot avoid Take of the species, as determined by a USFWS Authorized Biologist, then the Applicant will consult with CDFW to determine if an ITP will be required of the Applicant by CDFW.